

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1549

6 By: Kern

7 COMMITTEE SUBSTITUTE

8 An Act relating to crimes and punishments;  
9 authorizing victims of child pornography to bring  
10 civil action; providing for the recovery of damages,  
11 costs and attorney fees; providing procedures for  
12 filing civil action; prohibiting reliance on certain  
13 defense; authorizing Attorney General to bring civil  
14 action on behalf of victim; providing statutory  
15 reference for certain term; providing exemption to  
16 statute; providing for codification; and providing an  
17 effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 1040.56 of Title 21, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. Any person who, while under the age of eighteen (18), was a  
23 victim of an offense provided for in Section 681, 741, 843.5, 852.1,  
24 867, 885, 886, 888, 891, 1021, 1021.2 1021.3, 1024.2, 1040.8,  
1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114 or 1123 of  
Title 21 of the Oklahoma Statutes, where such offense resulted in a  
conviction and any portion of such offense was used in the

1 production of child pornography, and who suffers personal or  
2 psychological injury as a result of the production, promotion, or  
3 possession of such child pornography, may bring a civil action  
4 against the producer, promoter, or intentional possessor of such  
5 child pornography, regardless of whether the victim is now an adult.

6 B. In any civil action brought under this section, the  
7 prevailing plaintiff shall recover the actual, special and punitive  
8 damages such person sustained and the cost of the suit, including  
9 reasonable attorney fees.

10 C. Notwithstanding any other provision of law, any civil action  
11 commenced pursuant to this section shall be filed within three (3)  
12 years after the later of:

13 1. The conclusion of the related criminal case;

14 2. The notification to the victim by a law enforcement agency  
15 of the creation, possession, distribution or promotion of child  
16 pornography; or

17 3. In the case of a victim younger than eighteen (18) years of  
18 age, within three (3) years after the person reaches the age of  
19 eighteen (18).

20 D. It is not a defense to a civil cause of action under this  
21 section that the respondent did not know the victim or commit the  
22 abuse depicted in the child pornography.

23 E. At the request of the victim, the Attorney General may  
24 pursue a civil action on behalf of any Oklahoma victim under this

1 section. All damages recovered by the Attorney General shall go to  
2 the victim and the Attorney General may seek reasonable attorney  
3 fees and costs.

4 F. As used in this section, "child pornography" shall have the  
5 same meaning as such term is defined in Section 1024.1 of Title 21  
6 of the Oklahoma Statutes.

7 G. The provisions of this section shall not apply to any acts  
8 performed in the scope and course of employment by any:

- 9 1. Law enforcement officer;
- 10 2. Forensic examiner;
- 11 3. Prosecuting attorney; or
- 12 4. Employee of a child advocacy organization.

13 SECTION 2. This act shall become effective November 1, 2011.

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15 53-1-6660 GRS 02/15/11  
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