

SENATE CHAMBER

STATE OF OKLAHOMA

DISPOSITION BY SENATE

FLOOR AMENDMENT

No. _____

(Date)

Mr./Madame President:

I move to amend Senate Bill No. 1758, by striking the title, enacting clause and entire body of the bill and substituting the attached floor substitute.

Submitted by:

Senator Sykes

Sykes-TEK-FS-Req#3262
3/1/2012 3:29 PM

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 FLOOR SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1758

6 By: Sykes and Shortey of the
7 Senate

8 and

9 McCullough of the House

10 FLOOR SUBSTITUTE

11 An Act relating to crimes and punishment; allowing
12 district attorneys to take action for certain
13 transmissions; establishing place of prosecution;
14 designating jurisdiction; defining violation and
15 setting penalty; prohibiting certain defense;
16 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 1040.13b of Title 21, unless
21 there is created a duplication in numbering, reads as follows:

22 A. Whenever the district attorney for any district has
23 reasonable cause to believe that an individual, with knowledge of
24 its content, sent a transmission or caused a transmission to
originate within this state that contained obscene material or child
pornography, the district attorney for the district into which the

1 transmission is sent or caused to be sent, may file charges in the
2 district court via information alleging the obscenity or the child
3 pornographic content of the transmission. Provided, if the
4 conditions of subsection B of this section are present, it shall be
5 at the discretion of the district attorney whether the action
6 instituted is a juvenile offense as defined in subsection B of this
7 section or whether the charge filed is a felony for a violation of
8 Section 1040.13a of Title 21 of the Oklahoma Statutes. The
9 individual sending a transmission specified in this section may be
10 charged and tried in any district wherein the transmission is sent
11 or in which it is received by the person to whom it was transmitted.
12 For purposes of any criminal prosecution pursuant to a violation of
13 this section, the person violating the provisions of this section
14 shall be deemed to be within the jurisdiction of this state by the
15 fact of accessing any computer, cellular phone, or other computer-
16 related or satellite-operated device in this state, regardless of
17 the actual jurisdiction where the violator resides.

18 B. Any individual under eighteen (18) years of age who engages
19 in the original or relayed transmission of obscene or erotic
20 material via electronic media in the form of digital images, videos,
21 or other depictions of real persons under the age of eighteen (18)
22 years, and:

23 1. The original or relayed transmission is of another minor
24 over thirteen (13) years of age and is made with the consent of the

1 pictured individual and is transmitted to five (5) or fewer
2 individual destinations, known or unknown, shall be guilty of a
3 misdemeanor violation of this section punishable by:

- 4 a. a fine of up to Five Hundred Dollars (\$500.00) for the
5 first offense,
- 6 b. a fine of up to One Thousand Dollars (\$1,000.00) for a
7 second and subsequent offense,
- 8 c. up to forty (40) hours of community service, or
- 9 d. a referral to a juvenile bureau to propose a probation
10 plan which shall be adopted through disposition; and

11 2. The original or relayed transmission is of another minor
12 over thirteen (13) years of age and is made without the consent of
13 the pictured individual, or is sent to six (6) or more individual
14 destinations, known or unknown, shall be guilty of a misdemeanor
15 violation of this section punishable by:

- 16 a. a fine of up to Seven Hundred Dollars (\$700.00) for
17 the first offense,
- 18 b. a fine of up to One Thousand Four Hundred Dollars
19 (\$1,400.00) for a second or subsequent offense,
- 20 c. up to sixty (60) hours of community service, or
- 21 d. a referral to a juvenile bureau to propose a probation
22 plan which shall be adopted through disposition.

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C. The fact that the individual making the transmission and the individual pictured are the same does not alter the criminality provided in this section.

SECTION 2. This act shall become effective November 1, 2012.

53-2-3262 TEK 3/1/2012 3:29:21 PM