

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2006

By: Pittman

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2001, Section 1040.13a, as last amended by  
9 Section 14, Chapter 261, O.S.L. 2007 (21 O.S. Supp.  
10 2010, Section 1040.13a), which relates to  
11 solicitation of sexual conduct or communication with  
12 a minor by use of technology; including description  
13 of text messages with certain sexual content;  
14 modifying penalty for consensual text messages  
15 between certain persons; specifying penalty for  
16 certain persons; and declaring an emergency.

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

18 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1040.13a, as  
19 last amended by Section 14, Chapter 261, O.S.L. 2007 (21 O.S. Supp.  
20 2010, Section 1040.13a), is amended to read as follows:

21 Section 1040.13a A. It is unlawful for any person to  
22 facilitate, encourage, offer or solicit sexual conduct with a minor,  
23 or other individual the person believes to be a minor, by use of any  
24 technology, or to engage in any communication for sexual or prurient  
interest with any minor, or other individual the person believes to  
be a minor, by use of any technology. For purposes of this  
subsection, "by use of any technology" means the use of any

1 telephone or cell phone, computer disk (CD), digital video disk  
2 (DVD), recording or sound device, CD-ROM, VHS, computer, computer  
3 network or system, Internet or World Wide Web address including any  
4 blog site or personal web address, e-mail address, Internet Protocol  
5 address (IP), text messaging or paging device, any video, audio,  
6 photographic or camera device of any computer, computer network or  
7 system, cell phone, any other electrical, electronic, computer or  
8 mechanical device, or any other device capable of any transmission  
9 of any written or text message, audio or sound message,  
10 photographic, video, movie, digital or computer-generated image, or  
11 any other communication of any kind by use of an electronic device.  
12 For purposes of this section, text messaging shall include, but is  
13 not limited to, the transmission of a text message that has sexual  
14 content, that includes nude, seminude, or erotic images or video or  
15 both the text messages containing sexual content and nude, seminude,  
16 or erotic images or video.

17 B. A person is guilty of violating the provisions of this  
18 section if the person knowingly transmits any prohibited  
19 communication by use of any technology defined herein, or knowingly  
20 prints, publishes or reproduces by use of any technology described  
21 herein any prohibited communication, or knowingly buys, sells,  
22 receives, exchanges, or disseminates any prohibited communication or  
23 any information, notice, statement, website, or advertisement for  
24 communication with a minor or access to any name, telephone number,

1 cell phone number, e-mail address, Internet address, text message  
2 address, place of residence, physical characteristics or other  
3 descriptive or identifying information of a minor, or other  
4 individual the person believes to be a minor.

5 C. The fact that an undercover operative or law enforcement  
6 officer was involved in the detection and investigation of an  
7 offense pursuant to this section shall not constitute a defense to a  
8 prosecution under this section.

9 D. ~~Any~~ Except as otherwise provided for in subsection E of this  
10 section, any violation of the provisions of this section shall be a  
11 felony, punishable by a fine in an amount not to exceed Ten Thousand  
12 Dollars (\$10,000.00), or by imprisonment in the custody of the  
13 Department of Corrections for a term of not more than ten (10)  
14 years, or by both such fine and imprisonment. For purposes of this  
15 section, each communication shall constitute a separate offense.  
16 Except for persons sentenced to life or life without parole, any  
17 person sentenced to imprisonment for two (2) years or more for a  
18 violation of this section shall be required to serve a term of post-  
19 imprisonment supervision pursuant to subparagraph f of paragraph 1  
20 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes  
21 under conditions determined by the Department of Corrections. The  
22 jury shall be advised that the mandatory post-imprisonment  
23 supervision shall be in addition to the actual imprisonment.

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1       E. 1. The penalty provided for in subsection D of this section  
2 shall not apply to consensual text messages between the following  
3 persons:

4           a. when one of the persons is eighteen (18) years of age  
5           or older, is currently in a courtship, dating or  
6           engagement relationship with the other person and the  
7           other person is not under the age of fourteen (14),  
8           or

9           b. when both persons are not under the age of fourteen  
10           (14) but are less than the age of eighteen (18).

11       2. Any person as described in paragraph 1 of this subsection  
12 who violates the provisions of this section by transmitting,  
13 distributing, publishing, printing or reproducing a consensual text  
14 message shall be guilty of a misdemeanor punishable by incarceration  
15 in the county jail for a term not to exceed six (6) months, or a  
16 fine not to exceed Five Hundred Dollars (\$500.00), or by both the  
17 fine and incarceration. A second violation shall be a misdemeanor  
18 punishable by incarceration in the county jail for a term not to  
19 exceed one (1) year, or a fine not to exceed One Thousand Dollars  
20 (\$1,000.00), or by both the fine and incarceration. A third and  
21 subsequent violation shall be a felony, punishable by incarceration  
22 in the county jail for a term not to exceed eighteen (18) months, or  
23 a fine not to exceed Two Thousand Dollars (\$2,000.00), or by both  
24 the fine and incarceration. A person sentenced pursuant to this

1 subsection shall not be required to register pursuant to the  
2 provisions of the Sex Offenders Registration Act.

3 3. Any person not described in paragraph 1 of this subsection  
4 who violates the provisions of this section by transmitting,  
5 distributing, publishing, printing or reproducing a consensual text  
6 message shall be punished as provided for in subsection D of this  
7 section.

8 F. For purposes of any criminal prosecution pursuant to any  
9 violation of this section, the person violating the provisions of  
10 this section shall be deemed to be within the jurisdiction of this  
11 state by the fact of accessing any computer, cellular phone or other  
12 computer-related or satellite-operated device in this state,  
13 regardless of the actual jurisdiction where the violator resides.

14 SECTION 2. It being immediately necessary for the preservation  
15 of the public peace, health and safety, an emergency is hereby  
16 declared to exist, by reason whereof this act shall take effect and  
17 be in full force from and after its passage and approval.

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19 53-1-5401 GRS 12/20/10

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