

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1245

By: Bennett

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5
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2001, Section 1123, as last amended by
9 Section 5, Chapter 226, O.S.L. 2010 (21 O.S. Supp.
10 2010, Section 1123), which relates to sexual battery;
11 adding prohibited act; requiring reasonable suspicion
12 for screening; permitting peace officer to offer
13 assistance in certain cases; allowing civil actions
14 for certain sexual battery to be filed in district
15 court; providing for codification; and providing an
16 effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1123, as
19 last amended by Section 5, Chapter 226, O.S.L. 2010 (21 O.S. Supp.
20 2010, Section 1123), is amended to read as follows:

21 Section 1123. A. It is a felony for any person to knowingly
22 and intentionally:

23 1. Make any oral, written or electronically or computer-
24 generated lewd or indecent proposal to any child under sixteen (16)
years of age, or other individual the person believes to be a child
under sixteen (16) years of age, for the child to have unlawful
sexual relations or sexual intercourse with any person; or

1 2. Look upon, touch, maul, or feel the body or private parts of
2 any child under sixteen (16) years of age in any lewd or lascivious
3 manner by any acts against public decency and morality, as defined
4 by law; or

5 3. Ask, invite, entice, or persuade any child under sixteen
6 (16) years of age, or other individual the person believes to be a
7 child under sixteen (16) years of age, to go alone with any person
8 to a secluded, remote, or secret place, with the unlawful and
9 willful intent and purpose then and there to commit any crime
10 against public decency and morality, as defined by law, with the
11 child; or

12 4. In any manner lewdly or lasciviously look upon, touch, maul,
13 or feel the body or private parts of any child under sixteen (16)
14 years of age in any indecent manner or in any manner relating to
15 sexual matters or sexual interest; or

16 5. In a lewd and lascivious manner and for the purpose of
17 sexual gratification:

18 a. urinate or defecate upon a child under sixteen (16)
19 years of age,

20 b. ejaculate upon or in the presence of a child,

21 c. cause, expose, force or require a child to look upon
22 the body or private parts of another person,

23 d. force or require any child under sixteen (16) years of
24 age or other individual the person believes to be a

1 child under sixteen (16) years of age, to view any
2 obscene materials, child pornography or materials
3 deemed harmful to minors as such terms are defined by
4 Sections 1024.1 and 1040.75 of this title,

5 e. cause, expose, force or require a child to look upon
6 sexual acts performed in the presence of the child, or

7 f. force or require a child to touch or feel the body or
8 private parts of said child or another person.

9 Any person convicted of any violation of this subsection shall
10 be punished by imprisonment in the custody of the Department of
11 Corrections for not less than three (3) years nor more than twenty
12 (20) years, except when the child is under twelve (12) years of age
13 at the time the offense is committed, and in such case the person
14 shall, upon conviction, be punished by imprisonment in the custody
15 of the Department of Corrections for not less than twenty-five (25)
16 years. The provisions of this subsection shall not apply unless the
17 accused is at least three (3) years older than the victim, except
18 when accomplished by the use of force or fear. Any person convicted
19 of a second or subsequent violation of this subsection shall be
20 guilty of a felony punishable as provided in this subsection and
21 shall not be eligible for probation, suspended or deferred sentence.
22 Any person convicted of a third or subsequent violation of this
23 subsection shall be guilty of a felony punishable by imprisonment in
24 the custody of the Department of Corrections for a term of life or

1 life without parole, in the discretion of the jury, or in case the
2 jury fails or refuses to fix punishment then the same shall be
3 pronounced by the court. Any person convicted of a violation of
4 this subsection after having been twice convicted of a violation of
5 subsection A of Section 1114 of this title, Section 888 of this
6 title, sexual abuse of a child pursuant to Section 843.5 of this
7 title, or of any attempt to commit any of these offenses or any
8 combination of convictions pursuant to these sections shall be
9 punished by imprisonment in the custody of the Department of
10 Corrections for a term of life or life without parole.

11 B. No person shall commit sexual battery on any other person.
12 "Sexual battery" shall mean the intentional touching, mauling or
13 feeling of the body or private parts of any person sixteen (16)
14 years of age or older, in a lewd and lascivious manner:

15 1. Without the consent of that person;

16 2. When committed by a state, county, municipal or political
17 subdivision employee or a contractor or an employee of a contractor
18 of the state, a county, a municipality or political subdivision of
19 this state upon a person who is under the legal custody, supervision
20 or authority of a state agency, a county, a municipality or a
21 political subdivision of this state; ~~or~~

22 3. When committed by a federal employee or a contractor or an
23 employee of a contractor of the federal government upon a person who
24 is under the legal custody, supervision or authority of the United

1 States Transportation Security Administration. If the federal
2 employee or a contractor or an employee of a contractor of the
3 federal government is involved in screening a passenger prior to
4 boarding any manner of transportation, it shall not constitute a
5 defense to prosecution under this paragraph unless reasonable
6 suspicion exists at the time of the screening that the passenger may
7 pose a danger to the traveling public; or

8 4. When committed upon a person who is at least sixteen (16)
9 years of age and is less than twenty (20) years of age and is a
10 student, or in the legal custody or supervision of any public or
11 private elementary or secondary school, or technology center school,
12 by a person who is eighteen (18) years of age or older and is an
13 employee of the same school system that the victim attends.

14 As used in this subsection, "employee of the same school system"
15 means a teacher, principal or other duly appointed person employed
16 by a school system or an employee of a firm contracting with a
17 school system who exercises authority over the victim.

18 C. No person shall in any manner lewdly or lasciviously:

19 1. Look upon, touch, maul, or feel the body or private parts of
20 any human corpse in any indecent manner relating to sexual matters
21 or sexual interest; or

22 2. Urinate, defecate or ejaculate upon any human corpse.

23 D. Any person convicted of a violation of subsection B or C of
24 this section shall be deemed guilty of a felony and shall be

1 punished by imprisonment in the custody of the Department of
2 Corrections for not more than ten (10) years.

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

7 F. Except for persons sentenced to life or life without parole,
8 any person sentenced to imprisonment for two (2) years or more for a
9 violation of this section shall be required to serve a term of post-
10 imprisonment supervision pursuant to subparagraph f of paragraph 1
11 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes
12 under conditions determined by the Department of Corrections. The
13 jury shall be advised that the mandatory post-imprisonment
14 supervision shall be in addition to the actual imprisonment.

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 99b of Title 21, unless there is
17 created a duplication in numbering, reads as follows:

18 Any peace officer as defined by Section 99 of Title 21 of the
19 Oklahoma Statutes may offer assistance to a citizen who requests
20 protection from a United States Transportation Security
21 Administration (TSA) employee or a contractor or an employee of a
22 contractor of the TSA.

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SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 195 of Title 12, unless there is created a duplication in numbering, reads as follows:

Civil actions for acts of sexual battery provided by Paragraph 3 of Subsection B of Section 1123 of Title 21 of the Oklahoma Statutes may be filed in the district court of the county where the act occurred.

SECTION 4. This act shall become effective November 1, 2011.

53-1-5870 EK 01/17/11