

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 2519

By: Nelson

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5
6 AS INTRODUCED

7 An Act relating to child pornography; amending 21
8 O.S. 2011, Section 1024.1, which relates to child
9 pornography definitions; modifying certain
10 definitions; amending 74 O.S. 2011, Section 151.1,
11 which relates to the Internet Crimes Against Children
12 unit of the Oklahoma State Bureau of Investigation;
13 authorizing Director of the Oklahoma State Bureau of
14 Investigation to enter into certain local cooperative
15 agreements; providing for the appointment of reserve
16 agents; establishing powers and duties of reserve
17 agents; providing for the renewal, suspension and
18 revocation of agreements; and providing an effective
19 date.

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

21 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1024.1, is
22 amended to read as follows:

23 Section 1024.1 A. As used in Sections 1021, 1021.1 through
24 ~~1021.3~~ 1021.4, Sections 1022 through 1024, and Sections 1040.8
through 1040.24 of this title, "child pornography" means and
includes any visual depiction or individual image stored or
contained in any format on any medium including, but not limited to,
film, motion picture, videotape, photograph, negative, undeveloped

1 film, slide, photographic product, reproduction of a photographic
2 product, ~~CD-ROM, magnetic disk memory, magnetic tape memory,~~
3 ~~electronic or photo-optical format,~~ play or performance wherein a
4 minor under the age of eighteen (18) years is engaged in any act
5 with a person, other than his or her spouse, of sexual intercourse
6 which is normal or perverted, in any act of anal sodomy, in any act
7 of sexual activity with an animal, in any act of sadomasochistic
8 abuse including, but not limited to, flagellation or torture, or the
9 condition of being fettered, bound or otherwise physically
10 restrained in the context of sexual conduct, in any act of fellatio
11 or cunnilingus, in any act of excretion in the context of sexual
12 conduct, in any lewd exhibition of the uncovered genitals in the
13 context of masturbation or other sexual conduct, or where the lewd
14 exhibition of the uncovered genitals, buttocks or, if such minor is
15 a female, the breast, has the purpose of sexual stimulation of the
16 viewer, or wherein a person under the age of eighteen (18) years
17 observes such acts or exhibitions. Each visual depiction or
18 individual image shall constitute a separate item and multiple
19 copies of the same identical material shall each be counted as a
20 separate item.

21 B. As used in Sections 1021 through 1024.4 and Sections 1040.8
22 through 1040.24 of this title:

23 1. "Obscene material" means and includes any representation,
24 performance, depiction or description of sexual conduct, whether in

1 any form or on any medium including still photographs, undeveloped
2 photographs, motion pictures, undeveloped film, videotape, ~~CD-ROM,~~
3 optical, magnetic ~~disk memory, magnetic tape memory,~~ electronic or
4 ~~photo-optical format~~ solid-state storage, CD or DVD, or a purely
5 photographic product or a reproduction of such product in any book,
6 pamphlet, magazine, or other publication or electronic or photo-
7 optical format, if said items contain the following elements:

- 8 a. depictions or descriptions of sexual conduct which are
9 patently offensive as found by the average person
10 applying contemporary community standards,
- 11 b. taken as a whole, have as the dominant theme an appeal
12 to prurient interest in sex as found by the average
13 person applying contemporary community standards, and
- 14 c. a reasonable person would find the material or
15 performance taken as a whole lacks serious literary,
16 artistic, educational, political, or scientific
17 purposes or value.

18 The standard for obscenity applied in this section shall not apply
19 to child pornography;

20 2. "Performance" means and includes any display, live or
21 recorded, in any form or medium;

22 3. "Sexual conduct" means and includes any of the following:

- 23 a. acts of sexual intercourse including any intercourse
24 which is normal or perverted, actual or simulated,

1 b. acts of deviate sexual conduct, including oral and
2 anal sodomy,

3 c. acts of masturbation,

4 d. acts of sadomasochistic abuse including but not
5 limited to:

6 (1) flagellation or torture by or upon any person who
7 is nude or clad in undergarments or in a costume
8 which is of a revealing nature, or

9 (2) the condition of being fettered, bound, or
10 otherwise physically restrained on the part of
11 one who is nude or so clothed,

12 e. acts of excretion in a sexual context, or

13 f. acts of exhibiting human genitals or pubic areas; and

14 4. "Explicit child pornography" means material which a law
15 enforcement officer can immediately identify upon first viewing
16 without hesitation as child pornography.

17 The types of sexual conduct described in paragraph 3 of this
18 subsection are intended to include situations when, if appropriate
19 to the type of conduct, the conduct is performed alone or between
20 members of the same or opposite sex or between humans and animals in
21 an act of apparent sexual stimulation or gratification.

22 SECTION 2. AMENDATORY 74 O.S. 2011, Section 151.1, is
23 amended to read as follows:

1 Section 151.1 A. The Oklahoma State Bureau of Investigation
2 shall establish an Internet Crimes Against Children (ICAC) unit for
3 the primary purpose of investigating Internet crimes committed
4 against children, including, but not limited to, offenses related to
5 child pornography and solicitation of minors for pornography,
6 prostitution or sex-related offenses. The unit shall additionally
7 promote safe Internet use among children and their parents by
8 various media or printed-material campaigns or by offering
9 educational programs to schools or communities throughout this
10 state. The Bureau shall employ sufficient employees to investigate
11 and implement the ICAC unit.

12 B. The Director of the Oklahoma State Bureau of Investigation
13 is hereby authorized to enter into local cooperative agreements with
14 local law enforcement agencies for the purpose of appointing ICAC
15 Affiliate Reserve Agents to assist the ICAC unit of the Bureau.
16 ICAC Affiliate Reserve Agents shall be employees and commissioned
17 law enforcement officers of the local law enforcement agency
18 entering into the local cooperative agreement with the Oklahoma
19 State Bureau of Investigation and shall not be employees of the
20 Bureau. ICAC Affiliate Reserve Agents shall have general peace
21 officer powers and the authority to arrest persons throughout the
22 state for the purpose of investigating Internet crimes committed
23 against children including, but not limited to, offenses related to
24 child pornography, solicitation of minors for pornography,

1 prostitution and sex-related offenses. ICAC Affiliate Reserve
2 Agents shall additionally promote safe Internet use among children
3 and parents of children by various media or printed-material
4 campaigns or by offering educational programs to schools or
5 communities throughout Oklahoma. The Director of the Bureau may
6 renew, suspend or revoke any agreement appointing an ICAC Affiliate
7 Reserve Agent at any time. ICAC Affiliate Reserve Agents serve
8 solely at the discretion and will of the Director of the Oklahoma
9 State Bureau of Investigation.

10 SECTION 3. This act shall become effective November 1, 2012.

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