

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1003

By: Loveless

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5
6 AS INTRODUCED

7 An Act relating to crimes against students; amending
8 21 O.S. 2011, Section 1114, which relates to rape in
9 the first degree; modifying inclusions; amending 21
10 O.S. 2011, Section 1123, as last amended by Section
11 3, Chapter 67, O.S.L. 2015 (21 O.S. Supp. 2015,
12 Section 1123), which relates to lewd acts against a
13 minor child; modifying penalties for certain acts;
14 amending 21 O.S. 2011, Section 1115, which relates to
15 punishment for rape; amending inclusions; amending
16 penalties; and providing an effective date.

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

18 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1114, is
19 amended to read as follows:

20 Section 1114. A. Rape in the first degree shall include:

21 1. rape committed by a person over eighteen (18) years of age
22 upon a person under fourteen (14) years of age; or

23 2. rape committed upon a person incapable through mental
24 illness or any unsoundness of mind of giving legal consent
regardless of the age of the person committing the crime; or

1 3. rape accomplished where the victim is intoxicated by a
2 narcotic or anesthetic agent, administered by or with the privity of
3 the accused as a means of forcing the victim to submit; or

4 4. rape accomplished where the victim is at the time
5 unconscious of the nature of the act and this fact is known to the
6 accused; or

7 5. rape accomplished with any person by means of force,
8 violence, or threats of force or violence accompanied by apparent
9 power of execution regardless of the age of the person committing
10 the crime; or

11 6. rape by instrumentation resulting in bodily harm is rape by
12 instrumentation in the first degree regardless of the age of the
13 person committing the crime; or

14 7. rape by instrumentation committed upon a person under
15 fourteen (14) years of age; or

16 8. rape committed upon a person who is in the legal custody or
17 supervision of any public or private elementary or secondary school,
18 or technology center school by an "employee of the same school
19 system" as defined in Section 1123 of this title.

20 B. In all other cases, rape or rape by instrumentation is rape
21 in the second degree.

22 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1123, as
23 last amended by Section 3, Chapter 67, O.S.L. 2015 (21 O.S. Supp.
24 2015, Section 1123), is amended to read as follows:

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

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

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

12 3. Ask, invite, entice, or persuade any child under sixteen
13 (16) years of age, or other individual the person believes to be a
14 child under sixteen (16) years of age, to go alone with any person
15 to a secluded, remote, or secret place, with the unlawful and
16 willful intent and purpose then and there to commit any crime
17 against public decency and morality, as defined by law, with the
18 child; or

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

23 5. In a lewd and lascivious manner and for the purpose of
24 sexual gratification:

- 1 a. urinate or defecate upon a child under sixteen (16)
2 years of age,
3 b. ejaculate upon or in the presence of a child,
4 c. cause, expose, force or require a child to look upon
5 the body or private parts of another person,
6 d. force or require any child under sixteen (16) years of
7 age or other individual the person believes to be a
8 child under sixteen (16) years of age, to view any
9 obscene materials, child pornography or materials
10 deemed harmful to minors as such terms are defined by
11 Sections 1024.1 and 1040.75 of this title,
12 e. cause, expose, force or require a child to look upon
13 sexual acts performed in the presence of the child, or
14 f. force or require a child to touch or feel the body or
15 private parts of the child or another person.

16 Any person convicted of any violation of this subsection shall
17 be punished by imprisonment in the custody of the Department of
18 Corrections for not less than three (3) years nor more than twenty
19 (20) years, except when the child is under twelve (12) years of age
20 at the time the offense is committed, and in such case the person
21 shall, upon conviction, be punished by imprisonment in the custody
22 of the Department of Corrections for not less than twenty-five (25)
23 years. The provisions of this subsection shall not apply unless the
24 accused is at least three (3) years older than the victim, except

1 when accomplished by the use of force or fear. Except as provided
2 in Section 51.1a of this title, any person convicted of a second or
3 subsequent violation of this subsection shall be guilty of a felony
4 punishable as provided in this subsection and shall not be eligible
5 for probation, suspended or deferred sentence. Except as provided
6 in Section 51.1a of this title, any person convicted of a third or
7 subsequent violation of this subsection shall be guilty of a felony
8 punishable by imprisonment in the custody of the Department of
9 Corrections for a term of life or life without parole, in the
10 discretion of the jury, or in case the jury fails or refuses to fix
11 punishment then the same shall be pronounced by the court. Any
12 person convicted of a violation of this subsection after having been
13 twice convicted of a violation of subsection A of Section 1114 of
14 this title, Section 888 of this title, sexual abuse of a child
15 pursuant to Section 843.5 of this title, or of any attempt to commit
16 any of these offenses or any combination of convictions pursuant to
17 these sections shall be punished by imprisonment in the custody of
18 the Department of Corrections for a term of life or life without
19 parole.

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

- 24 1. Without the consent of that person;

1 2. When committed by a state, county, municipal or political
2 subdivision employee or a contractor or an employee of a contractor
3 of the state, a county, a municipality or political subdivision of
4 this state upon a person who is under the legal custody, supervision
5 or authority of a state agency, a county, a municipality or a
6 political subdivision of this state;

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

13 4. When committed upon a person who is nineteen (19) years of
14 age or younger and is in the legal custody of a state agency,
15 federal agency or a tribal court, by a foster parent or foster
16 parent applicant.

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

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

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

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

2 D. Any person convicted of a violation of subsection B or C of
3 this section shall be deemed guilty of a felony and shall be
4 punished by imprisonment in the custody of the Department of
5 Corrections for not more than ten (10) years.

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

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

18 G. Any "employee of the same school system", as defined by
19 paragraph 4 of subsection B of Section 1 of this act, convicted of a
20 violation of subsection A, B, or C of this section shall be deemed
21 guilty of a felony and shall be punished by imprisonment in the
22 custody of the Department of Corrections for not less than ten (10)
23 years.
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1 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1115, is
2 amended to read as follows:

3 Section 1115. A. Rape in the first degree is a felony
4 punishable by death or imprisonment in the custody of the Department
5 of Corrections, for a term of not less than five (5) years, life or
6 life without parole. Except for persons sentenced to life or life
7 without parole, any person sentenced to imprisonment for two (2)
8 years or more for a violation of this section shall be required to
9 serve a term of post-imprisonment supervision pursuant to
10 subparagraph f of paragraph 1 of subsection A of Section 991a of
11 Title 22 of the Oklahoma Statutes under conditions determined by the
12 Department of Corrections. The jury shall be advised that the
13 mandatory post-imprisonment supervision shall be in addition to the
14 actual imprisonment.

15 B. Any person convicted of a second or subsequent violation of
16 subsection A of Section 1114 of this title shall not be eligible for
17 any form of probation. Any person convicted of a third or
18 subsequent violation of subsection A of Section 1114 of this title
19 or of an offense under Section 888 of this title or an offense under
20 Section 1123 of this title or sexual abuse of a child pursuant to
21 Section 843.5 of this title, or any attempt to commit any of these
22 offenses or any combination of these offenses shall be punished by
23 imprisonment in the custody of the Department of Corrections for
24 life or life without parole.

1 C. Any person employed as an "employee of the same school
2 system" as defined in Section 1123 of this title, convicted of a
3 violation of subsection A or B of this section, when the victim is a
4 student, or in the legal custody or supervision of any public or
5 private elementary or secondary school, or technology center school,
6 shall be deemed guilty of a felony and shall be punished by
7 imprisonment in the custody of the Department of Corrections for not
8 less than ten (10) years.

9 SECTION 4. This act shall become effective November 1, 2016.

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