

1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4  
5  
6  
7  
8  
9  
0  
1  
2  
3  
4

April 1, 2014

COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
HOUSE BILL NO. 2541

By: O'Donnell, Sherrer, Pittman  
and Ritze of the House

and

Griffin of the Senate

[ sexting - transmission of obscenity and child pornography - School Safety and Bullying Prevention Act - effective date ]

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

SECTION 1. AMENDATORY Section 24, Chapter 404, O.S.L.  
2013 (10A O.S. Supp. 2013, Section 2-8-221), is amended to read as  
follows:

Section 2-8-221. A. Whenever the district attorney for any district has reasonable cause to believe that an individual, with knowledge of its content, is engaged in sending a transmission or causing a transmission to originate within this state containing obscene material or child pornography, as such terms are defined in Section 1024.1 of Title 21 of the Oklahoma Statutes, the district attorney for the district into which the transmission is sent or caused to be sent, may institute an action in the district court for

1 an adjudication of the obscenity or child pornographic content of  
2 the transmission. Provided that if the conditions of subsection B  
3 of this section are present, then it shall be at the discretion of  
4 the district attorney whether the action instituted is a juvenile  
5 offense as defined in subsection B of this section or whether the  
6 action instituted is a felony for a violation of Section 1040.13a of  
7 Title 21 of the Oklahoma Statutes.

8 The individual sending the transmission specified in this  
9 section may be charged and tried in any district wherein the  
10 transmission is sent or in which it is received by the person to  
11 whom it was transmitted.

12 For purposes of any criminal prosecution pursuant to a violation  
13 of 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 or child pornography via electronic media in the form of  
21 digital images, videos, or other depictions of real persons under  
22 the age of eighteen (18) 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 or fewer individual  
2 destinations, known or unknown, shall be guilty of a misdemeanor  
3 violation of this section punishable by:

4 a. a fine not to exceed Five Hundred Dollars (\$500.00)  
5 for the first offense,

6 b. a fine not to exceed One Thousand Dollars (\$1,000.00)  
7 for a 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, or

11 e. attendance and successful completion of an educational  
12 program as provided in Section 24-100.4 of Title 70 of  
13 the Oklahoma Statutes. The court shall have the  
14 discretion to order the parent or legal guardian of  
15 the juvenile to attend and successfully complete the  
16 educational program;

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

22 a. a fine not to exceed Seven Hundred Dollars (\$700.00)  
23 for the first offense,

- b. a fine not to exceed One Thousand Four Hundred Dollars (\$1,400.00) for a second or subsequent offense,
- c. up to sixty (60) hours of community service, ~~and~~
- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition, and
- e. attendance and successful completion of an educational program as provided in Section 24-100.4 of Title 70 of the Oklahoma Statutes. The court shall have the discretion to order the parent or legal guardian of the juvenile to attend and successfully complete the educational program; and

3. The original or relayed transmission is of another minor thirteen (13) years of age or younger, with or without the pictured individual's consent, and is transmitted to any number of destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine not to exceed Nine Hundred Dollars (\$900.00) for the first offense,
- b. a fine not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) for a second or subsequent offense,
- c. up to eighty (80) hours of community service, ~~and~~
- d. a referral to a juvenile bureau to propose a probation plan which may be adopted through disposition, and

1        e. attendance and successful completion of an educational  
2        program as provided in Section 24-100.4 of Title 70 of  
3        the Oklahoma Statutes. The court shall have the  
4        discretion to order the parent or legal guardian of  
5        the juvenile to attend and successfully complete the  
6        educational program.

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

10       D. It is an affirmative defense to the relayed transmission of  
11 obscene material or child pornography, as these terms are defined in  
12 Section 1024.1 of Title 21 of the Oklahoma Statutes, if a juvenile:

13       1. Has not solicited the visual depiction; and

14       2. Does not subsequently distribute, present, transmit, post,  
15 print, disseminate or exchange the visual depiction except for the  
16 purpose of reporting the original transmission or relayed  
17 transmission to appropriate school or law enforcement authorities.

18       SECTION 2.        AMENDATORY        70 O.S. 2011, Section 24-100.4, as  
19 amended by Section 3, Chapter 311, O.S.L. 2013 (70 O.S. Supp. 2013,  
20 Section 24-100.4), is amended to read as follows:

21       Section 24-100.4    A. Each district board of education shall  
22 adopt a policy for the discipline of all children attending public  
23 school in that district, and for the investigation of reported  
24 incidents of bullying. The policy shall provide options for the

1 discipline of the students and shall define standards of conduct to  
2 which students are expected to conform. The policy shall:

3 1. Specifically address bullying by students at school and by  
4 electronic communication, if the communication is specifically  
5 directed at students or school personnel and concerns bullying at  
6 school;

7 2. Contain a procedure for reporting an act of bullying to a  
8 school official, including a provision that permits a person to  
9 report an act anonymously. No formal disciplinary action shall be  
10 taken solely on the basis of an anonymous report;

11 3. Contain a requirement that any school employee that has  
12 reliable information that would lead a reasonable person to suspect  
13 that a person is a target of bullying shall immediately report it to  
14 the principal or a designee of the principal;

15 4. Contain a statement of how the policy is to be publicized  
16 including a requirement that:

17 a. an annual written notice of the policy be provided to  
18 parents, guardians, staff, volunteers and students,  
19 with age-appropriate language for students,

20 b. notice of the policy be posted at various locations  
21 within each school site, including but not limited to  
22 cafeterias, school bulletin boards, and administration  
23 offices,  
24

1           c.    the policy be posted on the Internet website for the  
2                school district and each school site that has an  
3                Internet website, and

4           d.    the policy be included in all student and employee  
5                handbooks;

6           5.    Require that appropriate school district personnel involved  
7   in investigating reports of bullying make a determination regarding  
8   whether the conduct is actually occurring;

9           6.    Contain a procedure for providing timely notification to the  
10   parents or guardians of a victim of documented and verified bullying  
11   and to the parents or guardians of the perpetrator of the documented  
12   and verified bullying;

13          7.    Identify by job title the school official responsible for  
14   enforcing the policy;

15          8.    Contain procedures for reporting to law enforcement all  
16   documented and verified acts of bullying which may constitute  
17   criminal activity or reasonably have the potential to endanger  
18   school safety;

19          9.    Require annual training for administrators and school  
20   employees as developed and provided by the State Department of  
21   Education in preventing, identifying, responding to and reporting  
22   incidents of bullying;

23          10.   Provide for an educational program as designed and  
24   developed by the State Department of Education for students and

1 parents in preventing, identifying, responding to and reporting  
2 incidents of bullying;

3 11. Provide for an educational program as designed and  
4 developed by the Office of Juvenile Affairs;

5 12. Address prevention by providing:

- 6 a. consequences and remedial action for a person who  
7 commits an act of bullying,
- 8 b. consequences and remedial action for a student found  
9 to have falsely accused another as a means of  
10 retaliation, reprisal or as a means of bullying, and
- 11 c. a strategy for providing counseling or referral to  
12 appropriate services, including guidance, academic  
13 intervention, and other protection for students, both  
14 targets and perpetrators, and family members affected  
15 by bullying, as necessary;

16 ~~12.~~ 13. Establish a procedure for:

- 17 a. the investigation, determination and documentation of  
18 all incidents of bullying reported to school  
19 officials,
- 20 b. identifying the principal or a designee of the  
21 principal as the person responsible for investigating  
22 incidents of bullying,
- 23 c. reporting the number of incidents of bullying, and



d. determining the severity of the incidents and their potential to result in future violence;

~~13.~~ 14. Establish a procedure whereby, upon completing an investigation of bullying, a school may recommend that available community mental health care, substance abuse or other counseling options be provided to the student, if appropriate; and

~~14.~~ 15. Establish a procedure whereby a school may request the disclosure of any information concerning students who have received mental health, substance abuse, or other care pursuant to paragraph ~~13~~ 14 of this subsection that indicates an explicit threat to the safety of students or school personnel, provided the disclosure of the information does not violate the requirements and provisions of the Family Educational Rights and Privacy Act of 1974, the Health Insurance Portability and Accountability Act of 1996, Section 2503 of Title 12 of the Oklahoma Statutes, Section 1376 of Title 59 of the Oklahoma Statutes, or any other state or federal laws regarding the disclosure of confidential information.

B. In developing the policy, the district board of education shall make an effort to involve the teachers, parents, administrators, school staff, school volunteers, community representatives, local law enforcement agencies and students. The students, teachers, and parents or guardian of every child residing within a school district shall be notified by the district board of education of its adoption of the policy and shall receive a copy

1 upon request. The school district policy shall be implemented in a  
2 manner that is ongoing throughout the school year and is integrated  
3 with other violence prevention efforts.

4 C. The teacher of a child attending a public school shall have  
5 the same right as a parent or guardian to control and discipline  
6 such child according to district policies during the time the child  
7 is in attendance or in transit to or from the school or any other  
8 school function authorized by the school district or classroom  
9 presided over by the teacher.

10 D. Except concerning students on individualized education plans  
11 (IEP) pursuant to the Individuals with Disabilities Education Act  
12 (IDEA), P.L. No. 101-476, the State Board of Education shall not  
13 have authority to prescribe student disciplinary policies for school  
14 districts or to proscribe corporal punishment in the public schools.  
15 The State Board of Education shall not have authority to require  
16 school districts to file student disciplinary action reports more  
17 often than once each year and shall not use disciplinary action  
18 reports in determining a school district's or school site's  
19 eligibility for program assistance including competitive grants.

20 E. The board of education of each school district in this state  
21 shall have the option of adopting a dress code for students enrolled  
22 in the school district. The board of education of a school district  
23 shall also have the option of adopting a dress code which includes  
24 school uniforms.

1 F. The State Board of Education shall:

2 1. Promulgate rules for periodically monitoring school  
3 districts for compliance with this section and providing sanctions  
4 for noncompliance with this section;

5 2. Establish and maintain a central repository for the  
6 collection of information regarding documented and verified  
7 incidents of bullying; and

8 3. Publish a report annually on the State Department of  
9 Education website regarding the number of documented and verified  
10 incidents of bullying in the public schools in the state.

11 SECTION 3. This act shall become effective November 1, 2014.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY  
13 April 1, 2014 - DO PASS AS AMENDED  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24