

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB9 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by
inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____
Amendment submitted by: Justin Humphrey _____

Reading Clerk

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

PROPOSED
COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 9

By: Standridge and Jett of the
Senate

and

Humphrey of the House

PROPOSED COMMITTEE SUBSTITUTE

An Act relating to obscene material; amending 21 O.S.
2021, Section 1040.75, which relates to definitions
concerning materials harmful to minors; modifying
elements of certain definition; and providing an
effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2021, Section 1040.75, is
amended to read as follows:

Section 1040.75 As used in Sections 1040.75 through 1040.77 of
this title:

1. "Minor" means any unmarried person under the age of eighteen
(18) years;

2. "Harmful to minors" means:

1 a. that quality of any description, exhibition,
2 presentation or representation, in whatever form, of
3 nudity, sexual conduct, sexual excitement, or
4 sadomasochistic abuse when the material or
5 performance, taken as a whole, has the following
6 characteristics:

- 7 (1) ~~the average person eighteen (18) years of age or~~
8 ~~older applying contemporary community standards~~
9 ~~would find that the material or performance has a~~
10 ~~predominant tendency to appeal~~ appeals ~~to a the~~
11 ~~prurient interest in sex to minors~~ of a minor, and
12 (2) ~~the average person eighteen (18) years of age or~~
13 ~~older applying contemporary community standards~~
14 ~~would find that the material or performance~~
15 ~~depicts or describes nudity, sexual conduct,~~
16 ~~sexual excitement or sadomasochistic abuse in a~~
17 ~~manner that~~ is patently offensive to prevailing
18 standards in the adult community with respect to
19 what is suitable for minors, and
20 (3) ~~the material or performance lacks serious~~
21 ~~literary, scientific, medical, artistic, or~~
22 ~~political value~~ is utterly without redeeming
23 social importance for minors, or
24

1 b. any description, exhibition, presentation or
2 representation, in whatever form, of inappropriate
3 violence;

4 3. "Inappropriate violence" means any description or
5 representation, in an interactive video game or computer software,
6 of violence which, taken as a whole, has the following
7 characteristics:

8 a. the average person eighteen (18) years of age or older
9 applying contemporary community standards would find
10 that the interactive video game or computer software
11 is patently offensive to prevailing standards in the
12 adult community with respect to what is suitable for
13 minors, and

14 b. the interactive video game or computer software lacks
15 serious literary, scientific, medical, artistic, or
16 political value for minors based on, but not limited
17 to, the following criteria:

- 18 (1) is glamorized or gratuitous,
19 (2) is graphic violence used to shock or stimulate,
20 (3) is graphic violence that is not contextually
21 relevant to the material,
22 (4) is so pervasive that it serves as the thread
23 holding the plot of the material together,
24

- (5) trivializes the serious nature of realistic violence,
- (6) does not demonstrate the consequences or effects of realistic violence,
- (7) uses brutal weapons designed to inflict the maximum amount of pain and damage,
- (8) endorses or glorifies torture or excessive weaponry, or
- (9) depicts lead characters who resort to violence freely;

4. "Nudity" means the:

- a. showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering,
- b. showing of the female breast with less than a full opaque covering of any portion of the female breast below the top of the nipple, or
- c. depiction of covered male genitals in a discernibly turgid state;

5. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, breast;

1 6. "Sexual excitement" means the condition of human male or
2 female genitals when in a state of sexual stimulation or arousal;

3 7. "Sadomasochistic abuse" means flagellation or torture by or
4 upon a person clothed or naked or the condition of being fettered,
5 bound or otherwise physically restrained on the part of one so
6 clothed or naked;

7 8. "Material" means any book, magazine, newspaper, pamphlet,
8 poster, print, picture, figure, image, description, motion picture
9 film, record, recording tape, CD-ROM disk, Magnetic Disk Memory,
10 Magnetic Tape Memory, video tape, computer software or video game;

11 9. "CD-ROM" means a compact disk with read only memory which
12 has the capacity to store audio, video and written materials and may
13 be used by computer to play or display materials harmful to minors;

14 10. "Magnetic Disk Memory" means a memory system that stores
15 and retrieves binary data on record-like metal or plastic disks
16 coated with a magnetic material, including but not limited to floppy
17 diskettes;

18 11. "Magnetic Tape Memory" means a memory system that stores
19 and retrieves binary data on magnetic recording tape;

20 12. "Performance" means any motion picture, film, video tape,
21 played record, phonograph or tape, preview, trailer, play, show,
22 skit, dance, or other exhibition performed or presented to or before
23 an audience of one or more, with or without consideration;

1 13. "Knowingly" means having general knowledge of, or reason to
2 know, or a belief or ground for belief which warrants further
3 inspection or inquiry of both:

4 a. the character and content of any material or
5 performance which is reasonably susceptible of
6 examination by the defendant, and

7 b. the age of the minor. However, an honest mistake,
8 shall constitute an excuse from liability pursuant to
9 this act if the defendant made a reasonable bona fide
10 attempt to ascertain the true age of such minor;

11 14. "Person" means any individual, partnership, association,
12 corporation, or other legal entity of any kind; and

13 15. "A reasonable bona fide attempt" means an attempt to
14 ascertain the true age of the minor by requiring production of a
15 driver license, marriage license, birth certificate or other
16 governmental or educational identification card or paper and not
17 relying solely on the oral allegations or apparent age of the minor.

18 SECTION 2. This act shall become effective November 1, 2022.
19

20 58-2-11325 GRS 04/11/22
21
22
23
24