

1 ENGROSSED HOUSE  
2 BILL NO. 2515

By: Stinson, Sims and Moore of  
the House

3 and

4 Daniels of the Senate  
5  
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7

8 An Act relating to crimes and punishments; amending  
9 21 O.S. 2011, Section 843.5, as last amended by  
10 Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp.  
11 2020, Section 843.5), which relates to penalties for  
12 child abuse and neglect; modifying scope of certain  
13 prohibited acts; deleting defined terms; precluding  
14 the use of certain defense in criminal prosecutions;  
15 declaring age requirement; defining terms; amending  
16 21 O.S. 2011, Section 888, as last amended by Section  
17 2, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2020,  
18 Section 888), which relates to penalties for forcible  
19 sodomy; deleting certain circumstance that determines  
20 the crime of forcible sodomy; deleting defined term;  
21 amending 21 O.S. 2011, Section 1111, as last amended  
22 by Section 3, Chapter 167, O.S.L. 2018 (21 O.S. Supp.  
23 2020, Section 1111), which relates to the crime of  
24 rape; deleting certain circumstance that determines  
the crime of rape; deleting defined term; amending 21  
O.S. 2011, Section 1123, as last amended by Section  
4, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2020,  
Section 1123), which relates to penalties for lewd or  
indecent acts to a child; deleting certain prohibited  
act and related penalties; deleting defined term; and  
providing an effective date.

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

1       SECTION 1.       AMENDATORY       21 O.S. 2011, Section 843.5, as  
2 last amended by Section 1, Chapter 284, O.S.L. 2019 (21 O.S. Supp.  
3 2020, Section 843.5), is amended to read as follows:

4       Section 843.5 A. Any ~~parent or other~~ person who shall  
5 willfully or maliciously engage in child abuse, as defined in this  
6 section, shall, upon conviction, be guilty of a felony punishable by  
7 imprisonment in the custody of the Department of Corrections not  
8 exceeding life imprisonment, or by imprisonment in a county jail not  
9 exceeding one (1) year, or by a fine of not less than Five Hundred  
10 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),  
11 or both such fine and imprisonment. ~~As used in this subsection,~~  
12 ~~"child abuse" means the willful or malicious harm or threatened harm~~  
13 ~~or failure to protect from harm or threatened harm to the health,~~  
14 ~~safety, or welfare of a child under eighteen (18) years of age by~~  
15 ~~another, or the act of willfully or maliciously injuring, torturing~~  
16 ~~or maiming a child under eighteen (18) years of age by another.~~

17       B. Any ~~parent or other~~ person responsible for the health,  
18 safety or welfare of a child who shall willfully or maliciously  
19 engage in enabling child abuse, as defined in this section, shall,  
20 upon conviction, be punished by imprisonment in the custody of the  
21 Department of Corrections not exceeding life imprisonment, or by  
22 imprisonment in a county jail not exceeding one (1) year, or by a  
23 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
24 Five Thousand Dollars (\$5,000.00) or both such fine and

1 imprisonment. ~~As used in this subsection, "enabling child abuse"~~  
2 ~~means the causing, procuring or permitting of a willful or malicious~~  
3 ~~act of harm or threatened harm or failure to protect from harm or~~  
4 ~~threatened harm to the health, safety, or welfare of a child under~~  
5 ~~eighteen (18) years of age by another. As used in this subsection,~~  
6 ~~"permit" means to authorize or allow for the care of a child by an~~  
7 ~~individual when the person authorizing or allowing such care knows~~  
8 ~~or reasonably should know that the child will be placed at risk of~~  
9 ~~abuse as proscribed by this subsection.~~

10 C. Any ~~parent or other person~~ responsible for the health,  
11 safety or welfare of a child who shall willfully or maliciously  
12 engage in child neglect, as defined in this section, shall, upon  
13 conviction, be punished by imprisonment in the custody of the  
14 Department of Corrections not exceeding life imprisonment, or by  
15 imprisonment in a county jail not exceeding one (1) year, or by a  
16 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
17 Five Thousand Dollars (\$5,000.00), or both such fine and  
18 imprisonment. ~~As used in this subsection, "child neglect" means the~~  
19 ~~willful or malicious neglect, as defined by Section 1-1-105 of Title~~  
20 ~~10A of the Oklahoma Statutes, of a child under eighteen (18) years~~  
21 ~~of age by another.~~

22 D. Any parent or other person who shall willfully or  
23 maliciously engage in enabling child neglect shall, upon conviction,  
24 be punished by imprisonment in the custody of the Department of

1 Corrections not exceeding life imprisonment, or by imprisonment in a  
2 county jail not exceeding one (1) year, or by a fine of not less  
3 than Five Hundred Dollars (\$500.00) nor more than Five Thousand  
4 Dollars (\$5,000.00), or both such fine and imprisonment. ~~As used in~~  
5 ~~this subsection, "enabling child neglect" means the causing,~~  
6 ~~procuring or permitting of a willful or malicious act of child~~  
7 ~~neglect, as defined by Section 1-1-105 of Title 10A of the Oklahoma~~  
8 ~~Statutes, of a child under eighteen (18) years of age by another.~~  
9 ~~As used in this subsection, "permit" means to authorize or allow for~~  
10 ~~the care of a child by an individual when the person authorizing or~~  
11 ~~allowing such care knows or reasonably should know that the child~~  
12 ~~will be placed at risk of neglect as proscribed by this subsection.~~

13 E. Any ~~parent or other person~~ responsible for the health,  
14 safety or welfare of a child who shall willfully or maliciously  
15 engage in child sexual abuse, as defined in this section, shall,  
16 upon conviction, be punished by imprisonment in the custody of the  
17 Department of Corrections not exceeding life imprisonment, or by  
18 imprisonment in a county jail not exceeding one (1) year, or by a  
19 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
20 Five Thousand Dollars (\$5,000.00), or both such fine and  
21 imprisonment, except as provided in Section 51.1a of this title or  
22 as otherwise provided in subsection F of this section for a child  
23 victim under twelve (12) years of age. Except for persons sentenced  
24 to life or life without parole, any person sentenced to imprisonment

1 for two (2) years or more for a violation of this subsection shall  
2 be required to serve a term of post-imprisonment supervision  
3 pursuant to subparagraph f of paragraph 1 of subsection A of Section  
4 991a of Title 22 of the Oklahoma Statutes under conditions  
5 determined by the Department of Corrections. The jury shall be  
6 advised that the mandatory post-imprisonment supervision shall be in  
7 addition to the actual imprisonment. ~~As used in this section,~~  
8 ~~"child sexual abuse" means the willful or malicious sexual abuse,~~  
9 ~~which includes but is not limited to rape, incest, and lewd or~~  
10 ~~indecent acts or proposals, of a child under eighteen (18) years of~~  
11 ~~age by another.~~

12 F. Any ~~parent or other~~ person responsible for the health,  
13 safety or welfare of a child who shall willfully or maliciously  
14 engage in child sexual abuse, as defined in this section, to a child  
15 under twelve (12) years of age shall, upon conviction, be punished  
16 by imprisonment in the custody of the Department of Corrections for  
17 not less than twenty-five (25) years nor more than life  
18 imprisonment, and by a fine of not less than Five Hundred Dollars  
19 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

20 G. Any parent or other person who shall willfully or  
21 maliciously engage in enabling child sexual abuse shall, upon  
22 conviction, be punished by imprisonment in the custody of the  
23 Department of Corrections not exceeding life imprisonment, or by  
24 imprisonment in a county jail not exceeding one (1) year, or by a

1 fine of not less than Five Hundred Dollars (\$500.00) nor more than  
2 Five Thousand Dollars (\$5,000.00), or both such fine and  
3 imprisonment. ~~As used in this subsection, "enabling child sexual~~  
4 ~~abuse" means the causing, procuring or permitting of a willful or~~  
5 ~~malicious act of child sexual abuse, which includes but is not~~  
6 ~~limited to rape, incest, and lewd or indecent acts or proposals, of~~  
7 ~~a child under the age of eighteen (18) by another. As used in this~~  
8 ~~subsection, "permit" means to authorize or allow for the care of a~~  
9 ~~child by an individual when the person authorizing or allowing such~~  
10 ~~care knows or reasonably should know that the child will be placed~~  
11 ~~at risk of sexual abuse as proscribed by this subsection.~~

12 H. Any ~~parent or other~~ person who shall willfully or  
13 maliciously engage in child sexual exploitation, as defined in this  
14 section, shall, upon conviction, be punished by imprisonment in the  
15 custody of the Department of Corrections not exceeding life  
16 imprisonment, or by imprisonment in a county jail not exceeding one  
17 (1) year, or by a fine of not less than Five Hundred Dollars  
18 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
19 such fine and imprisonment except as provided in subsection I of  
20 this section for a child victim under twelve (12) years of age.  
21 Except for persons sentenced to life or life without parole, any  
22 person sentenced to imprisonment for two (2) years or more for a  
23 violation of this subsection shall be required to serve a term of  
24 post-imprisonment supervision pursuant to subparagraph f of

1 paragraph 1 of subsection A of Section 991a of Title 22 of the  
2 Oklahoma Statutes under conditions determined by the Department of  
3 Corrections. The jury shall be advised that the mandatory post-  
4 imprisonment supervision shall be in addition to the actual  
5 imprisonment. ~~As used in this subsection, "child sexual~~  
6 ~~exploitation" means the willful or malicious sexual exploitation,~~  
7 ~~which includes but is not limited to allowing, permitting, or~~  
8 ~~encouraging a child under eighteen (18) years of age to engage in~~  
9 ~~prostitution or allowing, permitting, encouraging or engaging in the~~  
10 ~~lewd, obscene or pornographic photographing, filming, or depicting~~  
11 ~~of a child under eighteen (18) years of age by another.~~

12 I. Any ~~parent or other~~ person who shall willfully or  
13 maliciously engage in child sexual exploitation, as defined in this  
14 section, of a child under twelve (12) years of age shall, upon  
15 conviction, be punished by imprisonment in the custody of the  
16 Department of Corrections for not less than twenty-five (25) years  
17 nor more than life imprisonment, and by a fine of not less than Five  
18 Hundred Dollars (\$500.00) nor more than Five Thousand Dollars  
19 (\$5,000.00).

20 J. Any ~~parent or other~~ person responsible for the health,  
21 safety or welfare of a child who shall willfully or maliciously  
22 engage in enabling child sexual exploitation, as defined in this  
23 section, shall, upon conviction, be punished by imprisonment in the  
24 custody of the Department of Corrections not exceeding life

1 imprisonment, or by imprisonment in a county jail not exceeding one  
2 (1) year, or by a fine of not less than Five Hundred Dollars  
3 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both  
4 such fine and imprisonment. ~~As used in this subsection, "enabling~~  
5 ~~child sexual exploitation" means the causing, procuring or~~  
6 ~~permitting of a willful or malicious act of child sexual~~  
7 ~~exploitation, which includes but is not limited to allowing,~~  
8 ~~permitting, or encouraging a child under eighteen (18) years of age~~  
9 ~~to engage in prostitution or allowing, permitting, encouraging or~~  
10 ~~engaging in the lewd, obscene or pornographic photographing,~~  
11 ~~filming, or depicting of a child under eighteen (18) years of age by~~  
12 ~~another. As used in this subsection, "permit" means to authorize or~~  
13 ~~allow for the care of a child by an individual when the person~~  
14 ~~authorizing or allowing such care knows or reasonably should know~~  
15 ~~that the child will be placed at risk of sexual exploitation as~~  
16 ~~proscribed by this subsection.~~

17 K. Notwithstanding any other provision of law, any ~~parent or~~  
18 ~~other~~ person convicted of forcible anal or oral sodomy, rape, rape  
19 by instrumentation, or lewd molestation of a child under fourteen  
20 (14) years of age subsequent to a previous conviction for any  
21 offense of forcible anal or oral sodomy, rape, rape by  
22 instrumentation, or lewd molestation of a child under fourteen (14)  
23 years of age shall be punished by death or by imprisonment for life  
24 without parole.

1 L. Provided, however, that nothing contained in this section  
2 shall prohibit any parent or guardian from using reasonable and  
3 ordinary force pursuant to Section 844 of this title.

4 M. Consent shall not be a defense for any violation provided  
5 for in this section.

6 N. Notwithstanding the age requirements of other statutes  
7 referenced within this section, this section shall apply to any  
8 child under eighteen (18) years of age.

9 O. As used in this section:

10 1. "Child abuse" means:

- 11 a. the willful or malicious harm or threatened harm or  
12 failure to protect from harm or threatened harm to the  
13 health, safety or welfare of a child under eighteen  
14 (18) years of age by a person responsible for a  
15 child's health, safety or welfare, or  
16 b. the act of willfully or maliciously injuring,  
17 torturing or maiming a child under eighteen (18) years  
18 of age by any person;

19 2. "Child neglect" means the willful or malicious neglect, as  
20 defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, of  
21 a child under eighteen (18) years of age by a person responsible for  
22 a child's health, safety or welfare;

23 3. "Child sexual abuse" means the willful or malicious sexual  
24 abuse of a child under eighteen (18) years of age by a person

1 responsible for a child's health, safety or welfare and includes,  
2 but is not limited to:

- 3       a.   sexual intercourse,
- 4       b.   penetration of the vagina or anus, however slight, by  
5       an inanimate object or any part of the human body not  
6       amounting to sexual intercourse,
- 7       c.   sodomy,
- 8       d.   incest, or
- 9       e.   a lewd act or proposal, as defined in this section;

10       4. "Child sexual exploitation" means the willful or malicious  
11 sexual exploitation of a child under eighteen (18) years of age by  
12 another and includes, but is not limited to:

- 13       a.   human trafficking, as provided for in Section 748 of  
14       this title, if the offense involved child trafficking  
15       for commercial sex,
- 16       b.   trafficking in children, as provided for in Section  
17       866 of this title, if the offense was committed for  
18       the sexual gratification of any person,
- 19       c.   procuring or causing the participation of a minor in  
20       child pornography, as provided for in Section 1021.2  
21       of this title,
- 22       d.   purchase, procurement or possession of child  
23       pornography, as provided for in Section 1024.2 of this  
24       title,

- e. engaging in or soliciting prostitution, as provided for in Section 1029 of this title, if the offense involved child prostitution,
- f. publication, distribution or participation in the preparation of obscene material, as provided for in Section 1040.8 of this title, if the offense involved child pornography,
- g. aggravated possession of child pornography, as provided for in Section 1040.12a of this title,
- h. sale or distribution of obscene material, as provided for in Section 1040.13 of this title,
- i. soliciting sexual conduct or communication with a minor by use of technology, as provided for in Section 1043.13a of this title,
- j. offering or transporting a child for purposes of prostitution, as provided for in Section 1087 of this title, and
- k. child prostitution, as provided for in Section 1088 of this title;

5. "Enabling child abuse" means the causing, procuring or permitting of child abuse by a person responsible for a child's health, safety or welfare;

1       6. "Enabling child neglect" means the causing, procuring or  
2 permitting of child neglect by a person responsible for a child's  
3 health, safety or welfare;

4       7. "Enabling child sexual abuse" means the causing, procuring  
5 or permitting of child sexual abuse by a person responsible for a  
6 child's health, safety or welfare;

7       8. "Enabling child sexual exploitation" means the causing,  
8 procuring or permitting of child sexual exploitation by a person  
9 responsible for a child's health, safety or welfare;

10       9. "Incest" means marrying, committing adultery or fornicating  
11 with a child by a person responsible for the health, safety or  
12 welfare of a child;

13       10. "Lewd act or proposal" means:

- 14           a. making any oral, written or electronic or computer-  
15 generated lewd or indecent proposal to a child for the  
16 child to have unlawful sexual relations or sexual  
17 intercourse with any person,
- 18           b. looking upon, touching, mauling or feeling the body or  
19 private parts of a child in a lewd or lascivious  
20 manner or for the purpose of sexual gratification,
- 21           c. asking, inviting, enticing or persuading any child to  
22 go alone with any person to a secluded, remote or  
23 secret place for a lewd or lascivious purpose,

- 1        d.    urinating or defecating upon a child or causing,  
2        forcing or requiring a child to defecate or urinate  
3        upon the body or private parts of another person for  
4        the purpose of sexual gratification,  
5        e.    ejaculating upon or in the presence of a child,  
6        f.    causing, exposing, forcing or requiring a child to  
7        look upon the body or private parts of another person  
8        for the purpose of sexual gratification,  
9        g.    causing, forcing or requiring any child to view any  
10       obscene materials, child pornography or materials  
11       deemed harmful to minors as such terms are defined in  
12       Sections 1024.1 and 1040.75 of this title,  
13       h.    causing, exposing, forcing or requiring a child to  
14       look upon sexual acts performed in the presence of the  
15       child for the purpose of sexual gratification, or  
16       i.    causing, forcing or requiring a child to touch or feel  
17       the body or private parts of the child or another  
18       person for the purpose of sexual gratification;

19       11.   "Permit" means to authorize or allow for the care of a  
20       child by an individual when the person authorizing or allowing such  
21       care knows or reasonably should know that the child will be placed  
22       at risk of the conduct or harm proscribed by this section;  
23  
24

1        12. "Person responsible for a child's health, safety or  
2 welfare" for purposes of this section shall include, but not be  
3 limited to:

4            a. the parent of the child,  
5            b. the legal guardian of the child,  
6            c. the custodian of the child,  
7            d. the foster parent of the child,  
8            e. a person eighteen (18) years of age or older with whom  
9                the parent of the child cohabitates, who is at least  
10               three (3) years older than the child,  
11            f. any other person eighteen (18) years of age or older  
12               residing in the home of the child who is at least  
13               three (3) years older than the child,  
14            g. an owner, operator, agent, employee or volunteer of a  
15               public or private residential home, institution,  
16               facility or day treatment program, as defined in  
17               Section 175.20 of Title 10 of the Oklahoma Statutes,  
18               that the child attended,  
19            h. an owner, operator, agent, employee or volunteer of a  
20               child care facility, as defined in Section 402 of  
21               Title 10 of the Oklahoma Statutes, that the child  
22               attended,

1        i. an intimate partner of the parent of the child, as  
2        defined in Section 60.1 of Title 22 of the Oklahoma  
3        Statutes, or

4        j. a person who has voluntarily accepted responsibility  
5        for the care or supervision of a child;

6        13. "Sexual intercourse" means the actual penetration, however  
7        slight, of the vagina or anus by the penis; and

8        14. "Sodomy" means:

9        a. penetration, however slight, of the mouth of the child  
10       by a penis,

11       b. penetration, however slight, of the vagina of a person  
12       responsible for a child's health, safety or welfare,  
13       by the mouth of a child,

14       c. penetration, however slight, of the mouth of the  
15       person responsible for a child's health, safety or  
16       welfare by the penis of the child, or

17       d. penetration, however slight, of the vagina of the  
18       child by the mouth of the person responsible for a  
19       child's health, safety or welfare.

20       SECTION 2.        AMENDATORY        21 O.S. 2011, Section 888, as last  
21       amended by Section 2, Chapter 167, O.S.L. 2018 (21 O.S. Supp. 2020,  
22       Section 888), is amended to read as follows:

23       Section 888. A. Any person who forces another person to engage  
24       in the detestable and abominable crime against nature, pursuant to

1 Section 886 of this title, upon conviction, is guilty of a felony  
2 punishable by imprisonment in the custody of the Department of  
3 Corrections for a period of not more than twenty (20) years. Except  
4 for persons sentenced to life or life without parole, any person  
5 sentenced to imprisonment for two (2) years or more for a violation  
6 of this subsection shall be required to serve a term of post-  
7 imprisonment supervision pursuant to subparagraph f of paragraph 1  
8 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes  
9 under conditions determined by the Department of Corrections. The  
10 jury shall be advised that the mandatory post-imprisonment  
11 supervision shall be in addition to the actual imprisonment. Any  
12 person convicted of a second violation of this section, where the  
13 victim of the second offense is a person under sixteen (16) years of  
14 age, shall not be eligible for probation, suspended or deferred  
15 sentence. Any person convicted of a third or subsequent violation  
16 of this section, where the victim of the third or subsequent offense  
17 is a person under sixteen (16) years of age, shall be punished by  
18 imprisonment in the custody of the Department of Corrections for a  
19 term of life or life without parole, in the discretion of the jury,  
20 or in case the jury fails or refuses to fix punishment then the same  
21 shall be pronounced by the court. Any person convicted of a  
22 violation of this subsection after having been twice convicted of a  
23 violation of subsection A of Section 1114 of this title, a violation  
24 of Section 1123 of this title or sexual abuse of a child pursuant to

1 Section 843.5 of this title, or of any attempt to commit any of  
2 these offenses or any combination of the offenses, shall be punished  
3 by imprisonment in the custody of the Department of Corrections for  
4 a term of life or life without parole.

5 B. The crime of forcible sodomy shall include:

6 1. Sodomy committed by a person over eighteen (18) years of age  
7 upon a person under sixteen (16) years of age;

8 2. Sodomy committed upon a person incapable through mental  
9 illness or any unsoundness of mind of giving legal consent  
10 regardless of the age of the person committing the crime;

11 3. Sodomy accomplished with any person by means of force,  
12 violence, or threats of force or violence accompanied by apparent  
13 power of execution regardless of the age of the victim or the person  
14 committing the crime;

15 4. Sodomy committed by a state, county, municipal or political  
16 subdivision employee or a contractor or an employee of a contractor  
17 of the state, a county, a municipality or political subdivision of  
18 this state upon a person who is under the legal custody, supervision  
19 or authority of a state agency, a county, a municipality or a  
20 political subdivision of this state, or the subcontractor or  
21 employee of a subcontractor of the contractor of the state or  
22 federal government, a county, a municipality or a political  
23 subdivision of this state;

1        5. Sodomy committed upon a person who is at least sixteen (16)  
2 years of age but less than twenty (20) years of age and is a student  
3 of any public or private secondary school, junior high or high  
4 school, or public vocational school, with a person who is eighteen  
5 (18) years of age or older and is employed by the same school  
6 system;

7        6. Sodomy committed upon a person who is at the time  
8 unconscious of the nature of the act, and this fact should be known  
9 to the accused; or

10       7. Sodomy committed upon a person where the person is  
11 intoxicated by a narcotic or anesthetic agent administered by or  
12 with the privity of the accused as a means of forcing the person to  
13 submit; ~~or~~

14       ~~8. Sodomy committed upon a person who is at least sixteen (16)~~  
15 ~~years of age but less than eighteen (18) years of age by a person~~  
16 ~~responsible for the child's health, safety or welfare. "Person~~  
17 ~~responsible for a child's health, safety or welfare" shall include,~~  
18 ~~but not be limited to:~~

19           a. ~~a parent,~~

20           b. ~~a legal guardian,~~

21           c. ~~custodian,~~

22           d. ~~a foster parent,~~

23           e. ~~a person eighteen (18) years of age or older with whom~~  
24           ~~the child's parent cohabitates,~~

- 1           ~~f. any other adult residing in the home of the child,~~  
2           ~~g. an agent or employee of a public or private~~  
3           ~~residential home, institution, facility or day~~  
4           ~~treatment program as defined in Section 175.20 of~~  
5           ~~Title 10 of the Oklahoma Statutes, or~~  
6           ~~h. an owner, operator or employee of a child care~~  
7           ~~facility, as defined by Section 402 of Title 10 of the~~  
8           ~~Oklahoma Statutes.~~

9           SECTION 3.       AMENDATORY       21 O.S. 2011, Section 1111, as  
10   last amended by Section 3, Chapter 167, O.S.L. 2018 (21 O.S. Supp.  
11   2020, Section 1111), is amended to read as follows:

12       Section 1111. A. Rape is an act of sexual intercourse  
13   involving vaginal or anal penetration accomplished with a male or  
14   female who is not the spouse of the perpetrator and who may be of  
15   the same or the opposite sex as the perpetrator under any of the  
16   following circumstances:

- 17       1. Where the victim is under sixteen (16) years of age;  
18       2. Where the victim is incapable through mental illness or any  
19   other unsoundness of mind, whether temporary or permanent, of giving  
20   legal consent;  
21       3. Where force or violence is used or threatened, accompanied  
22   by apparent power of execution to the victim or to another person;  
23  
24

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

4        5. Where the victim is at the time unconscious of the nature of  
5 the act and this fact is known to the accused;

6        6. Where the victim submits to sexual intercourse under the  
7 belief that the person committing the act is a spouse, and this  
8 belief is induced by artifice, pretense, or concealment practiced by  
9 the accused or by the accused in collusion with the spouse with  
10 intent to induce that belief. In all cases of collusion between the  
11 accused and the spouse to accomplish such act, both the spouse and  
12 the accused, upon conviction, shall be deemed guilty of rape;

13        7. Where the victim is under the legal custody or supervision  
14 of a state agency, a federal agency, a county, a municipality or a  
15 political subdivision and engages in sexual intercourse with a  
16 state, federal, county, municipal or political subdivision employee  
17 or an employee of a contractor of the state, the federal government,  
18 a county, a municipality or a political subdivision that exercises  
19 authority over the victim, or the subcontractor or employee of a  
20 subcontractor of the contractor of the state or federal government,  
21 a county, a municipality or a political subdivision that exercises  
22 authority over the victim;

23        8. Where the victim is at least sixteen (16) years of age and  
24 is less than twenty (20) years of age and is a student, or under the

1 legal custody or supervision of any public or private elementary or  
2 secondary school, junior high or high school, or public vocational  
3 school, and engages in sexual intercourse with a person who is  
4 eighteen (18) years of age or older and is an employee of the same  
5 school system; or

6 9. Where the victim is nineteen (19) years of age or younger  
7 and is in the legal custody of a state agency, federal agency or  
8 tribal court and engages in sexual intercourse with a foster parent  
9 or foster parent applicant; ~~or~~

10 ~~10. Where the victim is at least sixteen (16) years of age but~~  
11 ~~less than eighteen (18) years of age and the perpetrator of the~~  
12 ~~crime is a person responsible for the child's health, safety or~~  
13 ~~welfare. "Person responsible for a child's health, safety or~~  
14 ~~welfare" shall include, but not be limited to:~~

15 a. ~~a parent,~~

16 b. ~~a legal guardian,~~

17 c. ~~custodian,~~

18 d. ~~a foster parent,~~

19 e. ~~a person eighteen (18) years of age or older with whom~~  
20 ~~the child's parent cohabitates,~~

21 f. ~~any other adult residing in the home of the child,~~

22 g. ~~an agent or employee of a public or private~~  
23 ~~residential home, institution, facility or day~~

~~treatment program as defined in Section 175.20 of  
Title 10 of the Oklahoma Statutes, or~~

~~h. an owner, operator or employee of a child care  
facility, as defined by Section 402 of Title 10 of the  
Oklahoma Statutes.~~

B. Rape is an act of sexual intercourse accomplished with a  
male or female who is the spouse of the perpetrator if force or  
violence is used or threatened, accompanied by apparent power of  
execution to the victim or to another person.

SECTION 4. AMENDATORY 21 O.S. 2011, Section 1123, as  
last amended by Section 4, Chapter 167, O.S.L. 2018 (21 O.S. Supp.  
2020, Section 1123), is amended to read as follows:

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

1. Make any oral, written or electronically or computer-  
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

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

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

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

12        5. In a lewd and lascivious manner and for the purpose of  
13 sexual gratification:

- 14            a. urinate or defecate upon a child under sixteen (16)  
15                years of age, or force or require a child to defecate  
16                or urinate upon the body or private parts of another,  
17                or for the purpose of sexual gratification,
- 18            b. ejaculate upon or in the presence of a child,
- 19            c. cause, expose, force or require a child to look upon  
20                the body or private parts of another person,
- 21            d. force or require any child under sixteen (16) years of  
22                age or other individual the person believes to be a  
23                child under sixteen (16) years of age, to view any  
24                obscene materials, child pornography or materials

1           deemed harmful to minors as such terms are defined by  
2           Sections 1024.1 and 1040.75 of this title,

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

5           f.    force or require a child to touch or feel the body or  
6           private parts of the child or another person.

7           Any person convicted of any violation of this subsection shall  
8   be punished by imprisonment in the custody of the Department of  
9   Corrections for not less than three (3) years nor more than twenty  
10  (20) years, except when the child is under twelve (12) years of age  
11  at the time the offense is committed, and in such case the person  
12  shall, upon conviction, be punished by imprisonment in the custody  
13  of the Department of Corrections for not less than twenty-five (25)  
14  years. The provisions of this subsection shall not apply unless the  
15  accused is at least three (3) years older than the victim, except  
16  when accomplished by the use of force or fear. Except as provided  
17  in Section 51.1a of this title, any person convicted of a second or  
18  subsequent violation of this subsection shall be guilty of a felony  
19  punishable as provided in this subsection and shall not be eligible  
20  for probation, suspended or deferred sentence. Except as provided  
21  in Section 51.1a of this title, any person convicted of a third or  
22  subsequent violation of this subsection shall be guilty of a felony  
23  punishable by imprisonment in the custody of the Department of  
24  Corrections for a term of life or life without parole, in the

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

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

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

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

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

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

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

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

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

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

13 ~~G. Any parent or person responsible for the child's health,~~  
14 ~~safety or welfare who violates subsection A, B or C of this section~~  
15 ~~when the victim is at least sixteen (16) years of age but less than~~  
16 ~~eighteen (18) years of age, upon conviction, shall be guilty of a~~  
17 ~~felony and shall be punished by imprisonment in the custody of the~~  
18 ~~Department of Corrections for not more than ten (10) years. For~~  
19 ~~purposes of this section, "person responsible for a child's health,~~  
20 ~~safety or welfare" shall include, but not be limited to:~~

- 21 a. ~~a parent,~~
- 22 b. ~~a legal guardian,~~
- 23 c. ~~eustodian,~~
- 24 d. ~~a foster parent,~~

- e. ~~a person eighteen (18) years of age or older with whom the child's parent cohabitates,~~
- f. ~~any other adult residing in the home of the child,~~
- g. ~~an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or~~
- h. ~~an owner, operator or employee of a child care facility, as defined by Section 402 of Title 10 of the Oklahoma Statutes.~~

SECTION 5. This act shall become effective November 1, 2021.

Passed the House of Representatives the 9th day of March, 2021.

Presiding Officer of the House  
of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2021.

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Presiding Officer of the Senate