

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 SENATE BILL 1462

By: David

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5  
6 AS INTRODUCED

7 An Act relating to crime and punishment; amending  
8 Section 1, Chapter 262, O.S.L. 2016 (21 O.S. Supp.  
9 2019, Section 1040.13b), which relates to  
10 nonconsensual dissemination of private sexual images;  
11 modifying offense; providing penalty; limiting  
12 certain authority; amending Section 1, Chapter 219,  
13 O.S.L. 2016 (22 O.S. Supp. 2019, Section 234), which  
14 relates to discretion to charge as misdemeanor;  
15 modifying inclusions; amending 57 O.S. 2011, Section  
16 582, as last amended by Section 2, Chapter 220,  
17 O.S.L. 2019 (57 O.S. Supp. 2019, Section 582), which  
18 relates to the applicability of the Sex Offenders  
19 Registration Act; modifying inclusions; updating  
20 statutory language; and providing an effective date.

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

22 SECTION 1. AMENDATORY Section 1, Chapter 262, O.S.L.  
23 2016 (21 O.S. Supp. 2019, Section 1040.13b), is amended to read as  
24 follows:

25 Section 1040.13b. A. As used in this section:

26 1. "Image" includes a photograph, film, videotape, digital  
27 recording or other depiction or portrayal of an object, including a  
28 human body;

1           2. "Intimate parts" means the fully unclothed, partially  
2 unclothed or transparently clothed genitals, pubic area or female  
3 adult nipple; and

4           3. "Sexual act" means sexual intercourse including genital,  
5 anal or oral sex.

6           B. A person commits nonconsensual dissemination of private  
7 sexual images when he or she:

8           1. Intentionally disseminates an image of another person:

9           a. who is at least eighteen (18) years of age,

10           b. who is identifiable from the image itself or  
11 information displayed in connection with the image,  
12 and

13           c. who is engaged in a sexual act or whose intimate parts  
14 are exposed, in whole or in part;

15           2. Disseminates the image with the intent to harass, intimidate  
16 or coerce the person, or under circumstances in which a reasonable  
17 person would know or understand that dissemination of the image  
18 would harass, intimidate or coerce the person;

19           3. Obtains the image under circumstances in which a reasonable  
20 person would know or understand that the image was to remain  
21 private; and

22           4. Knows or a reasonable person should have known that the  
23 person in the image has not consented to the dissemination.

1 C. The provisions of this section shall not apply to the  
2 intentional dissemination of an image of another identifiable person  
3 who is engaged in a sexual act or whose intimate parts are exposed  
4 when:

5 1. The dissemination is made for the purpose of a criminal  
6 investigation that is otherwise lawful;

7 2. The dissemination is for the purpose of, or in connection  
8 with, the reporting of unlawful conduct;

9 3. The images involve voluntary exposure in public or  
10 commercial settings; or

11 4. The dissemination serves a lawful purpose.

12 D. Nothing in this section shall be construed to impose  
13 liability upon the following entities solely as a result of content  
14 or information provided by another person:

15 1. An interactive computer service, as defined in 47 U.S.C.,  
16 Section 230(f)(2);

17 2. A wireless service provider, as defined in Section 332(d) of  
18 the Telecommunications Act of 1996, 47 U.S.C., Section 151 et seq.,  
19 Federal Communications Commission rules, and the Omnibus Budget  
20 Reconciliation Act of 1993, Pub. L. No. 103-66; or

21 3. A telecommunications network or broadband provider.

22 E. A person convicted under this section is subject to the  
23 forfeiture provisions in Section 1040.54 of ~~Title 21 of the Oklahoma~~  
24 ~~Statutes~~ this title.

1 F. Any person who violates the provisions of this section shall  
2 be guilty of a misdemeanor punishable by imprisonment in a county  
3 jail for not more than one (1) year or by a fine of not more than  
4 One Thousand Dollars (\$1,000.00), or both such fine and  
5 imprisonment.

6 G. Any person who violates the provisions of this section and  
7 who gains or attempts to gain financially or who gains or attempts  
8 to gain anything of value as a result of the nonconsensual  
9 dissemination of private sexual images shall be guilty of a felony  
10 punishable by imprisonment in the custody of the Department of  
11 Corrections for not more than four (4) years. A second or  
12 subsequent violation of this subsection shall be a felony punishable  
13 by imprisonment in the custody of the Department of Corrections for  
14 not more than ten (10) years and the offender shall be required to  
15 register as a sex offender under the Sex Offender Registration Act.

16 H. The state shall not have the discretion to file a  
17 misdemeanor charge, pursuant to Section 234 of Title 22 of the  
18 Oklahoma Statutes, for a violation pursuant to subsection G of this  
19 section.

20 I. The court shall have the authority to order the defendant to  
21 remove the disseminated image should the court find it is in the  
22 power of the defendant to do so.

1 SECTION 2. AMENDATORY Section 1, Chapter 219, O.S.L.

2 2016 (22 O.S. Supp. 2019, Section 234), is amended to read as  
3 follows:

4 Section 234. When determining the appropriate charge for a  
5 person accused of committing a criminal offense, the district  
6 attorney shall have the discretion to file the charge as a  
7 misdemeanor offense rather than a felony offense after considering  
8 the following factors:

9 1. The criminal offense for which the person has been arrested  
10 is not listed as a criminal offense in Section 13.1 or subsection G  
11 of Section 1040.13b of Title 21 of the Oklahoma Statutes;

12 2. The nature of the criminal offense;

13 3. The age, background and criminal history of the person who  
14 committed the criminal offense;

15 4. The character and rehabilitation needs of the person who  
16 committed the criminal offense; and

17 5. Whether it is in the best interests of justice to file the  
18 charge as a misdemeanor offense rather than a felony offense.

19 SECTION 3. AMENDATORY 57 O.S. 2011, Section 582, as last  
20 amended by Section 2, Chapter 220, O.S.L. 2019 (57 O.S. Supp. 2019,  
21 Section 582), is amended to read as follows:

22 Section 582. A. The provisions of the Sex Offenders  
23 Registration Act shall apply to any person residing, working or  
24 attending school within the State of Oklahoma who, after November 1,

1 1989, has been convicted, whether upon a verdict or plea of guilty  
2 or upon a plea of nolo contendere, or received a suspended sentence  
3 or any probationary term, or is currently serving a sentence or any  
4 form of probation or parole for a crime or an attempt to commit a  
5 crime provided for in Section 843.5 of Title 21 of the Oklahoma  
6 Statutes if the offense involved sexual abuse or sexual exploitation  
7 as those terms are defined in Section 1-1-105 of Title 10A of the  
8 Oklahoma Statutes, Section 681, if the offense involved sexual  
9 assault, 741, if the offense involved sexual abuse or sexual  
10 exploitation, Section 748, if the offense involved human trafficking  
11 for commercial sex, Section 843.1, if the offense involved sexual  
12 abuse or sexual exploitation, Section 852.1, if the offense involved  
13 sexual abuse of a child, 856, if the offense involved child  
14 prostitution or human trafficking for commercial sex, 865 et seq.,  
15 885, 886, 888, 891, if the offense involved sexual abuse or sexual  
16 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense  
17 involved child prostitution, 1040.8, if the offense involved child  
18 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114  
19 or 1123 of Title 21 of the Oklahoma Statutes.

20 B. The provisions of the Sex Offenders Registration Act shall  
21 apply to any person who after November 1, 1989, resides, works or  
22 attends school within the State of Oklahoma and who has been  
23 convicted or received a suspended sentence at any time in any court  
24 of another state, the District of Columbia, Puerto Rico, Guam,

1 American Samoa, the Northern Mariana Islands and the United States  
2 Virgin Islands, a federal court, an Indian tribal court, a military  
3 court, or a court of a foreign country for a crime, attempted crime  
4 or a conspiracy to commit a crime which, if committed or attempted  
5 in this state, would be a crime, an attempt to commit a crime or a  
6 conspiracy to commit a crime provided for in any of ~~said~~ the laws  
7 listed in subsection A of this section.

8 C. The provisions of the Sex Offenders Registration Act shall  
9 apply to any person who resides, works or attends school within the  
10 State of Oklahoma and who has received a deferred judgment at any  
11 time in any court of another state, the District of Columbia, Puerto  
12 Rico, Guam, American Samoa, the Northern Mariana Islands and the  
13 United States Virgin Islands, a federal court, an Indian tribal  
14 court, a military court, or a court of a foreign country for a  
15 crime, attempted crime or a conspiracy to commit a crime which, if  
16 committed or attempted or conspired to be committed in this state,  
17 would be a crime, an attempt to commit a crime or a conspiracy to  
18 commit a crime provided for in Section 843.5 of Title 21 of the  
19 Oklahoma Statutes if the offense involved sexual abuse or sexual  
20 exploitation as those terms are defined in Section 1-1-105 of Title  
21 10A of the Oklahoma Statutes, Section 681, if the offense involved  
22 sexual assault, 741, if the offense involved sexual abuse or sexual  
23 exploitation, Section 748, if the offense involved human trafficking  
24 for commercial sex, Section 843.1, if the offense involved sexual

1 abuse or sexual exploitation, Section 852.1, if the offense involved  
2 sexual abuse of a child, 856, if the offense involved child  
3 prostitution or human trafficking for commercial sex, 865 et seq.,  
4 885, 886, 888, 891, if the offense involved sexual abuse or sexual  
5 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense  
6 involved child prostitution, 1040.8, if the offense involved child  
7 pornography, 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1, 1114  
8 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the  
9 Sex Offenders Registration Act shall not apply to any such person  
10 while the person is incarcerated in a maximum or medium correctional  
11 institution of the Department of Corrections.

12 D. On ~~the effective date of this act~~ November 1, 2002, any  
13 person registered as a sex offender pursuant to Section 741 of Title  
14 21 of the Oklahoma Statutes shall be summarily removed from the Sex  
15 Offender Registry by the Department of Corrections and all law  
16 enforcement agencies of any political subdivision of this state,  
17 unless the offense involved sexual abuse or sexual exploitation.

18 E. The provisions of the Sex Offenders Registration Act shall  
19 not apply to any such person who has received a criminal history  
20 records expungement for a conviction in another state for a crime or  
21 attempted crime which, if committed or attempted in this state,  
22 would be a crime or an attempt to commit a crime provided for in any  
23 ~~said~~ the laws listed in subsection A of this section.



1       F. The provisions of the Sex Offender Registration Act shall  
2 apply to any person residing, working or attending school within  
3 this state who, after the effective date of this act, has been  
4 convicted, whether upon a verdict or plea of guilty or upon a plea  
5 of nolo contendere, or received a suspended sentence or any  
6 probationary term, or is currently serving a sentence or any form of  
7 probation or parole for a crime or an attempt to commit a crime as  
8 provided for in subsection G of Section 1040.13b of Title 21 of the  
9 Oklahoma Statutes.

10       G. The provisions of the Sex Offenders Registration Act shall  
11 apply to any person who resides, works or attends school within this  
12 state and who has received a deferred judgment at any time in any  
13 court of another state, the District of Columbia, Puerto Rico, Guam,  
14 American Samoa, the Northern Mariana Islands and the United States  
15 Virgin Islands, a federal court, an Indian tribal court, a military  
16 court, or a court of a foreign country for a crime, if committed in  
17 this state, would be a crime, as provided for subsection G of  
18 Section 1040.13b of Title 21 of the Oklahoma Statutes. The  
19 provisions of the Sex Offenders Registration Act shall not apply to  
20 any such person while the person is incarcerated in a maximum or  
21 medium correctional institution of the Department of Corrections.

22       SECTION 4. This act shall become effective November 1, 2020.

24       57-2-2842       BG       1/15/2020 4:17:28 PM