

COMMITTEE AMENDMENT

HOUSE OF REPRESENTATIVES

State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB3258 _____
 _____ 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

Amendment submitted by: Jadine Nollan

Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3258

By: Nollan

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to sex crimes; amending 21 O.S. 2021,
10 Sections 1111, 1111.1 and 1123, which relate to rape,
11 rape by instrumentation and lewd or indecent acts or
12 proposals to a child; expanding scope of crimes to
13 include certain category of victims; and providing an
14 effective date.

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

16 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1111, is
17 amended to read as follows:

18 Section 1111. A. Rape is an act of sexual intercourse
19 involving vaginal or anal penetration accomplished with a male or
20 female who is not the spouse of the perpetrator and who may be of
21 the same or the opposite sex as the perpetrator under any of the
22 following circumstances:

- 23 1. Where the victim is under sixteen (16) years of age;
- 24

1 2. Where the victim is incapable through mental illness or any
2 other unsoundness of mind, whether temporary or permanent, of giving
3 legal consent;

4 3. Where force or violence is used or threatened, accompanied
5 by apparent power of execution to the victim or to another person;

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

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

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

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

1 subcontractor of the contractor of the state or federal government,
2 a county, a municipality or a political subdivision that exercises
3 authority over the victim;

4 8. Where the victim is at least sixteen (16) years of age and
5 is less than twenty (20) years of age and is a student, or under the
6 legal custody or supervision of any public or private elementary or
7 secondary school, junior high or high school, or public vocational
8 school, and engages in sexual intercourse with a person who is
9 eighteen (18) years of age or older and is an employee of the same
10 school system; ~~or~~

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

15 10. Where the victim is a student at a secondary school but is
16 concurrently enrolled at an institution of higher education and
17 engages in sexual intercourse with a person who is three (3) or more
18 years of age older than the concurrently enrolled student and is an
19 employee of the institution of higher education of which the student
20 is enrolled.

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

1 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1111.1, is
2 amended to read as follows:

3 Section 1111.1 A. Rape by instrumentation is an act within or
4 without the bonds of matrimony in which any inanimate object or any
5 part of the human body, not amounting to sexual intercourse is used
6 in the carnal knowledge of another person without his or her consent
7 and penetration of the anus or vagina occurs to that person.

8 B. Provided, further, that at least one of the circumstances
9 specified in Section 1111 of this title has been met; further, where
10 the victim is at least sixteen (16) years of age and is less than
11 twenty (20) years of age and is a student, or under the legal
12 custody or supervision of any public or private elementary or
13 secondary school, junior high or high school, or public vocational
14 school, and engages in conduct prohibited by this section of law
15 with a person who is eighteen (18) years of age or older and is an
16 employee of the same school system, or where the victim is under the
17 legal custody or supervision of a state or federal agency, county,
18 municipal or a political subdivision and engages in conduct
19 prohibited by this section of law with a federal, state, county,
20 municipal or political subdivision employee or an employee of a
21 contractor of the state, the federal government, a county, a
22 municipality or a political subdivision that exercises authority
23 over the victim, consent shall not be an element of the crime.

24

1 C. Provided, further, that at least one of the circumstances
2 specified in Section 1111 of this title has been met; further, where
3 the victim is nineteen (19) years of age or younger and in the legal
4 custody of a state agency, federal agency or tribal court and
5 engages in conduct prohibited by this section of law with a foster
6 parent or foster parent applicant or where the victim is a student
7 at a secondary school but is concurrently enrolled at an institution
8 of higher education and engages in sexual intercourse with a person
9 who is three (3) or more years of age older than the concurrently
10 enrolled student and is an employee of the institution of higher
11 education of which the student is enrolled.

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

20 SECTION 3. AMENDATORY 21 O.S. 2021, Section 1123, is
21 amended to read as follows:

22 Section 1123. A. It is a felony for any person to knowingly
23 and intentionally:
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1 1. Make any oral, written or electronically or computer-
2 generated lewd or indecent proposal to any child under sixteen (16)
3 years of age, or other individual the person believes to be a child
4 under sixteen (16) years of age, for the child to have unlawful
5 sexual relations or sexual intercourse with any person; or

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

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

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

21 5. In a lewd and lascivious manner and for the purpose of
22 sexual gratification:

23 a. urinate or defecate upon a child under sixteen (16)
24 years of age, or force or require a child to defecate

- 1 or urinate upon the body or private parts of another,
2 or for the purpose of sexual gratification,
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, or the subcontractor or
7 employee of a subcontractor of the contractor of the state or
8 federal government, a county, a municipality or a political
9 subdivision of this state;

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

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

20 5. When committed upon a person who is a student at a secondary
21 school but is concurrently enrolled at an institution of higher
22 education and engages in sexual intercourse with a person who is
23 three (3) or more years of age older than the concurrently enrolled
24

1 student and is an employee of the institution of higher education of
2 which the student is enrolled.

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

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

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

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

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

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

20 F. Except for persons sentenced to life or life without parole,
21 any person sentenced to imprisonment for two (2) years or more for a
22 violation of this section shall be required to serve a term of post-
23 imprisonment supervision pursuant to subparagraph f of paragraph 1
24 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes

1 under conditions determined by the Department of Corrections. The
2 jury shall be advised that the mandatory post-imprisonment
3 supervision shall be in addition to the actual imprisonment.

4 SECTION 4. This act shall become effective November 1, 2022.

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6 58-2-10510 GRS 02/15/22

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