

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE  
4 FOR  
5 SENATE BILL NO. 1056

By: Standridge, Bullard,  
Newhouse, Dahm, Bergstrom,  
Rogers, and Burns

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8 COMMITTEE SUBSTITUTE

9 An Act relating to obscene material; amending 21 O.S.  
10 2021, Section 1024.1, which relates to definitions;  
11 updating statutory references; modifying definitions;  
12 and providing an effective date.

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

14 SECTION 1. AMENDATORY 21 O.S. 2021, Section 1024.1, is  
15 amended to read as follows:

16 Section 1024.1. A. As used in Sections 1021,~~1021.1~~ through  
17 ~~1021.4~~, Sections ~~1022~~ through 1024 1024.4, and Sections 1040.8  
18 through 1040.24 of this title, "child pornography" means and  
19 includes any visual depiction or individual image stored or  
20 contained in any format on any medium including, but not limited to,  
21 film, motion picture, videotape, photograph, negative, undeveloped  
22 film, slide, photographic product, reproduction of a photographic  
23 product, play or performance wherein a minor under the age of  
24 eighteen (18) years is engaged in any act with a person, other than

1 his or her spouse, of sexual intercourse which is normal or  
2 perverted, in any act of anal sodomy, in any act of sexual activity  
3 with an animal, in any act of sadomasochistic abuse including, but  
4 not limited to, flagellation or torture, or the condition of being  
5 fettered, bound or otherwise physically restrained in the context of  
6 sexual conduct, in any act of fellatio or cunnilingus, in any act of  
7 excretion in the context of sexual conduct, in any lewd exhibition  
8 of the uncovered genitals in the context of masturbation or other  
9 sexual conduct, or where the lewd exhibition of the uncovered  
10 genitals, buttocks or, if such minor is a female, the breast, has  
11 the purpose of sexual stimulation of the viewer, or wherein a person  
12 under the age of eighteen (18) years observes such acts or  
13 exhibitions. Each visual depiction or individual image shall  
14 constitute a separate item and multiple copies of the same identical  
15 material shall each be counted as a separate item.

16 B. As used in Sections 1021 through 1024.4 and Sections 1040.8  
17 through 1040.24 of this title:

18 1. "Obscene material" means and includes any representation,  
19 performance, depiction or description of sexual conduct, whether in  
20 any form or on any medium including still photographs, undeveloped  
21 photographs, motion pictures, undeveloped film, videotape, optical,  
22 magnetic or solid-state storage, CD or DVD, or a purely photographic  
23 product or a reproduction of such product in any book, pamphlet,  
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1 magazine, or other publication or electronic or photo-optical  
2 format, if ~~said~~ such items contain the following elements:

- 3 a. depictions or descriptions of sexual conduct which are  
4 patently offensive as found by the average person  
5 applying contemporary community standards; with  
6 regards to minors the contemporary community standards  
7 for minors shall be applied,
- 8 b. taken as a whole, have as the dominant theme an appeal  
9 to prurient interest in sex as found by the average  
10 person applying contemporary community standards; with  
11 regards to minors the contemporary community standards  
12 for minors shall be applied, and
- 13 c. a reasonable person would find the material or  
14 performance taken as a whole lacks serious literary,  
15 artistic, educational, political, or scientific  
16 purposes or value; provided, however, such standard  
17 shall not apply when an adult knowingly provides  
18 material that qualifies as obscene to a minor without  
19 written informed consent by the minor's parent or  
20 guardian.

21 The standard for obscenity applied in this section shall not apply  
22 to child pornography;

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1       2. "Contemporary community standards for minors" means obscene  
2 material with regards to a minor if one of the following conditions  
3 is met:

4           a. if two or more secular news outlets in the broadcast  
5           area that includes the area where minors are  
6           potentially being given such material refuse to read,  
7           show, or otherwise communicate the material to their  
8           audience because the outlet determines the material is  
9           inappropriate, vulgar, or sexually explicit, or

10          b. if two or more secular print news outlets who  
11          distribute materials in the area that includes the  
12          area where minors are potentially being given such  
13          material refuse to print or otherwise communicate the  
14          material because the outlet determines the material is  
15          inappropriate, vulgar, or sexually explicit;

16        3. "Performance" means and includes any display, live or  
17 recorded, in any form or medium;

18        ~~3.~~ 4. "Sexual conduct" means and includes any of the following:

- 19           a. acts of sexual intercourse including any intercourse  
20           which is normal or perverted, actual or simulated,  
21           b. acts of ~~deviate~~ deviant sexual conduct, including oral  
22           and anal sodomy,  
23           c. acts of masturbation,

1 d. acts of sadomasochistic abuse including but not  
2 limited to:

3 (1) flagellation or torture by or upon any person who  
4 is nude or clad in undergarments or in a costume  
5 which is of a revealing nature, or

6 (2) the condition of being fettered, bound, or  
7 otherwise physically restrained on the part of  
8 one who is nude or so clothed,

9 e. acts of excretion in a sexual context, or

10 f. acts of exhibiting human genitals or pubic areas; and

11 ~~4.~~ 5. "Explicit child pornography" means material which a law  
12 enforcement officer can immediately identify upon first viewing  
13 without hesitation as child pornography.

14 The types of sexual conduct described in paragraph ~~3~~ 4 of this  
15 subsection are intended to include situations when, if appropriate  
16 to the type of conduct, the conduct is performed alone or between  
17 members of the same or opposite sex or between humans and animals in  
18 an act of apparent sexual stimulation or gratification.

19 SECTION 2. This act shall become effective November 1, 2023.

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