

STATE OF OKLAHOMA

1st Session of the 59th Legislature (2023)

SENATE BILL 1056

By: Standridge

AS INTRODUCED

An Act relating to obscene material; amending 21 O.S. 2021, Section 1024.1, which relates to definitions; updating statutory reference; requiring certain applications; defining certain term; requiring certain exception; and providing an effective date.

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

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

Section 1024.1. A. As used in Sections 1021, 1021.1 through ~~1021.4, Sections 1022 through 1024~~ 1023, and Sections 1040.8 through 1040.24 of this title, "child pornography" means and includes any visual depiction or individual image stored or contained in any format on any medium including, but not limited to, film, motion picture, videotape, photograph, negative, undeveloped film, slide, photographic product, reproduction of a photographic product, play or performance wherein a minor under the age of eighteen (18) years is engaged in any act with a person, other than his or her spouse, of sexual intercourse which is normal or perverted, in any act of

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

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

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

- 1 a. depictions or descriptions of sexual conduct which are
2 patently offensive as found by the average person
3 applying contemporary community standards; with
4 regards to minors the contemporary community standards
5 for minors shall be applied,
- 6 b. taken as a whole, have as the dominant theme an appeal
7 to prurient interest in sex as found by the average
8 person applying contemporary community standards; with
9 regards to minors the contemporary community standards
10 for minors shall be applied, and
- 11 c. a reasonable person would find the material or
12 performance taken as a whole lacks serious literary,
13 artistic, educational, political, or scientific
14 purposes or value.

15 The standard for obscenity applied in this section shall not apply
16 to child pornography;

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

- 20 a. if one or more news outlets in the broadcast area
21 which includes the area where minors are potentially
22 being given the material in question refuses to read,
23 show, or otherwise communicate the material in
24 question to their audience because they feel the

1 material is inappropriate, vulgar, or in some other
2 way too sexually explicit to communicate to their
3 audience,

4 b. if one or more secular print news outlets who
5 distributes their materials in the area which includes
6 the area where minors are potentially being given the
7 material in question refuses to print or communicate
8 the material in question because they feel the
9 material is inappropriate, vulgar, or in some way too
10 sexually explicit to communicate to their readers, or

11 c. if two percent (2%) or more of parents with minor
12 children in the area where minors are potentially
13 being given the material in question respond in a poll
14 or other inquiry whether they would want to be
15 informed and provide consent if the material in
16 question were given to their child and at least ten
17 percent (10%) of the parents asked respond that they
18 would want to be informed and provide consent for
19 their child to receive the material in question.

20 The standard for obscenity applied in subparagraph c of this
21 paragraph shall not apply when an adult knowingly provides material
22 that qualifies as obscene, as defined in this section, to a minor;

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

1 ~~3.~~ 4. "Sexual conduct" means and includes any of the following:

2 a. acts of sexual intercourse including any intercourse

3 which is normal or perverted, actual or simulated,

4 b. acts of deviate sexual conduct, including oral and

5 anal sodomy,

6 c. acts of masturbation,

7 d. acts of sadomasochistic abuse including but not

8 limited to:

9 (1) flagellation or torture by or upon any person who

10 is nude or clad in undergarments or in a costume

11 which is of a revealing nature, or

12 (2) the condition of being fettered, bound, or

13 otherwise physically restrained on the part of

14 one who is nude or so clothed,

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

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

17 ~~4.~~ 5. "Explicit child pornography" means material which a law
18 enforcement officer can immediately identify upon first viewing
19 without hesitation as child pornography.

20 The types of sexual conduct described in paragraph 3 of this
21 subsection are intended to include situations when, if appropriate
22 to the type of conduct, the conduct is performed alone or between
23 members of the same or opposite sex or between humans and animals in
24 an act of apparent sexual stimulation or gratification.

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

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