

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 593

By: Deever

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2021, Sections 1024.1, as amended by Section 2, Chapter 103, O.S.L. 2024, 1024.2, as amended by Section 15, Chapter 59, O.S.L. 2024, and 1040.8, as amended by Section 18, Chapter 59, O.S.L. 2024 (21 O.S. Supp. 2024, Sections 1024.1, 1024.2, and 1040.8), which relate to obscenity and child sexual abuse material; updating statutory reference; providing severability clause; authorizing civil action; providing elements of certain award; modifying elements of felony offense; creating felony offenses; providing penalties; authorizing certain relief; construing provision; modifying elements of misdemeanor offense; updating statutory language; 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, as amended by Section 2, Chapter 103, O.S.L. 2024 (21 O.S. Supp. 2024, 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, 1023, and Sections 1040.8 through 1040.24 of this title, "~~child pornography~~" sexual abuse material" means:

1. Any visual depiction of a child engaged in any act of sexually explicit conduct;

1 2. Any visual depiction of a child that has been adapted,
2 altered, or modified so that the child depicted appears to be
3 engaged in any act of sexually explicit conduct; or

4 3. Any visual depiction that appears to be a child, regardless
5 of whether the image is a depiction of an actual child, a computer-
6 generated image, or an image altered to appear to be a child,
7 engaged in any act of sexually explicit conduct, and such visual
8 depiction is obscene.

9 B. Each visual depiction or individual image of child
10 pornography shall constitute a separate item and act.

11 C. As used in Sections 1021 through 1024.4 and Sections 1040.8
12 through 1040.24 of this title:

13 1. "Child" means a person under eighteen (18) years of age;

14 2. "Obscene" means any performance or depiction, in any form or
15 on any medium, if ~~said~~ the material when taken as a whole:

16 a. appeals to the prurient interest in sex as determined
17 by the average person applying the contemporary
18 standards of their community,

19 b. depicts, represents, or displays sexually explicit
20 conduct in a patently offensive way, and

21 c. a reasonable person would find the material or
22 performance lacks serious literary, artistic,
23 educational, political, or scientific value;

1 3. "Performance" means any display, live, recorded, or
2 transmitted, in any form or medium;

3 4. "Sexually explicit conduct" means any of the following
4 whether actual or simulated:

5 a. acts of sexual intercourse,

6 b. acts of oral and anal sodomy,

7 c. acts of masturbation,

8 d. acts of sexual activity with an animal,

9 e. acts of sadomasochism including:

10 (1) flagellation or torture by or upon any person who
11 is nude or clad in undergarments or in a costume
12 which is of a revealing nature, or

13 (2) the condition of being fettered, bound, or
14 otherwise physically restrained on the part of
15 one who is nude or so clothed,

16 f. acts of excretion in a sexual context, or

17 g. exhibiting genitalia, breast, or pubic area for the
18 purpose of the sexual stimulation of the viewer;

19 5. "Explicit child ~~pornography~~ sexual abuse material" means
20 material which a law enforcement officer can immediately identify as
21 child ~~pornography~~ sexual abuse material; and

22 6. "Unlawful pornography" means any visual depiction or
23 individual image stored or contained in any format on any medium
24 including, but not limited to, film, motion picture, videotape,

1 photograph, negative, undeveloped film, slide, photographic product,
2 reproduction of a photographic product, play, or performance in
3 which a person is engaged in any of the following acts with a
4 person:

- 5 a. sexual intercourse which is normal or perverted,
- 6 b. anal sodomy,
- 7 c. sexual activity with an animal,
- 8 d. sadomasochistic abuse,
- 9 e. flagellation or torture,
- 10 f. physical restraint such as binding or fettering in the
11 context of sexual conduct,
- 12 g. fellatio or cunnilingus,
- 13 h. excretion in the context of sexual conduct,
- 14 i. lewd exhibition of the uncovered genitals in the
15 context of masturbation or other sexual conduct, and
- 16 j. lewd exhibition of the uncovered genitals, buttocks,
17 or, if such person is female, the breast, for the
18 purpose of sexual stimulation of the viewer; and

19 7. "Visual depiction" means any depiction, picture, movie,
20 performance, or image displayed, stored, shared, or transmitted in
21 any format and on any medium including data that is capable of being
22 converted into a depiction, picture, movie, performance, or image.

23 D. It is the intent of the Legislature that every provision,
24 section, subsection, sentence, clause, phrase, or word in the

1 definition of unlawful pornography is severable from each other,
2 such that if any of the listed items is found by a court to be
3 invalid or unconstitutional, the remaining items will be severed and
4 may not be affected. All constitutionally valid applications of
5 this section shall be severed from any application that a court
6 finds to be invalid, leaving the valid applications in force,
7 because it is the intent and priority of the Legislature that the
8 valid applications be allowed to stand alone. Even if a reviewing
9 court finds a provision of this section to be an unconstitutional
10 restraint in a large or substantial fraction of relevant cases, the
11 applications that do not present an unconstitutional restraint shall
12 be severed from the remaining applications and shall remain in
13 force, and shall be treated as if the Legislature had enacted a
14 statute limited to the person, group of persons, or circumstances
15 for which the application of the statute does not present an
16 unconstitutional restraint on protected speech. If any court
17 declares or finds a provision of this section facially
18 unconstitutional, when discrete applications of that provision can
19 be enforced against a persons, group of persons, or circumstances
20 without violating the United States Constitution and Oklahoma
21 Constitution, those applications shall be severed from all remaining
22 applications of the provision, and the provision shall be
23 interpreted as if the Legislature had enacted a provision limited to
24 the person, group of persons, or circumstances for which the

1 provision's application will not violate the United States
2 Constitution and Oklahoma Constitution.

3 E. The Legislature further declares that it would have enacted
4 this section, and each provision, subsection, sentence, clause,
5 phrase, or word, and all constitutional applications of this
6 section, irrespective of the fact that any provision, subsection,
7 sentence, clause, phrase, or word, or application of this section,
8 were to be declared unconstitutional or to represent an
9 unconstitutional restraint. If any provision of this section is
10 found by any court to be unconstitutionally vague, then the
11 applications of that provision that do not present constitutional
12 vagueness problems shall be severed and remain in force. No court
13 may decline to enforce the severability requirements of this section
14 on the grounds that severance would rewrite the statute or involve
15 the court in legislative or lawmaking activity.

16 F. Each of the items of unlawful pornography in paragraph 6 of
17 subsection C of this section are depictions of sexual conduct which
18 are patently offensive under contemporary community standards in
19 this state, and have as their dominant theme an appeal to prurient
20 interest in sex under contemporary community standards of this
21 state, and may not be produced or distributed within the state if
22 they lack serious literary, artistic, educational, political, or
23 scientific purposes or value.

1 G. Any person, other than an officer or employee of a state or
2 local governmental entity in this state, may bring a civil action
3 against any person who:

4 1. Produces or distributes unlawful pornography that lacks
5 serious literary, artistic, educational, political, or scientific
6 purposes or value;

7 2. Knowingly engages in conduct that aids or abets the
8 production or distribution of unlawful pornography that lacks
9 serious literary, artistic, educational, political, or scientific
10 purposes or value; or

11 3. Intends to engage in the conduct provided for in paragraphs
12 1 and 2 of this subsection.

13 H. If a claimant prevails in an action brought under this
14 section, the court shall award:

15 1. Injunctive relief sufficient to prevent the defendant from
16 violating this section or engaging in acts that aid or abet
17 violations of this section;

18 2. Statutory damages not less than Ten Thousand Dollars
19 (\$10,000.00) for each image or depiction produced or distributed
20 within this state; and

21 3. Court costs and attorney fees.

22 I. Notwithstanding any other provision of law, a court may not
23 award court costs or attorney fees to a defendant in an action
24 brought under this section.

1 SECTION 2. AMENDATORY 21 O.S. 2021, Section 1024.2, as
2 amended by Section 15, Chapter 59, O.S.L. 2024 (21 O.S. Supp. 2024,
3 Section 1024.2), is amended to read as follows:

4 Section 1024.2. A. It shall be unlawful for any person to buy,
5 procure, view, traffic, or possess child:

6 1. Child sexual abuse material or obscene materials; or

7 2. Unlawful pornography that lacks serious literary, artistic,
8 educational, political, or scientific purposes or value as defined
9 in violation of Sections Section 1024.1 through 1024.4 of this
10 title. Such

11 B. 1. A person who violates paragraph 1 of subsection A of
12 this section shall, upon conviction, be guilty of a felony and shall
13 be imprisoned punishable by imprisonment in the custody of the
14 Department of Corrections for a period of not more less than twenty
15 (20) ten (10) years or nor more than thirty (30) years, and a fine
16 up to, but not exceeding, Twenty-five Thousand Dollars (\$25,000.00)
17 or by both such fine and imprisonment not to exceed Two Hundred
18 Fifty Thousand Dollars (\$250,000.00). A person who receives a
19 second or subsequent conviction pursuant to this subsection shall be
20 punished by imprisonment in the custody of the Department of
21 Corrections for not less than fifteen (15) years nor more than fifty
22 (50) years and a fine not to exceed Three Hundred Thousand Dollars
23 (\$300,000.00).

1 2. A person who violates paragraph 2 of subsection A of this
2 section shall, upon conviction, be guilty of a felony punishable by
3 imprisonment in the custody of the Department of Corrections for not
4 more than ten (10) years and a fine not to exceed One Hundred
5 Thousand Dollars (\$100,000.00) for each violation.

6 3. For purposes of this section, "trafficking pornography"
7 means the production, sale, distribution, transportation, or
8 dissemination of pornography through any medium, including physical
9 or electronic means, for financial or material gain or with intent
10 to exploit.

11 a. Trafficking of child sexual abuse material or unlawful
12 pornography conducted through organized operations
13 shall be punishable by imprisonment in the custody of
14 the Department of Corrections for a term not more than
15 forty (40) years nor less than fifteen (15) years and
16 a fine not to exceed Five Hundred Thousand Dollars
17 (\$500,000.00).

18 b. Victims of trafficking offenses may recover statutory
19 damages not less than Fifty Thousand Dollars
20 (\$50,000.00) per occurrence, attorney fees, and
21 injunctive relief.

22 This section shall not be construed to prevent spouses from sending
23 images of a sexual nature to each other.

1 SECTION 3. AMENDATORY 21 O.S. 2021, Section 1040.8, as
2 amended by Section 18, Chapter 59, O.S.L. 2024 (21 O.S. Supp. 2024,
3 Section 1040.8), is amended to read as follows:

4 Section 1040.8. A. No person shall knowingly photograph, act
5 in, pose for, model for, print, sell, offer for sale, give away,
6 exhibit, publish, offer to publish, or otherwise distribute,
7 display, or exhibit any book, magazine, story, pamphlet, paper,
8 writing, card, advertisement, circular, print, picture, photograph,
9 motion picture film, electronic video game or recording, image,
10 cast, slide, figure, instrument, statue, drawing, presentation, or
11 other article which is obscene material, unlawful pornography, or
12 child sexual abuse material, as defined in Section 1024.1 of this
13 title. In the case of any unsolicited mailing of any of the
14 material listed in this section, the offense is deemed complete from
15 the time such material is deposited in any post office or delivered
16 to any person with intent that it shall be forwarded. Also, unless
17 preempted by federal law, no unsolicited mail which is harmful to
18 minors pursuant to Section 1040.75 of this title shall be mailed to
19 any person. The party mailing the materials specified in this
20 section may be indicted and tried in any county wherein such
21 material is deposited or delivered, or in which it is received by
22 the person to whom it is addressed.

23 B. Any person who violates any provision of this section
24 involving obscene materials or unlawful pornography, upon

1 conviction, shall be guilty of a misdemeanor and shall be punished
2 by imprisonment in the county jail for not more than one (1) year,
3 or by a fine of not less than Two Thousand Dollars (\$2,000.00), or
4 by both such fine and imprisonment.

5 C. Any person who violates any provision of this section
6 involving child sexual abuse material, upon conviction, shall be
7 guilty of a felony and shall be punished by imprisonment in the
8 custody of the Department of Corrections for not less than three (3)
9 years and not more than twenty (20) years, or by a fine of not less
10 than Ten Thousand Dollars (\$10,000.00), or by both such fine and
11 imprisonment. Any person convicted of a second or subsequent
12 violation shall, upon conviction, be punished by imprisonment in the
13 custody of the Department of Corrections for not less than ten (10)
14 years and not more than thirty (30) years, or by a fine of not less
15 than Twenty Thousand Dollars (\$20,000.00), or by both such fine and
16 imprisonment. The violator, upon conviction, shall be required to
17 register as a sex offender under the Sex Offenders Registration Act.

18 SECTION 4. This act shall become effective November 1, 2025.

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