

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 53rd Legislature (2012)

4 ENGROSSED SENATE

5 BILL NO. 1016

By: Anderson and Allen of the  
Senate

6 and

7 Nelson of the House

8  
9  
10 An Act relating to child pornography; amending 21  
11 O.S. 2011, Section 1024.1, which relates to child  
12 pornography definitions; modifying certain  
13 definitions; amending 74 O.S. 2011, Section 151.1,  
14 which relates to the Internet Crimes Against Children  
15 unit of the Oklahoma State Bureau of Investigation;  
16 authorizing Director of the Oklahoma State Bureau of  
17 Investigation to enter into certain local cooperative  
18 agreements; providing for the appointment of reserve  
19 task force agents; establishing powers and duties of  
20 reserve task force agents; providing for the renewal,  
21 suspension and revocation of agreements; and  
22 providing an effective date.

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

24 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1024.1, is  
amended to read as follows:

Section 1024.1. A. As used in Sections 1021, 1021.1 through  
~~1021.3~~ 1021.4, Sections 1022 through 1024, and Sections 1040.8  
through 1040.24 of this title, "child pornography" means and

1 includes any visual depiction or individual image stored or  
2 contained in any format on any medium including, but not limited to,  
3 film, motion picture, videotape, photograph, negative, undeveloped  
4 film, slide, photographic product, reproduction of a photographic  
5 product, ~~CD-ROM, magnetic disk memory, magnetic tape memory,~~  
6 ~~electronic or photo-optical format,~~ play or performance wherein a  
7 minor under the age of eighteen (18) years is engaged in any act  
8 with a person, other than his or her spouse, of sexual intercourse  
9 which is normal or perverted, in any act of anal sodomy, in any act  
10 of sexual activity with an animal, in any act of sadomasochistic  
11 abuse including, but not limited to, flagellation or torture, or the  
12 condition of being fettered, bound or otherwise physically  
13 restrained in the context of sexual conduct, in any act of fellatio  
14 or cunnilingus, in any act of excretion in the context of sexual  
15 conduct, in any lewd exhibition of the uncovered genitals in the  
16 context of masturbation or other sexual conduct, or where the lewd  
17 exhibition of the uncovered genitals, buttocks or, if such minor is  
18 a female, the breast, has the purpose of sexual stimulation of the  
19 viewer, or wherein a person under the age of eighteen (18) years  
20 observes such acts or exhibitions. Each visual depiction or  
21 individual image shall constitute a separate item and multiple  
22 copies of the same identical material shall each be counted as a  
23 separate item.  
24

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

3 1. "Obscene material" means and includes any representation,  
4 performance, depiction or description of sexual conduct, whether in  
5 any form or on any medium including still photographs, undeveloped  
6 photographs, motion pictures, undeveloped film, videotape, ~~CD-ROM,~~  
7 optical, magnetic ~~disk memory, magnetic tape memory,~~ electronic or  
8 ~~photo-optical format~~ solid-state storage, CD or DVD, or a purely  
9 photographic product or a reproduction of such product in any book,  
10 pamphlet, magazine, or other publication or electronic or photo-  
11 optical format, if said items contain the following elements:

- 12 a. depictions or descriptions of sexual conduct which are  
13 patently offensive as found by the average person  
14 applying contemporary community standards,
- 15 b. taken as a whole, have as the dominant theme an appeal  
16 to prurient interest in sex as found by the average  
17 person applying contemporary community standards, and
- 18 c. a reasonable person would find the material or  
19 performance taken as a whole lacks serious literary,  
20 artistic, educational, political, or scientific  
21 purposes or value.

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

24

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

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

4            a. acts of sexual intercourse including any intercourse  
5                which is normal or perverted, actual or simulated,

6            b. acts of deviate sexual conduct, including oral and  
7                anal sodomy,

8            c. acts of masturbation,

9            d. acts of sadomasochistic abuse including but not  
10               limited to:

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

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

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

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

19        4. "Explicit child pornography" means material which a law  
20 enforcement officer can immediately identify upon first viewing  
21 without hesitation as child pornography.

22        The types of sexual conduct described in paragraph 3 of this  
23 subsection are intended to include situations when, if appropriate  
24 to the type of conduct, the conduct is performed alone or between

1 members of the same or opposite sex or between humans and animals in  
2 an act of apparent sexual stimulation or gratification.

3 SECTION 2. AMENDATORY 74 O.S. 2011, Section 151.1, is  
4 amended to read as follows:

5 Section 151.1. A. The Oklahoma State Bureau of Investigation  
6 shall establish an Internet Crimes Against Children (ICAC) unit for  
7 the primary purpose of investigating Internet crimes committed  
8 against children, including, but not limited to, offenses related to  
9 child pornography and solicitation of minors for pornography,  
10 prostitution or sex-related offenses. The unit shall additionally  
11 promote safe Internet use among children and their parents by  
12 various media or printed-material campaigns or by offering  
13 educational programs to schools or communities throughout this  
14 state. The Bureau shall employ sufficient employees to investigate  
15 and implement the ICAC unit.

16 B. The Director of the Oklahoma State Bureau of Investigation  
17 is hereby authorized to enter into local cooperative agreements with  
18 local law enforcement agencies for the purpose of appointing ICAC  
19 Affiliate Task Force Agents to assist the ICAC unit of the Bureau.  
20 ICAC Affiliate Task Force Agents shall be employees and commissioned  
21 law enforcement officers of the local law enforcement agency  
22 entering into agreement with the Oklahoma State Bureau of  
23 Investigation and shall not be employees of the Bureau. ICAC  
24 Affiliate Task Force Agents shall have general peace officer powers

1 and the authority to arrest persons throughout the state for the  
2 purpose of investigating Internet crimes committed against children  
3 including, but not limited to, offenses related to child  
4 pornography, solicitation of minors for pornography, prostitution or  
5 sex-related offenses. ICAC Affiliate Task Force Agents shall  
6 promote safe Internet use among children and parents of children by  
7 various media or printed-material campaigns or by offering  
8 educational programs to schools or communities throughout Oklahoma.  
9 The Director of the Bureau may renew, suspend or revoke any  
10 agreement appointing an ICAC Affiliate Task Force Agent at any time.  
11 ICAC Affiliate Task Force Agents serve solely at the discretion and  
12 will of the Director of the Oklahoma State Bureau of Investigation.

13 SECTION 3. This act shall become effective November 1, 2012.

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15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 04/03/2012 - DO  
16 PASS.  
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