

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   1st Session of the 59th Legislature (2023)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 2002

By: Conley of the House

and

**Weaver** of the Senate

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10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to crimes and punishments; amending  
12                   21 O.S. 2021, Section 1024.1, which relates to  
13                   obscenity definitions; updating statutory citation;  
14                   modifying definition of obscene material; adding  
15                   definition; and providing an effective date.

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

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

19                   Section 1024.1 A. As used in Sections 1021, 1021.1 through  
20 1021.4, Sections 1022 ~~through 1024~~ and 1023, and Sections 1040.8  
21 through 1040.24 of this title, "child pornography" means and  
22 includes any visual depiction or individual image stored or  
23 contained in any format on any medium including, but not limited to,  
24 film, motion picture, videotape, photograph, negative, undeveloped

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

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

21 1. "Obscene material" means and includes any representation,  
22 performance, depiction or description of sexual conduct, whether in  
23 any form or on any medium including any book, article, magazine,  
24 publication, or written matter of any kind, or any drawing, etching,

1 painting, still photographs, undeveloped photographs, motion  
2 pictures, undeveloped film, videotape, optical, magnetic or solid-  
3 state storage, CD or DVD, or a purely photographic product or a  
4 reproduction of such product in any book, pamphlet, magazine, or  
5 other publication or electronic or photo-optical format, if said  
6 items contain the following elements:

- 7 a. depictions or descriptions of sexual conduct which are  
8 patently offensive as found by the average person  
9 applying contemporary community standards,
- 10 b. taken as a whole, have as the dominant theme an appeal  
11 to prurient interest in sex as found by the average  
12 person applying contemporary community standards, 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.

17 The standard for obscenity applied in subparagraphs b and c of this  
18 subsection shall not apply when an adult knowingly provides material  
19 that qualifies as obscene material or harmful to minors, as such  
20 terms are defined in this section. The standard for obscenity  
21 applied in this section shall not apply to child pornography;

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

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

- 1 a. acts of sexual intercourse including any intercourse  
2 which is normal or perverted, actual or simulated,  
3 b. acts of deviate sexual conduct, including oral and  
4 anal sodomy,  
5 c. acts of masturbation,  
6 d. acts of sadomasochistic abuse including but not  
7 limited to:  
8 (1) flagellation or torture by or upon any person who  
9 is nude or clad in undergarments or in a costume  
10 which is of a revealing nature, or  
11 (2) the condition of being fettered, bound, or  
12 otherwise physically restrained on the part of  
13 one who is nude or so clothed,  
14 e. acts of excretion in a sexual context, or  
15 f. acts of exhibiting human genitals or pubic areas; ~~and~~

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

19 5. "Harmful to minors" shall have the same meaning as provided  
20 for in paragraph 2 of Section 1040.75 of this title.

21 The types of sexual conduct described in paragraph 3 of this  
22 subsection are intended to include situations when, if appropriate  
23 to the type of conduct, the conduct is performed alone or between  
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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. This act shall become effective November 1, 2023.  
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated  
6 03/01/2023 - DO PASS, As Amended and Coauthored.  
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