

1 **SENATE FLOOR VERSION**

2 April 9, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3936

By: Provenzano and Stark of the
House

5 and

6 Weaver of the Senate

7
8 An Act relating to child sexual abuse material;
9 amending 10 O.S. 2021, Section 7505-5.1, which
10 relates to home studies; changing name of certain
11 criminal offense; amending 10 O.S. 2021, Section
12 7505-6.3, which relates to interlocutory decrees;
13 changing name of certain criminal offense; amending
14 10A O.S. 2021, Section 1-4-705, which relates to
15 child custody placements; changing name of certain
16 criminal offense; amending 10A O.S. 2021, Section 2-
17 8-221, which relates to the Juvenile Sex Offender
18 Registration Act; changing name of certain criminal
19 offense; amending 21 O.S. 2021, Section 13.1, which
20 relates to required service of prison sentences;
21 changing name of certain criminal offense; amending
22 21 O.S. 2021, Section 843.5, which relates to child
23 abuse; changing name of certain criminal offense;
24 amending 21 O.S. 2021, Sections 1021, 1021.1, 1021.2,
1021.3, 1021.4, 1022, 1023, 1024.1, 1024.2, 1024.3,
1024.4, 1040.8, 1040.11, 1040.12a, 1040.13, 1040.14,
1040.15, 1040.16, 1040.17, 1040.20, 1040.21, 1040.22,
1040.24, 1040.54 and 1040.80, which relate to the
Oklahoma Law on Obscenity and Child Pornography;
changing name of certain criminal offense; amending
21 O.S. 2021, Section 1123, as amended by Section 4,
Chapter 260, O.S.L. 2022 (21 O.S. Supp. 2023, Section
1123), which relates to lewd or indecent proposals to
a child; changing name of certain criminal offense;
amending 22 O.S. 2021, Section 40, which relates to
definitions for certain offenses; changing name of
certain criminal offense; amending 22 O.S. 2021,
Section 991h, which relates to orders of no contact;
changing name of certain criminal offense; amending
22 O.S. 2021, Section 996.1, which relates to

1 definitions in the Delayed Sentencing Program for
2 Young Adults; changing name of certain criminal
3 offense; amending 43 O.S. 2021, Section 112.5, which
4 relates to custody or guardianship of a child;
5 changing name of certain offense; amending 57 O.S.
6 2021, Section 138, which relates to credits for good
7 conduct; changing name of certain criminal offense;
8 amending 57 O.S. 2021, Section 332.16, which relates
9 to parole recommendations; changing name of certain
10 criminal offense; amending 57 O.S. 2021, Section 571,
11 as amended by Section 2, Chapter 212, O.S.L. 2023 (57
12 O.S. Supp. 2023, Section 571), which relates to
13 definitions of the Oklahoma Prison Overcrowding
14 Emergency Powers Act; changing name of certain
15 criminal offense; amending 57 O.S. 2021, Section 582,
16 which relates to the Sex Offenders Registration Act;
17 changing name of certain criminal offense; amending
18 68 O.S. 2021, Section 2357.101, which relates to tax
19 credits for film or music projects; changing name of
20 certain criminal offense; amending 68 O.S. 2021,
21 Section 3623, which relates to definitions of the
22 Compete with Canada Film Act; changing name of
23 certain criminal offense; amending 68 O.S. 2021,
24 Section 3632, as amended by Section 1, Chapter 347,
O.S.L. 2023 (68 O.S. Supp. 2023, Section 3632), which
relates to definitions of the Filmed in Oklahoma Act
of 2021; changing name of certain criminal offense;
amending Section 1, Chapter 280, O.S.L. 2022, as
amended by Section 1, Chapter 373, O.S.L. 2023 (70
O.S. Supp. 2023, Section 11-202), which relates to
digital or online library database resources;
changing name of certain criminal offense; amending
70 O.S. 2021, Section 1210.163, which relates to
abuse-prevention instructional programs; changing
name of certain criminal offense; amending 74 O.S.
2021, Section 151.1, which relates to the Internet
Crimes Against Children unit; changing name of
certain criminal offense; and providing an effective
date.

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

SECTION 1. AMENDATORY 10 O.S. 2021, Section 7505-5.1, is
amended to read as follows:

1 Section 7505-5.1 A. Except as otherwise provided in this
2 section, only a person for whom a favorable written preplacement
3 home study has been prepared may accept custody of a minor for
4 purposes of adoption. A preplacement home study is favorable if it
5 contains a finding that the person is suited to be an adoptive
6 parent, either in general or for a particular minor, and it is
7 completed or brought current within twelve (12) months next
8 preceding a placement of a minor with the person for adoption.

9 B. A preplacement home study is not required if a parent or
10 guardian places a minor directly with a relative of the minor for
11 purposes of adoption, or if the minor has been residing with a birth
12 parent's spouse for not less than one (1) year as of the date the
13 petition for adoption is filed, but a home study of the relative or
14 stepparent is required during the pendency of a proceeding for
15 adoption.

16 C. A prospective adoptive parent shall not be approved for
17 placement of a child if the petitioners or any other person residing
18 in the home of the petitioners has been convicted of any of the
19 following felony offenses:

20 1. Within the five-year period preceding the date of the
21 petition, physical assault, domestic abuse, battery or a drug-
22 related offense;

23 2. Child abuse or neglect;

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1 3. A crime against a child, including, but not limited to,
2 child ~~pornography~~ sexual abuse material; and

3 4. A crime involving violence, including, but not limited to,
4 rape, sexual assault or homicide, but excluding those crimes
5 specified in paragraph 1 of this subsection.

6 D. Under no circumstances shall a child be placed in the
7 custody of an individual subject to the Oklahoma Sex Offenders
8 Registration Act or an individual who is married to or living with
9 an individual subject to the Oklahoma Sex Offenders Registration
10 Act.

11 SECTION 2. AMENDATORY 10 O.S. 2021, Section 7505-6.3, is
12 amended to read as follows:

13 Section 7505-6.3 A. After six (6) months from the date of the
14 interlocutory decree unless the court waived all or part of the
15 waiting period, the petitioners may apply to the court for a final
16 decree of adoption. The court shall thereupon set a time and place
17 for final hearing.

18 B. If the minor is related by blood to one of the petitioners,
19 or is a stepchild of the petitioner, or the court finds that the
20 best interests of the child will be furthered thereby, the court,
21 after examination of the home study reports required by Section
22 7505-5.1 or 7505-5.2 of this title, may waive the entry of an
23 interlocutory decree and the waiting period of six (6) months or the
24 balance of the waiting period provided in this section.

1 C. Notice of the time and date of the hearing shall be served
2 at least ten (10) days prior to the hearing upon any parent whose
3 parental rights have not been terminated, unless that parent has
4 properly executed a consent to the adoption or a permanent
5 relinquishment pursuant to Sections 7503-2.3, 7503-2.4 and 7503-2.6
6 of this title or has waived the right to notice pursuant to Section
7 7503-3.1 of this title. Notice of the hearing shall also be served
8 on the child-placing agency or the Department of Human Services in
9 those cases where the child-placing agency or Department has
10 original custody, or performed a home study.

11 D. The petitioners and child shall appear at the hearing on the
12 application for final decree, unless the presence of the child is
13 waived by the court.

14 E. The final hearing is not required to be recorded by a court
15 reporter. Upon the request of any party, the court shall direct
16 that the hearing be recorded by the court reporter, or the court may
17 order on its own initiative that the hearing be recorded.

18 F. The court may enter a final decree of adoption, if the court
19 is satisfied that the adoption is in the best interests of the
20 child.

21 G. For purposes of this subsection, the State of Oklahoma
22 elects to make subparagraph (A) of paragraph 20 of subsection 3 of
23 Section 471(a) of the Social Security Act (Public Law 105-89)

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1 inapplicable to Oklahoma. Instead, the State of Oklahoma requires
2 that:

3 1. Except as otherwise provided by this subsection, a
4 prospective adoptive parent shall not be approved for placement of a
5 child if the petitioners or any other person residing in the home of
6 the petitioners has been convicted of any of the following felony
7 offenses:

- 8 a. within the five-year period preceding the date of the
9 petition, physical assault, domestic abuse, battery or
10 a drug-related offense, except as otherwise authorized
11 by this subsection,
- 12 b. child abuse or neglect,
- 13 c. a crime against a child, including, but not limited
14 to, child ~~pornography~~ sexual abuse material, and
- 15 d. a crime involving violence, including, but not limited
16 to, rape, sexual assault or homicide, but excluding
17 physical assault or battery.

18 2. A prospective adoptive parent may be an approved placement
19 regardless of whether such parent has been convicted of any of the
20 felony offenses specified by subparagraph a of paragraph 1 of this
21 subsection, if an evaluation has been made and accepted by the court
22 which considers the nature and seriousness of the crime in relation
23 to the adoption, the time elapsed since the commission of the crime,
24 the circumstances under which the crime was committed, the degree of

1 rehabilitation, the number of crimes committed by the person
2 involved, and a showing by clear and convincing evidence that the
3 child will not be at risk by such placement.

4 H. Under no circumstances shall a child be placed in the
5 custody of an individual subject to the Oklahoma Sex Offenders
6 Registration Act or an individual who is married to or living with
7 an individual subject to the Oklahoma Sex Offenders Registration
8 Act.

9 SECTION 3. AMENDATORY 10A O.S. 2021, Section 1-4-705, is
10 amended to read as follows:

11 Section 1-4-705. A. In placing a child in the custody of an
12 individual, a private agency, or institution, the court and the
13 Department of Human Services shall, if possible, select a person,
14 agency, or institution governed by persons of the same religious
15 faith as that of the parents of the child, or in case of a
16 difference in the religious faith of the parents, then of the
17 religious faith of the child.

18 B. Except as otherwise provided by this section or by law, it
19 shall be left to the discretion of the judge to place the custody of
20 children where their total needs will best be served. If an
21 individual meets the minimum required age for placement purposes,
22 the age of an otherwise eligible individual shall not be a reason
23 for denying the individual placement or custody of a child.

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1 C. A prospective foster or adoptive parent shall not be an
2 approved placement for a child if the prospective foster or adoptive
3 parent or any other person residing in the home of the prospective
4 foster or adoptive parent has been convicted of any of the following
5 felony offenses:

6 1. Within the five-year period preceding the application date,
7 a physical assault, battery, or a drug-related offense;

8 2. Child abuse or neglect;

9 3. Domestic abuse;

10 4. A crime against a child, including, but not limited to,
11 child ~~pornography~~ sexual abuse material; or

12 5. A crime involving violence, including, but not limited to,
13 rape, sexual assault or homicide, but excluding those crimes
14 specified in paragraph 1 of this subsection.

15 D. 1. Under no circumstances shall a child be placed with or
16 in the custody of an individual subject to the Oklahoma Sex
17 Offenders Registration Act or an individual who is married to or
18 living with an individual subject to the Oklahoma Sex Offenders
19 Registration Act.

20 2. In addition, prior to the court placing a child in the
21 custody of an individual, the court shall inquire as to whether the
22 individual has been previously convicted of any felony or relevant
23 misdemeanor or has any felony or misdemeanor charges pending.

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1 3. Prior to the custody order being entered, the individual
2 seeking custody shall provide an Oklahoma criminal history record
3 obtained pursuant to Section 150.9 of Title 74 of the Oklahoma
4 Statutes to the court.

5 4. For purposes of this subsection the terms:

6 a. "relevant misdemeanor" may include assault and
7 battery, alcohol- or drug-related offenses, domestic
8 violence or other offenses involving the use of
9 physical force or violence against the person or
10 property of another, and

11 b. "individual" shall not include a parent or legal
12 guardian of the child.

13 E. The provisions of this section shall not apply in any
14 paternity or domestic relations case, unless otherwise ordered by
15 the court.

16 SECTION 4. AMENDATORY 10A O.S. 2021, Section 2-8-221, is
17 amended to read as follows:

18 Section 2-8-221. A. Whenever the district attorney for any
19 district has reasonable cause to believe that an individual, with
20 knowledge of its content, is engaged in sending a transmission or
21 causing a transmission to originate within this state containing
22 obscene material or child ~~pornography~~ sexual abuse material, as such
23 terms are defined in Section 1024.1 of Title 21 of the Oklahoma
24 Statutes, the district attorney for the district into which the

1 transmission is sent or caused to be sent, may institute an action
2 in the district court for an adjudication of the obscenity or child
3 ~~pornographic~~ sexual abuse content of the transmission. Provided
4 that if the conditions of subsection B of this section are present,
5 then it shall be at the discretion of the district attorney whether
6 the action instituted is a juvenile offense as defined in subsection
7 B of this section or whether the action instituted is a felony for a
8 violation of Section 1040.13a of Title 21 of the Oklahoma Statutes.

9 The individual sending the transmission specified in this
10 section may be charged and tried in any district wherein the
11 transmission is sent or in which it is received by the person to
12 whom it was transmitted.

13 For purposes of any criminal prosecution pursuant to a violation
14 of this section, the person violating the provisions of this section
15 shall be deemed to be within the jurisdiction of this state by the
16 fact of accessing any computer, cellular phone, or other computer-
17 related or satellite-operated device in this state, regardless of
18 the actual jurisdiction where the violator resides.

19 B. Any individual under eighteen (18) years of age who engages
20 in the original or relayed transmission of obscene material or child
21 ~~pornography~~ sexual abuse material via electronic media in the form
22 of digital images, videos, or other depictions of real persons under
23 the age of eighteen (18) years, and:

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1 1. The original or relayed transmission is of another minor
2 over thirteen (13) years of age and is made with the consent of the
3 pictured individual and is transmitted to five or fewer individual
4 destinations, known or unknown, shall be guilty of a misdemeanor
5 violation of this section punishable by:

6 a. a fine not to exceed Five Hundred Dollars (\$500.00)
7 for the first offense,

8 b. a fine not to exceed One Thousand Dollars (\$1,000.00)
9 for a second and subsequent offense,

10 c. up to forty (40) hours of community service,

11 d. a referral to a juvenile bureau to propose a probation
12 plan which shall be adopted through disposition, or

13 e. attendance and successful completion of an educational
14 program or a delinquency prevention and diversion
15 program as provided in Section 24-100.4 of Title 70 of
16 the Oklahoma Statutes. The court shall have the
17 discretion to order the parent or legal guardian of
18 the juvenile to attend and successfully complete the
19 educational program;

20 2. The original or relayed transmission is of another minor
21 over thirteen (13) years of age and is made without the consent of
22 the pictured individual, or is sent to six or more individual
23 destinations, known or unknown, shall be guilty of a misdemeanor
24 violation of this section punishable by:

- a. a fine not to exceed Seven Hundred Dollars (\$700.00) for the first offense,
- b. a fine not to exceed One Thousand Four Hundred Dollars (\$1,400.00) for a second or subsequent offense,
- c. up to sixty (60) hours of community service,
- d. a referral to a juvenile bureau to propose a probation plan which shall be adopted through disposition, and
- e. attendance and successful completion of an educational program or a delinquency prevention and diversion program as provided in Section 24-100.4 of Title 70 of the Oklahoma Statutes. The court shall have the discretion to order the parent or legal guardian of the juvenile to attend and successfully complete the educational program; and

3. The original or relayed transmission is of another minor thirteen (13) years of age or younger, with or without the pictured individual's consent, and is transmitted to any number of destinations, known or unknown, shall be guilty of a misdemeanor violation of this section punishable by:

- a. a fine not to exceed Nine Hundred Dollars (\$900.00) for the first offense,
- b. a fine not to exceed One Thousand Eight Hundred Dollars (\$1,800.00) for a second or subsequent offense,

- 1 c. up to eighty (80) hours of community service,
2 d. a referral to a juvenile bureau to propose a probation
3 plan which may be adopted through disposition, and
4 e. attendance and successful completion of an educational
5 program or a delinquency prevention and diversion
6 program as provided in Section 24-100.4 of Title 70 of
7 the Oklahoma Statutes. The court shall have the
8 discretion to order the parent or legal guardian of
9 the juvenile to attend and successfully complete the
10 educational program.

11 C. The fact that the individual making the transmission and the
12 individual pictured are the same does not alter the criminality
13 provided in this section.

14 D. It is an affirmative defense to the relayed transmission of
15 obscene material or child ~~pornography~~ sexual abuse material, as
16 these terms are defined in Section 1024.1 of Title 21 of the
17 Oklahoma Statutes, if a juvenile:

- 18 1. Has not solicited the visual depiction; and
19 2. Does not subsequently distribute, present, transmit, post,
20 print, disseminate or exchange the visual depiction except for the
21 purpose of reporting the original transmission or relayed
22 transmission to appropriate school or law enforcement authorities.

23 SECTION 5. AMENDATORY 21 O.S. 2021, Section 13.1, is
24 amended to read as follows:

1 Section 13.1 Persons convicted of:

2 1. First degree murder as defined in Section 701.7 of this
3 title;

4 2. Second degree murder as defined by Section 701.8 of this
5 title;

6 3. Manslaughter in the first degree as defined by Section 711
7 of this title;

8 4. Poisoning with intent to kill as defined by Section 651 of
9 this title;

10 5. Shooting with intent to kill, use of a vehicle to facilitate
11 use of a firearm, crossbow or other weapon, assault, battery, or
12 assault and battery with a deadly weapon or by other means likely to
13 produce death or great bodily harm, as provided for in Section 652
14 of this title;

15 6. Assault with intent to kill as provided for in Section 653
16 of this title;

17 7. Conjoint robbery as defined by Section 800 of this title;

18 8. Robbery with a dangerous weapon as defined in Section 801 of
19 this title;

20 9. First degree robbery as defined in Section 797 of this
21 title;

22 10. First degree rape as provided for in Section 1111, 1114 or
23 1115 of this title;

- 1 11. First degree arson as defined in Section 1401 of this
2 title;
- 3 12. First degree burglary as provided for in Section 1436 of
4 this title;
- 5 13. Bombing as defined in Section 1767.1 of this title;
- 6 14. Any crime against a child provided for in Section 843.5 of
7 this title;
- 8 15. Forcible sodomy as defined in Section 888 of this title;
- 9 16. Child ~~pornography~~ sexual abuse material or aggravated child
10 ~~pornography~~ sexual abuse material as defined in Section 1021.2,
11 1021.3, 1024.1, 1024.2 or 1040.12a of this title;
- 12 17. Child prostitution as defined in Section 1030 of this
13 title;
- 14 18. Lewd molestation of a child as defined in Section 1123 of
15 this title;
- 16 19. Abuse of a vulnerable adult as defined in Section 10-103 of
17 Title 43A of the Oklahoma Statutes;
- 18 20. Aggravated trafficking as provided for in subsection C of
19 Section 2-415 of Title 63 of the Oklahoma Statutes;
- 20 21. Aggravated assault and battery upon any person defending
21 another person from assault and battery; or
- 22 22. Human trafficking as provided for in Section 748 of this
23 title,
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1 shall be required to serve not less than eighty-five percent (85%)
2 of any sentence of imprisonment imposed by the judicial system prior
3 to becoming eligible for consideration for parole. Persons
4 convicted of these offenses shall not be eligible for earned credits
5 or any other type of credits which have the effect of reducing the
6 length of the sentence to less than eighty-five percent (85%) of the
7 sentence imposed.

8 SECTION 6. AMENDATORY 21 O.S. 2021, Section 843.5, is
9 amended to read as follows:

10 Section 843.5 A. Any person who shall willfully or maliciously
11 engage in child abuse, as defined in this section, shall, upon
12 conviction, be guilty of a felony punishable by imprisonment in the
13 custody of the Department of Corrections not exceeding life
14 imprisonment, or by imprisonment in a county jail not exceeding one
15 (1) year, or by a fine of not less than Five Hundred Dollars
16 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00), or both
17 such fine and imprisonment.

18 B. Any person responsible for the health, safety or welfare of
19 a child who shall willfully or maliciously engage in enabling child
20 abuse, as defined in this section, shall, upon conviction, be
21 punished by imprisonment in the custody of the Department of
22 Corrections not exceeding life imprisonment, or by imprisonment in a
23 county jail not exceeding one (1) year, or by a fine of not less
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1 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
2 Dollars (\$5,000.00) or both such fine and imprisonment.

3 C. Any person responsible for the health, safety or welfare of
4 a child who shall willfully or maliciously engage in child neglect,
5 as defined in this section, shall, upon conviction, be punished by
6 imprisonment in the custody of the Department of Corrections not
7 exceeding life imprisonment, or by imprisonment in a county jail not
8 exceeding one (1) year, or by a fine of not less than Five Hundred
9 Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00),
10 or both such fine and imprisonment.

11 D. Any parent or other person who shall willfully or
12 maliciously engage in enabling child neglect shall, upon conviction,
13 be punished by imprisonment in the custody of the Department of
14 Corrections not exceeding life imprisonment, or by imprisonment in a
15 county jail not exceeding one (1) year, or by a fine of not less
16 than Five Hundred Dollars (\$500.00) nor more than Five Thousand
17 Dollars (\$5,000.00), or both such fine and imprisonment.

18 E. Any person responsible for the health, safety or welfare of
19 a child who shall willfully or maliciously engage in child sexual
20 abuse, as defined in this section, shall, upon conviction, be
21 punished by imprisonment in the custody of the Department of
22 Corrections not exceeding life imprisonment, or by imprisonment in a
23 county jail not exceeding one (1) year, or by a fine of not less
24 than Five Hundred Dollars (\$500.00) nor more than Five Thousand

1 Dollars (\$5,000.00), or both such fine and imprisonment, except as
2 provided in Section 51.1a of this title or as otherwise provided in
3 subsection F of this section for a child victim under twelve (12)
4 years of age. Except for persons sentenced to life or life without
5 parole, any person sentenced to imprisonment for two (2) years or
6 more for a violation of this subsection shall be required to serve a
7 term of post-imprisonment supervision pursuant to subparagraph f of
8 paragraph 1 of subsection A of Section 991a of Title 22 of the
9 Oklahoma Statutes under conditions determined by the Department of
10 Corrections. The jury shall be advised that the mandatory post-
11 imprisonment supervision shall be in addition to the actual
12 imprisonment.

13 F. Any person responsible for the health, safety or welfare of
14 a child who shall willfully or maliciously engage in child sexual
15 abuse, as defined in this section, to a child under twelve (12)
16 years of age shall, upon conviction, be punished by imprisonment in
17 the custody of the Department of Corrections for not less than
18 twenty-five (25) years nor more than life imprisonment, and by a
19 fine of not less than Five Hundred Dollars (\$500.00) nor more than
20 Five Thousand Dollars (\$5,000.00).

21 G. Any parent or other person who shall willfully or
22 maliciously engage in enabling child sexual abuse shall, upon
23 conviction, be punished by imprisonment in the custody of the
24 Department of Corrections not exceeding life imprisonment, or by

1 imprisonment in a county jail not exceeding one (1) year, or by a
2 fine of not less than Five Hundred Dollars (\$500.00) nor more than
3 Five Thousand Dollars (\$5,000.00), or both such fine and
4 imprisonment.

5 H. Any person who shall willfully or maliciously engage in
6 child sexual exploitation, as defined in this section, shall, upon
7 conviction, be punished by imprisonment in the custody of the
8 Department of Corrections not exceeding life imprisonment, or by
9 imprisonment in a county jail not exceeding one (1) year, or by a
10 fine of not less than Five Hundred Dollars (\$500.00) nor more than
11 Five Thousand Dollars (\$5,000.00), or both such fine and
12 imprisonment except as provided in subsection I of this section for
13 a child victim under twelve (12) years of age. Except for persons
14 sentenced to life or life without parole, any person sentenced to
15 imprisonment for two (2) years or more for a violation of this
16 subsection shall be required to serve a term of post-imprisonment
17 supervision pursuant to subparagraph f of paragraph 1 of subsection
18 A of Section 991a of Title 22 of the Oklahoma Statutes under
19 conditions determined by the Department of Corrections. The jury
20 shall be advised that the mandatory post-imprisonment supervision
21 shall be in addition to the actual imprisonment.

22 I. Any person who shall willfully or maliciously engage in
23 child sexual exploitation, as defined in this section, of a child
24 under twelve (12) years of age shall, upon conviction, be punished

1 by imprisonment in the custody of the Department of Corrections for
2 not less than twenty-five (25) years nor more than life
3 imprisonment, and by a fine of not less than Five Hundred Dollars
4 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00).

5 J. Any person responsible for the health, safety or welfare of
6 a child who shall willfully or maliciously engage in enabling child
7 sexual exploitation, as defined in this section, shall, upon
8 conviction, be punished by imprisonment in the custody of the
9 Department of Corrections not exceeding life imprisonment, or by
10 imprisonment in a county jail not exceeding one (1) year, or by a
11 fine of not less than Five Hundred Dollars (\$500.00) nor more than
12 Five Thousand Dollars (\$5,000.00), or both such fine and
13 imprisonment.

14 K. Notwithstanding any other provision of law, any person
15 convicted of forcible anal or oral sodomy, rape, rape by
16 instrumentation, or lewd molestation of a child under fourteen (14)
17 years of age subsequent to a previous conviction for any offense of
18 forcible anal or oral sodomy, rape, rape by instrumentation, or lewd
19 molestation of a child under fourteen (14) years of age shall be
20 punished by death or by imprisonment for life without parole.

21 L. Provided, however, that nothing contained in this section
22 shall prohibit any parent or guardian from using reasonable and
23 ordinary force pursuant to Section 844 of this title.

24

1 M. Consent shall not be a defense for any violation provided
2 for in this section.

3 N. Notwithstanding the age requirements of other statutes
4 referenced within this section, this section shall apply to any
5 child under eighteen (18) years of age.

6 O. As used in this section:

7 1. "Child abuse" means:

8 a. the willful or malicious harm or threatened harm or
9 failure to protect from harm or threatened harm to the
10 health, safety or welfare of a child under eighteen
11 (18) years of age by a person responsible for a
12 child's health, safety or welfare, or

13 b. the act of willfully or maliciously injuring,
14 torturing or maiming a child under eighteen (18) years
15 of age by any person;

16 2. "Child neglect" means the willful or malicious neglect, as
17 defined by Section 1-1-105 of Title 10A of the Oklahoma Statutes, of
18 a child under eighteen (18) years of age by a person responsible for
19 a child's health, safety or welfare;

20 3. "Child sexual abuse" means the willful or malicious sexual
21 abuse of a child under eighteen (18) years of age by a person
22 responsible for a child's health, safety or welfare and includes,
23 but is not limited to:

24 a. sexual intercourse,

- 1 b. penetration of the vagina or anus, however slight, by
2 an inanimate object or any part of the human body not
3 amounting to sexual intercourse,
4 c. sodomy,
5 d. incest, or
6 e. a lewd act or proposal, as defined in this section;

7 4. "Child sexual exploitation" means the willful or malicious
8 sexual exploitation of a child under eighteen (18) years of age by
9 another and includes, but is not limited to:

- 10 a. human trafficking, as provided for in Section 748 of
11 this title, if the offense involved child trafficking
12 for commercial sex,
13 b. trafficking in children, as provided for in Section
14 866 of this title, if the offense was committed for
15 the sexual gratification of any person,
16 c. procuring or causing the participation of a minor in
17 child ~~pornography~~ sexual abuse material, as provided
18 for in Section 1021.2 of this title,
19 d. purchase, procurement or possession of child
20 ~~pornography~~ sexual abuse material, as provided for in
21 Section 1024.2 of this title,
22 e. engaging in or soliciting prostitution, as provided
23 for in Section 1029 of this title, if the offense
24 involved child prostitution,

- 1 f. publication, distribution or participation in the
2 preparation of obscene material, as provided for in
3 Section 1040.8 of this title, if the offense involved
4 child ~~pornography~~ sexual abuse material,
- 5 g. aggravated possession of child ~~pornography~~ sexual
6 abuse material, as provided for in Section 1040.12a of
7 this title,
- 8 h. sale or distribution of obscene material, as provided
9 for in Section 1040.13 of this title,
- 10 i. soliciting sexual conduct or communication with a
11 minor by use of technology, as provided for in Section
12 ~~1043.13a~~ 1040.13 of this title,
- 13 j. offering or transporting a child for purposes of
14 prostitution, as provided for in Section 1087 of this
15 title, and
- 16 k. child prostitution, as provided for in Section 1088 of
17 this title;

18 5. "Enabling child abuse" means the causing, procuring or
19 permitting of child abuse by a person responsible for a child's
20 health, safety or welfare;

21 6. "Enabling child neglect" means the causing, procuring or
22 permitting of child neglect by a person responsible for a child's
23 health, safety or welfare;

1 7. "Enabling child sexual abuse" means the causing, procuring
2 or permitting of child sexual abuse by a person responsible for a
3 child's health, safety or welfare;

4 8. "Enabling child sexual exploitation" means the causing,
5 procuring or permitting of child sexual exploitation by a person
6 responsible for a child's health, safety or welfare;

7 9. "Incest" means marrying, committing adultery or fornicating
8 with a child by a person responsible for the health, safety or
9 welfare of a child;

10 10. "Lewd act or proposal" means:

11 a. making any oral, written or electronic or computer-
12 generated lewd or indecent proposal to a child for the
13 child to have unlawful sexual relations or sexual
14 intercourse with any person,

15 b. looking upon, touching, mauling or feeling the body or
16 private parts of a child in a lewd or lascivious
17 manner or for the purpose of sexual gratification,

18 c. asking, inviting, enticing or persuading any child to
19 go alone with any person to a secluded, remote or
20 secret place for a lewd or lascivious purpose,

21 d. urinating or defecating upon a child or causing,
22 forcing or requiring a child to defecate or urinate
23 upon the body or private parts of another person for
24 the purpose of sexual gratification,

- 1 e. ejaculating upon or in the presence of a child,
2 f. causing, exposing, forcing or requiring a child to
3 look upon the body or private parts of another person
4 for the purpose of sexual gratification,
5 g. causing, forcing or requiring any child to view any
6 obscene materials, child ~~pornography~~ sexual abuse
7 material or materials deemed harmful to minors as such
8 terms are defined in Sections 1024.1 and 1040.75 of
9 this title,
10 h. causing, exposing, forcing or requiring a child to
11 look upon sexual acts performed in the presence of the
12 child for the purpose of sexual gratification, or
13 i. causing, forcing or requiring a child to touch or feel
14 the body or private parts of the child or another
15 person for the purpose of sexual gratification;

16 11. "Permit" means to authorize or allow for the care of a
17 child by an individual when the person authorizing or allowing such
18 care knows or reasonably should know that the child will be placed
19 at risk of the conduct or harm proscribed by this section;

20 12. "Person responsible for a child's health, safety or
21 welfare" for purposes of this section shall include, but not be
22 limited to:

- 23 a. the parent of the child,
24 b. the legal guardian of the child,

- 1 c. the custodian of the child,
- 2 d. the foster parent of the child,
- 3 e. a person eighteen (18) years of age or older with whom
4 the parent of the child cohabitates, who is at least
5 three (3) years older than the child,
- 6 f. any other person eighteen (18) years of age or older
7 residing in the home of the child, who is at least
8 three (3) years older than the child,
- 9 g. an owner, operator, agent, employee or volunteer of a
10 public or private residential home, institution,
11 facility or day treatment program, as defined in
12 Section 175.20 of Title 10 of the Oklahoma Statutes,
13 that the child attended,
- 14 h. an owner, operator, agent, employee or volunteer of a
15 child care facility, as defined in Section 402 of
16 Title 10 of the Oklahoma Statutes, that the child
17 attended,
- 18 i. an intimate partner of the parent of the child, as
19 defined in Section 60.1 of Title 22 of the Oklahoma
20 Statutes, or
- 21 j. a person who has voluntarily accepted responsibility
22 for the care or supervision of a child;

23 13. "Sexual intercourse" means the actual penetration, however
24 slight, of the vagina or anus by the penis; and

1 14. "Sodomy" means:

- 2 a. penetration, however slight, of the mouth of the child
3 by a penis,
- 4 b. penetration, however slight, of the vagina of a person
5 responsible for a child's health, safety or welfare,
6 by the mouth of a child,
- 7 c. penetration, however slight, of the mouth of the
8 person responsible for a child's health, safety or
9 welfare by the penis of the child, or
- 10 d. penetration, however slight, of the vagina of the
11 child by the mouth of the person responsible for a
12 child's health, safety or welfare.

13 SECTION 7. AMENDATORY 21 O.S. 2021, Section 1021, is
14 amended to read as follows:

15 Section 1021. A. Every person who willfully and knowingly
16 either:

17 1. Lewdly exposes his or her person or genitals in any public
18 place, or in any place where there are present other persons to be
19 offended or annoyed thereby; provided, however, for purposes of this
20 section, a person alleged to have committed an act of public
21 urination shall be prosecuted pursuant to Section 22 of this title
22 unless such act was accompanied with another act that violates
23 paragraphs 2 through 4 of this subsection and shall not be subject
24 to registration under the Sex Offenders Registration Act;

1 2. Procures, counsels, or assists any person to expose such
2 person, or to make any other exhibition of such person to public
3 view or to the view of any number of persons, for the purpose of
4 sexual stimulation of the viewer;

5 3. Writes, composes, stereotypes, prints, photographs, designs,
6 copies, draws, engraves, paints, molds, cuts, or otherwise prepares,
7 publishes, sells, distributes, keeps for sale, knowingly downloads
8 on a computer, or exhibits any obscene material or child ~~pornography~~
9 sexual abuse material; or

10 4. Makes, prepares, cuts, sells, gives, loans, distributes,
11 keeps for sale, or exhibits any disc record, metal, plastic, or wax,
12 wire or tape recording, or any type of obscene material or child
13 ~~pornography~~ sexual abuse material,
14 shall be guilty, upon conviction, of a felony and shall be punished
15 by the imposition of a fine of not less than Five Hundred Dollars
16 (\$500.00) nor more than Twenty Thousand Dollars (\$20,000.00) or by
17 imprisonment for not less than thirty (30) days nor more than ten
18 (10) years, or by both such fine and imprisonment.

19 B. Every person who:

20 1. Willfully solicits or aids a minor child to perform; or

21 2. Shows, exhibits, loans, or distributes to a minor child any
22 obscene material or child ~~pornography~~ sexual abuse material for the
23 purpose of inducing said minor to participate in,
24

1 any act specified in paragraphs 1, 2, 3 or 4 of subsection A of this
2 section, shall be guilty of a felony, upon conviction, and shall be
3 punished by imprisonment in the custody of the Department of
4 Corrections for not less than ten (10) years nor more than thirty
5 (30) years, except when the minor child is under twelve (12) years
6 of age at the time the offense is committed, and in such case the
7 person shall, upon conviction, be punished by imprisonment in the
8 custody of the Department of Corrections for not less than twenty-
9 five (25) years.

10 C. Persons convicted under this section shall not be eligible
11 for a deferred sentence.

12 D. Except for persons sentenced to life or life without parole,
13 any person sentenced to imprisonment for two (2) years or more for a
14 violation of this section shall be required to serve a term of post-
15 imprisonment supervision pursuant to subparagraph f of paragraph 1
16 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes
17 under conditions determined by the Department of Corrections. The
18 jury shall be advised that the mandatory post-imprisonment
19 supervision shall be in addition to the actual imprisonment.

20 E. For purposes of this section, "downloading on a computer"
21 means electronically transferring an electronic file from one
22 computer or electronic media to another computer or electronic
23 media.

24

1 SECTION 8. AMENDATORY 21 O.S. 2021, Section 1021.1, is
2 amended to read as follows:

3 Section 1021.1 A. Sections 1021 through 1024.4 of this title
4 shall not apply to persons who may possess or distribute obscene
5 matter or child ~~pornography~~ sexual abuse material or participate in
6 conduct otherwise prescribed by this act, when such possession,
7 distribution, or conduct occurs in the course of law enforcement
8 activities.

9 B. The criminal provisions of this title shall not prohibit the
10 district attorney from seeking civil or injunctive relief to enjoin
11 the production, publication, dissemination, distribution, sale of or
12 participation in any obscene material or child ~~pornography~~ sexual
13 abuse material, or the dissemination to minors of material harmful
14 to minors, or the possession of child ~~pornography~~ sexual abuse
15 material.

16 SECTION 9. AMENDATORY 21 O.S. 2021, Section 1021.2, is
17 amended to read as follows:

18 Section 1021.2 A. Any person who shall procure or cause the
19 participation of any minor under the age of eighteen (18) years in
20 any child ~~pornography~~ sexual abuse material or who knowingly
21 possesses, procures, or manufactures, or causes to be sold or
22 distributed any child ~~pornography~~ sexual abuse material shall be
23 guilty, upon conviction, of a felony and shall be punished by
24 imprisonment for not more than twenty (20) years or by the

1 imposition of a fine of not more than Twenty-five Thousand Dollars
2 (\$25,000.00) or by both said fine and imprisonment. Persons
3 convicted under this section shall not be eligible for a deferred
4 sentence. Except for persons sentenced to life or life without
5 parole, any person sentenced to imprisonment for two (2) years or
6 more for a violation of this subsection shall be required to serve a
7 term of post-imprisonment supervision pursuant to subparagraph f of
8 paragraph 1 of subsection A of Section 991a of Title 22 of the
9 Oklahoma Statutes under conditions determined by the Department of
10 Corrections. The jury shall be advised that the mandatory post-
11 imprisonment supervision shall be in addition to the actual
12 imprisonment.

13 B. The consent of the minor, or of the mother, father, legal
14 guardian, or custodian of the minor to the activity prohibited by
15 this section shall not constitute a defense.

16 SECTION 10. AMENDATORY 21 O.S. 2021, Section 1021.3, is
17 amended to read as follows:

18 Section 1021.3 A. Any parent, guardian or individual having
19 custody of a minor under the age of eighteen (18) years who
20 knowingly permits or consents to the participation of a minor in any
21 child ~~pornography~~ sexual abuse material shall be guilty of a felony
22 and, upon conviction, shall be imprisoned in the custody of the
23 Department of Corrections for a period of not more than twenty (20)
24 years or a fine of not more than Twenty-five Thousand Dollars

1 (\$25,000.00) or by both such fine and imprisonment. Persons
2 convicted under this section shall not be eligible for a deferred
3 sentence. Except for persons sentenced to life or life without
4 parole, any person sentenced to imprisonment for two (2) years or
5 more for a violation of this subsection shall be required to serve a
6 term of post-imprisonment supervision pursuant to subparagraph f of
7 paragraph 1 of subsection A of Section 991a of Title 22 of the
8 Oklahoma Statutes under conditions determined by the Department of
9 Corrections. The jury shall be advised that the mandatory post-
10 imprisonment supervision shall be in addition to the actual
11 imprisonment.

12 B. The consent of the minor to the activity prohibited by this
13 section shall not constitute a defense.

14 SECTION 11. AMENDATORY 21 O.S. 2021, Section 1021.4, is
15 amended to read as follows:

16 Section 1021.4 A. Any commercial film and photographic print
17 processor or commercial computer technician who has knowledge of or
18 observes, within the scope of such person's professional capacity or
19 employment, any film, photograph, video tape, negative, or slide, or
20 any computer file, recording, CD-Rom, magnetic disk memory, magnetic
21 tape memory, picture, graphic or image that is intentionally saved,
22 transmitted or organized on hardware or any other media including,
23 but not limited to, CDs, DVDs and thumbdrives, whether digital,
24 analog or other means and whether directly viewable, compressed or

1 encoded depicting a child under the age of eighteen (18) years
2 engaged in an act of sexual conduct as defined in Section 1024.1 of
3 this title shall immediately or as soon as possible report by
4 telephone such instance of suspected child abuse or child
5 ~~pornography~~ sexual abuse material to the law enforcement agency
6 having jurisdiction over the case and shall prepare and send a
7 written report of the incident with an attached copy of such
8 material, within thirty-six (36) hours after receiving the
9 information concerning the incident.

10 For the purposes of this section:

11 1. "Commercial film and photographic print processor" means any
12 person who develops exposed photographic film into negatives,
13 slides, or prints, or who makes prints from negatives or slides, for
14 compensation. The term shall also include any employee of such a
15 person but shall not include a person who develops film or makes
16 prints for a public agency; and

17 2. "Commercial computer technician" means any person who
18 repairs, installs, or otherwise services any computer including, but
19 not limited to, any component part, device, memory storage or
20 recording mechanism, auxiliary storage, recording or memory
21 capacity, or any other materials relating to operation and
22 maintenance of a computer or computer network or system, for
23 compensation. The term shall also include any employee of such
24 person.

1 B. Any person who violates the provisions of this section, upon
2 conviction, shall be guilty of a misdemeanor and shall be punished
3 by the imposition of a fine not to exceed Five Hundred Dollars
4 (\$500.00) or by imprisonment in the county jail not to exceed one
5 (1) year, or both such fine and imprisonment.

6 C. Nothing in this section shall be construed to require or
7 authorize any person to act outside the scope of such person's
8 professional capacity or employment by searching for prohibited
9 materials or media.

10 SECTION 12. AMENDATORY 21 O.S. 2021, Section 1022, is
11 amended to read as follows:

12 Section 1022. Every person who is authorized or enjoined to
13 arrest any person for a violation of paragraph 3 of subsection A of
14 Section 1021 of this title is equally authorized and enjoined to
15 seize one copy of the obscene material, or all copies of explicit
16 child ~~pornography~~ sexual abuse material, found in possession of or
17 under the control of the person so arrested, and to deliver the same
18 to the magistrate before whom the person so arrested is required to
19 be taken.

20 SECTION 13. AMENDATORY 21 O.S. 2021, Section 1023, is
21 amended to read as follows:

22 Section 1023. The magistrate to whom any child ~~pornography~~
23 sexual abuse material, or any obscene material, is delivered
24 pursuant to Section 1022 of this title, shall, upon the examination

1 of the accused, or if the examination is delayed or prevented,
2 without awaiting such examination, determine the character of such
3 child ~~pornography~~ sexual abuse material or obscene material, and if
4 the magistrate finds it to be obscene material or child ~~pornography~~
5 sexual abuse material, the magistrate shall cause the same to be
6 delivered to the district attorney of the county in which the
7 accused is liable to indictment or trial. The magistrate shall
8 issue in writing the factual and legal basis for the determination
9 by the magistrate of the character of the child ~~pornography~~ sexual
10 abuse material or obscene material.

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

13 Section 1024.1 A. As used in Sections 1021, 1021.1 through
14 1021.4, Sections 1022 through 1024, and Sections 1040.8 through
15 1040.24 of this title, "~~child pornography~~" "child sexual abuse
16 material" means and includes any visual depiction or individual
17 image stored or contained in any format on any medium including, but
18 not limited to, film, motion picture, videotape, photograph,
19 negative, undeveloped film, slide, photographic product,
20 reproduction of a photographic product, play or performance wherein
21 a minor under the age of eighteen (18) years is engaged in any act
22 with a person, other than his or her spouse, of sexual intercourse
23 which is normal or perverted, in any act of anal sodomy, in any act
24 of sexual activity with an animal, in any act of sadomasochistic

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

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

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

24

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

The standard for obscenity applied in this section shall not apply to child ~~pornography~~ sexual abuse material;

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

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

- a. acts of sexual intercourse including any intercourse which is normal or perverted, actual or simulated,
- b. acts of deviate sexual conduct, including oral and anal sodomy,
- c. acts of masturbation,
- d. acts of sadomasochistic abuse including but not limited to:

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

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

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

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

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

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

18 SECTION 15. AMENDATORY 21 O.S. 2021, Section 1024.2, is
19 amended to read as follows:

20 Section 1024.2 It shall be unlawful for any person to buy,
21 procure or possess child ~~pornography~~ sexual abuse material in
22 violation of Sections 1024.1 through 1024.4 of this title. Such
23 person shall, upon conviction, be guilty of a felony and shall be
24 imprisoned for a period of not more than twenty (20) years or a fine

1 up to, but not exceeding, Twenty-five Thousand Dollars (\$25,000.00)
2 or by both such fine and imprisonment.

3 SECTION 16. AMENDATORY 21 O.S. 2021, Section 1024.3, is
4 amended to read as follows:

5 Section 1024.3 Every person who is authorized or enjoined to
6 arrest any person for a violation of this act is equally authorized
7 or enjoined to seize an evidentiary copy of any obscene material or
8 child ~~pornography~~ sexual abuse material or all copies of explicit
9 child ~~pornography~~ sexual abuse material found in the possession of
10 or under the control of the person so arrested and to deliver the
11 obscene material or child ~~pornography~~ sexual abuse material to the
12 magistrate before whom the person so arrested is required to be
13 taken.

14 SECTION 17. AMENDATORY 21 O.S. 2021, Section 1024.4, is
15 amended to read as follows:

16 Section 1024.4 Upon final conviction of the accused and any
17 codefendant, the magistrate or law enforcement agency shall, with
18 the consent of the district attorney, cause any obscene material or
19 child ~~pornography~~ sexual abuse material, in respect whereof the
20 accused and any codefendant stands convicted and which remains in
21 the possession or control of such magistrate, law enforcement agency
22 or district attorney, to be destroyed including, but not limited to,
23 the destruction of any computer, hard drive or other electronic
24 storage media of the accused or codefendant on which such obscene

1 material or child ~~pornography~~ sexual abuse material was located.

2 For purposes of this section, "final conviction" includes the
3 exhaustion of or failure to timely pursue post-conviction and state
4 and federal habeas corpus review.

5 SECTION 18. AMENDATORY 21 O.S. 2021, Section 1040.8, is
6 amended to read as follows:

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

24

1 or delivered, or in which it is received by the person to whom it is
2 addressed.

3 B. Any person who violates any provision of this section
4 involving obscene materials, upon conviction, shall be guilty of a
5 misdemeanor and shall be punished by imprisonment in the county jail
6 for not more than one (1) year, or by a fine of not less than Two
7 Thousand Dollars (\$2,000.00), or by both such fine and imprisonment.

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

21 SECTION 19. AMENDATORY 21 O.S. 2021, Section 1040.11, is
22 amended to read as follows:

23 Section 1040.11 Sections 1021 through 1040.77 of this title
24 shall be known as the "Oklahoma Law on Obscenity and Child

1 ~~Pornography~~ Sexual Abuse Material" and may be referred to by that
2 designation.

3 SECTION 20. AMENDATORY 21 O.S. 2021, Section 1040.12a,
4 is amended to read as follows:

5 Section 1040.12a A. Any person who, with knowledge of its
6 contents, possesses one hundred (100) or more separate materials
7 depicting child ~~pornography~~ sexual abuse material shall be, upon
8 conviction, guilty of aggravated possession of child ~~pornography~~
9 sexual abuse material. The violator shall be punished by
10 imprisonment in the custody of the Department of Corrections for a
11 term not exceeding life imprisonment and by a fine in an amount not
12 more than Ten Thousand Dollars (\$10,000.00). The violator, upon
13 conviction, shall be required to register as a sex offender under
14 the Sex Offenders Registration Act.

15 B. For purposes of this section:

16 1. Multiple copies of the same identical material shall each be
17 counted as a separate item;

18 2. The term "material" means the same definition provided by
19 Section 1040.75 of ~~Title 21 of the Oklahoma Statutes~~ this title and,
20 in addition, includes all digital and computerized images and
21 depictions; and

22 3. The term "~~child pornography~~" "child sexual abuse material"
23 means the same definition provided by Section 1040.80 of ~~Title 21 of~~
24 ~~the Oklahoma Statutes~~ this title and, in addition, includes sexual

1 conduct, sexual excitement, sadomasochistic abuse, and performance
2 of material harmful to minors where a minor is present or depicted
3 as such terms are defined in Section 1040.75 of ~~Title 21 of the~~
4 ~~Oklahoma Statutes~~ this title.

5 SECTION 21. AMENDATORY 21 O.S. 2021, Section 1040.13, is
6 amended to read as follows:

7 Section 1040.13 Every person who, with knowledge of its
8 contents, sends, brings, or causes to be sent or brought into this
9 state for sale or commercial distribution, or in this state
10 prepares, sells, exhibits, commercially distributes, gives away,
11 offers to give away, or has in his or her possession with intent to
12 sell, to commercially distribute, to exhibit, to give away, or to
13 offer to give away any obscene material or child ~~pornography~~ sexual
14 abuse material or gives information stating when, where, how, or
15 from whom, or by what means obscene material or child ~~pornography~~
16 sexual abuse material can be purchased or obtained, upon conviction,
17 is guilty of a felony and shall be punished by imprisonment for not
18 more than ten (10) years in prison or by a fine of not more than Ten
19 Thousand Dollars (\$10,000.00), or by both such imprisonment and
20 fine.

21 SECTION 22. AMENDATORY 21 O.S. 2021, Section 1040.14, is
22 amended to read as follows:

23 Section 1040.14 ~~(a)~~ A. Whenever the Attorney General of this
24 state or the district attorney for any district has reasonable cause

1 to believe that any person, with knowledge of its contents, is ~~(1)~~
2 engaged:

3 1. Engaged in sending or causing to be sent, bringing or
4 causing to be brought, into this state for sale or commercial
5 distribution; ~~or is (2) in~~

6 2. In this state preparing, selling, exhibiting or commercially
7 distributing or giving away, or offering to give away, or has in his
8 or her possession with intent to sell, or commercially distribute or
9 to exhibit or give away or offer to give away,
10 any obscene material or child ~~pornography~~ sexual abuse material, the
11 Attorney General or the district attorney for the county into which
12 such mailable matter is sent or caused to be sent, brought or caused
13 to be brought, or in which it is prepared, sold, exhibited or
14 commercially distributed or given away or offered to be given away,
15 or possessed, may institute an action in the district court for an
16 adjudication of the obscenity or child ~~pornographic~~ sexual abuse
17 content of the mailable matter.

18 ~~(b)~~ B. The procedure to be followed shall be that set forth in
19 this act.

20 SECTION 23. AMENDATORY 21 O.S. 2021, Section 1040.15, is
21 amended to read as follows:

22 Section 1040.15 The action described in Section 1040.14 of this
23 title shall be commenced by filing with the court a petition:
24

1 ~~(a) directed~~ 1. Directed against the matter by name or
2 description;

3 ~~(b) alleging~~ 2. Alleging it is obscene material or child
4 ~~pornography~~ sexual abuse material;

5 ~~(c) listing~~ 3. Listing the names and addresses, if known, of
6 its author, publisher and any other person sending or causing it to
7 be sent, bringing or causing it to be brought into this state for
8 sale or commercial distribution and of any person in this state
9 preparing, selling, exhibiting or commercially distributing it, or
10 giving away or offering to give it away, or possessing it with
11 intent to sell or commercially distribute or exhibit or give away or
12 offer to give it away;

13 ~~(d) seeking~~ 4. Seeking an adjudication that it is either
14 obscene material or child ~~pornography~~ sexual abuse material, as
15 defined in Section 1024.1 of this title;

16 ~~(e) seeking~~ 5. Seeking a permanent injunction against any
17 person sending or causing it to be sent, bringing or causing it to
18 be brought, into this state for sale or commercial distribution, or
19 in this state preparing, selling, exhibiting or commercially
20 distributing it, giving away or offering to give it away, or
21 possessing it with intent to sell or commercially distribute or
22 exhibit or give away or offer to give it away; and

23 ~~(f) seeking~~ 6. Seeking its surrender, seizure and destruction.
24

1 SECTION 24. AMENDATORY 21 O.S. 2021, Section 1040.16, is
2 amended to read as follows:

3 Section 1040.16 ~~(a)~~ A. Upon the filing of the petition
4 described in Section 1040.15 of this title, the court shall
5 summarily examine the obscene material or child ~~pornography~~ sexual
6 abuse material.

7 ~~(b)~~ B. If the court finds no probable cause to believe it is
8 obscene material or child ~~pornography~~ sexual abuse material, the
9 court shall dismiss the petition.

10 ~~(c)~~ C. If the court finds probable cause to believe it is
11 obscene material or child ~~pornography~~ sexual abuse material, the
12 court shall immediately issue an order or rule to show cause why it
13 should not be adjudicated to be obscene material or child
14 ~~pornography~~ sexual abuse material.

15 ~~(d)~~ D. The order or rule to show cause shall be:

16 ~~(1) directed~~ 1. Directed against it by name or description;

17 ~~(2) if~~ 2. If their names and addresses are known, served
18 personally in the manner provided in this act for the service of
19 process or in any manner now or hereafter provided by law, upon its
20 author, publisher, and any other person interested in sending or
21 causing it to be sent, bringing or causing it to be brought, into
22 this state for sale or commercial distribution, and on any person in
23 this state preparing, selling, exhibiting or commercially
24 distributing it or giving away or offering to give it away, or

1 possessing it with intent to sell or commercially distribute or
2 exhibit or give away or offer to give it away; and

3 ~~(3) returnable~~ 3. Returnable six (6) days after its service.

4 SECTION 25. AMENDATORY 21 O.S. 2021, Section 1040.17, is
5 amended to read as follows:

6 Section 1040.17 ~~(a)~~ A. On or before the return date specified
7 in the order or rule to show cause, the author, publisher, or any
8 person interested in sending or causing to be sent, bringing or
9 causing to be brought, into this state for sale or commercial
10 distribution, or any person in this state preparing, selling,
11 exhibiting or commercially distributing, or giving away or offering
12 to give away, or possessing with intent to sell or commercially
13 distribute or exhibit or give away or offer to give away, the matter
14 may appear and file an answer.

15 ~~(b)~~ B. The court may, by order, permit any other person to
16 appear and file an answer as amicus curiae. A person granted
17 permission and appearing and filing an answer has all the rights of
18 a party to the proceeding.

19 ~~(c)~~ C. If no person appears and files an answer on or before
20 the return date specified in the order or rule to show cause, the
21 court shall enter judgment either:

22 ~~(1) adjudicating~~ 1. Adjudicating the matter not to be obscene
23 material or child ~~pornography~~ sexual abuse material, if the court so
24 finds; or

1 ~~(2) adjudicating~~ 2. Adjudicating it to be obscene material or
2 child ~~pornography~~ sexual abuse material, if the court so finds.

3 ~~(d) D.~~ Every person appearing and answering shall be entitled,
4 upon request, to a trial of the issues before the court not less
5 than three (3) days after a joinder of issue.

6 SECTION 26. AMENDATORY 21 O.S. 2021, Section 1040.20, is
7 amended to read as follows:

8 Section 1040.20 In the event that a judgment is entered
9 adjudicating the matter to be obscene material or child ~~pornography~~
10 sexual abuse material, the court shall further:

11 ~~(a) order~~ 1. Order the person or persons having possession of
12 it to surrender it to the sheriff for destruction and, in the event
13 that person refuses, order the sheriff in the county in which the
14 action was brought to seize and destroy it; and

15 ~~(b) enter~~ 2. Enter a permanent injunction against any person
16 sending or causing it to be sent, bringing or causing it to be
17 brought, into this state for sale or commercial distribution, and
18 against any person in this state preparing, selling, exhibiting or
19 commercially distributing it, giving it away or offering to give it
20 away, or having it in his or her possession with intent to sell or
21 commercially distribute or exhibit or give it away or offer to give
22 it away.

23 SECTION 27. AMENDATORY 21 O.S. 2021, Section 1040.21, is
24 amended to read as follows:

1 Section 1040.21 Any matter which, following the entry of a
2 judgment that it is obscene material or child ~~pornography~~ sexual
3 abuse material, is sent or caused to be sent, brought or caused to
4 be brought, into this state for sale or commercially distributed,
5 given away or offered to be given away, by any person with knowledge
6 of the judgment, or is in the possession of any such person with
7 intent to sell or commercially distribute or exhibit or give away or
8 offer to give away, is subject to the provisions of Section 1040.13
9 of this title.

10 SECTION 28. AMENDATORY 21 O.S. 2021, Section 1040.22, is
11 amended to read as follows:

12 Section 1040.22 After the entry of a judgment that the matter
13 is obscene material or child ~~pornography~~ sexual abuse material, any
14 person who, with knowledge of the judgment or of the order or rule
15 to show cause, sends or causes to be sent, brings or causes to be
16 brought, into this state for sale or commercial distribution, the
17 matter, or who in this state sells, exhibits or commercially
18 distributes it, gives away or offers to give it away, or has it in
19 his or her possession with intent to sell or commercially distribute
20 or exhibit or give away or offer to give it away, shall be guilty of
21 contempt of court and upon conviction after notice and hearing shall
22 be imprisoned in the county jail for not more than one (1) year or
23 fined not more than One Thousand Dollars (\$1,000.00), or be so
24 imprisoned or fined.

1 SECTION 29. AMENDATORY 21 O.S. 2021, Section 1040.24, is
2 amended to read as follows:

3 Section 1040.24 The possession of two or more of any single
4 article that is obscene material or child ~~pornography~~ sexual abuse
5 material, or the possession of a combined total of any five articles
6 that are obscene material or child ~~pornography~~ sexual abuse material
7 (except the possession of them for the purpose of return to the
8 person from whom received) shall create a presumption that they are
9 intended for sale or commercial distribution, exhibition or gift,
10 but such presumption shall be rebuttable. The burden of proof that
11 their possession is for the purpose of return to the person from
12 whom received shall be on the possessor.

13 SECTION 30. AMENDATORY 21 O.S. 2021, Section 1040.54, is
14 amended to read as follows:

15 Section 1040.54 A. Any peace officer of this state is
16 authorized to seize any equipment which is used, or intended for use
17 in the preparing, photographing, printing, selling, exhibiting,
18 publishing, distributing, displaying, advertising, filming, copying,
19 recording, or mailing of obscene material, as defined in paragraph 1
20 of subsection B of Section 1024.1 of this title or child ~~pornography~~
21 sexual abuse material, as defined in subsection A of Section 1024.1
22 of this title. Said equipment may be held as evidence until a
23 forfeiture has been declared or a release ordered. Forfeiture
24 actions under this section may be brought by the district attorney

1 in the proper county of venue as petitioner; provided, in the event
2 the district attorney elects not to file such an action, or fails to
3 file such action within ninety (90) days of the date of the seizure
4 of such equipment, a forfeiture action may be brought by the entity
5 seizing such equipment as petitioner.

6 B. Notice of seizure and intended forfeiture proceeding shall
7 be given all owners and parties in interest by the party seeking
8 forfeiture as follows:

9 1. Upon each owner or party in interest whose name and address
10 is known, by mailing a copy of the notice by registered mail to the
11 last-known address; and

12 2. Upon all other owners or parties in interest, whose
13 addresses are unknown, by one publication in a newspaper of general
14 circulation in the county where the seizure was made.

15 C. Within sixty (60) days after the mailing or publication of
16 the notice, the owner of the equipment and any other party in
17 interest may file a verified answer and claim to the equipment
18 described in the notice of seizure and of the intended forfeiture
19 proceeding.

20 D. If at the end of sixty (60) days after the notice has been
21 mailed or published there is no verified answer on file, the court
22 shall hear evidence upon the fact of the unlawful use and may order
23 the equipment forfeited to the state, if such fact is proven.

24

1 E. If a verified answer is filed, the forfeiture proceeding
2 shall be set for hearing.

3 F. At the hearing the party seeking the forfeiture shall prove
4 by clear and convincing evidence that the equipment was used in the
5 preparing, photographing, printing, selling, exhibiting, publishing,
6 distributing, displaying, advertising, filming, copying, recording,
7 or mailing of obscene material, as defined in paragraph 1 of
8 subsection B of Section 1024.1 of this title or child ~~pornography~~
9 sexual abuse material, as defined in ~~paragraph 1 of subsection A of~~
10 Section 1024.1 of this title, with knowledge by the owner of the
11 equipment.

12 G. The owner or party in interest may prove that the right or
13 interest in the equipment was created without any knowledge or
14 reason to believe that the equipment was being, or was to be, used
15 for the purpose charged.

16 H. In the event of such proof, the court may order the
17 equipment released to the bona fide or innocent owner or party in
18 interest if the amount due the person is equal to, or in excess of,
19 the value of the equipment as of the date of the seizure.

20 I. If the amount due to such person is less than the value of
21 the equipment, or if no bona fide claim is established, the
22 equipment shall be forfeited to the state and shall be sold pursuant
23 to the judgment of the court.

24

1 J. Equipment taken or detained pursuant to this section shall
2 not be repleviable, but shall be deemed to be in the custody of the
3 office of the district attorney of the county where the equipment
4 was seized or in the custody of the party seeking the forfeiture.
5 The district attorney or the party seeking the equipment may release
6 said equipment to the owner of the equipment if it is determined
7 that the owner had no knowledge of the illegal use of the equipment
8 or if there is insufficient evidence to sustain the burden of
9 showing illegal use of the equipment. Equipment which has not been
10 released by the district attorney or the party seizing the equipment
11 shall be subject to the orders and decrees of the court or the
12 official having jurisdiction thereof.

13 K. The district attorney or the party seizing such equipment
14 shall not be held civilly liable for having custody of the seized
15 equipment or proceeding with a forfeiture action as provided for in
16 this section.

17 L. The proceeds of the sale of any equipment not taken or
18 detained by the Oklahoma State Bureau of Narcotics and Dangerous
19 Drugs Control, the Department of Public Safety, the Oklahoma State
20 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
21 Commission, the Department of Corrections or the Office of the
22 Attorney General shall be distributed as follows, in the order
23 indicated:
24

1 1. To the bona fide or innocent purchaser or conditional sales
2 vendor of the equipment, if any, up to the amount of the person's
3 interest in the equipment, when the court declaring the forfeiture
4 orders a distribution to such person;

5 2. To the payment of the actual expenses of preserving the
6 equipment; and

7 3. The balance to a revolving fund in the office of the county
8 treasurer of the county where the equipment was seized, said fund to
9 be used and maintained as a revolving fund for any purpose by the
10 department that made the seizure with a yearly accounting to the
11 board of county commissioners in whose county the fund is
12 established. Monies from said fund may be used to pay costs for the
13 storage of such equipment if such equipment is ordered released to a
14 bona fide or innocent owner, purchaser, or conditional sales vendor
15 and if such monies are available in said fund.

16 M. The proceeds of the sale of any equipment seized, taken or
17 detained by the Oklahoma State Bureau of Narcotics and Dangerous
18 Drugs Control, the Department of Public Safety, the Oklahoma State
19 Bureau of Investigation, the Alcoholic Beverage Laws Enforcement
20 Commission, the Department of Corrections or the Office of the
21 Attorney General shall be distributed as follows, in the order
22 indicated:

23 1. To the bona fide or innocent purchaser or conditional sales
24 vendor of the equipment, if any, up to the amount of the person's

1 interest in the equipment, when the court declaring the forfeiture
2 orders a distribution to such person;

3 2. To the payment of the actual expenses of preserving the
4 equipment; and

5 3. The balance to a revolving fund of the agency seizing said
6 equipment to be used and maintained as a revolving fund for law
7 enforcement purposes by the agency seizing said equipment. Monies
8 from said fund may be used to pay costs for the storage of such
9 equipment if such equipment is ordered released to a bona fide or
10 innocent owner, purchaser, or conditional sales vendor.

11 N. When any equipment is forfeited pursuant to this section,
12 the district court of jurisdiction may order that the equipment
13 seized may be retained by the state, county, or municipal law
14 enforcement agency which seized the equipment for its official use.

15 O. If the court finds that the equipment was not used in the
16 preparing, photographing, printing, selling, exhibiting, publishing,
17 distributing, displaying, advertising, filming, copying, recording,
18 or mailing of obscene material, as defined in paragraph 1 of
19 subsection B of Section 1024.1 of this title or child ~~pornography~~
20 sexual abuse material as defined in ~~paragraph 1 of subsection A of~~
21 Section 1024.1 of this title, the court shall order the equipment
22 released to the owner.

23 P. No equipment shall be forfeited pursuant to the provisions
24 of this section by reason of any act or omission established by the

1 owner thereof to have been committed or omitted without the
2 knowledge or consent of such owner, or by any person other than such
3 owner while such equipment was unlawfully in the possession of a
4 person other than the owner in violation of the criminal laws of the
5 United States or of any state.

6 SECTION 31. AMENDATORY 21 O.S. 2021, Section 1040.56, is
7 amended to read as follows:

8 Section 1040.56 A. Any person who, while under the age of
9 eighteen (18), was a victim of an offense provided for in Section
10 681, 741, 843.5, 852.1, 867, 885, 886, 888, 891, 1021, 1021.2,
11 1021.3, 1024.2, 1040.8, 1040.12a, 1040.13, 1040.13a, 1087, 1088,
12 1111.1, 1114 or 1123 of ~~Title 21 of the Oklahoma Statutes~~ this
13 title, where such offense resulted in a conviction and any portion
14 of such offense was used in the production of child ~~pornography~~
15 sexual abuse material, and who suffers personal or psychological
16 injury as a result of the production, promotion, or possession of
17 such child ~~pornography~~ sexual abuse material, may bring a civil
18 action against the producer, promoter, or intentional possessor of
19 such child ~~pornography~~ sexual abuse material, regardless of whether
20 the victim is now an adult.

21 B. In any civil action brought under this section, the
22 prevailing plaintiff shall recover the actual, special and punitive
23 damages such person sustained and the cost of the suit, including
24 reasonable attorney fees.

1 C. Notwithstanding any other provision of law, any civil action
2 commenced pursuant to this section shall be filed within three (3)
3 years after the later of:

4 1. The conclusion of the related criminal case;

5 2. The notification to the victim by a law enforcement agency
6 of the creation, possession, distribution or promotion of child
7 ~~pornography~~ sexual abuse material; or

8 3. In the case of a victim younger than eighteen (18) years of
9 age, within three (3) years after the person reaches the age of
10 eighteen (18).

11 D. It is not a defense to a civil cause of action under this
12 section that the respondent did not know the victim or commit the
13 abuse depicted in the child ~~pornography~~ sexual abuse material.

14 E. As used in this section, "~~child pornography~~" "child sexual
15 abuse material" shall have the same meaning as such term is defined
16 in Section 1024.1 of ~~Title 21 of the Oklahoma Statutes~~ this title.

17 F. The provisions of this section shall not apply to any acts
18 performed in the scope and course of employment by any:

19 1. Law enforcement officer;

20 2. Forensic examiner;

21 3. Prosecuting attorney; or

22 4. Employee of a child advocacy organization.

23 SECTION 32. AMENDATORY 21 O.S. 2021, Section 1040.80, is
24 amended to read as follows:

1 Section 1040.80 A. As used in this section, the term:

2 1. "Interactive computer service provider" means any provider
3 to the public of computer access via the Internet to a computer
4 server or similar device used for the storage of graphic, video or
5 images;

6 2. "Internet" means the international computer network of both
7 federal and nonfederal interoperable packet-switched data networks;

8 3. "Controlled or owned by" with respect to a server or other
9 storage device means a server or other such device that is entirely
10 owned by the interactive computer service provider or is subject to
11 exclusive management by the interactive computer service provider by
12 agreement or otherwise; and

13 4. ~~"Child pornography"~~ "Child sexual abuse material" means
14 explicit child ~~pornography~~ sexual abuse material as defined in
15 Section 1024.1 of ~~Title 21 of the Oklahoma Statutes~~ this title.

16 B. The Attorney General or a law enforcement officer who
17 receives information that an item of alleged child ~~pornography~~
18 sexual abuse material resides on a server or other storage device
19 controlled or owned by an interactive computer service provider
20 shall:

21 1. Contact the interactive computer service provider that
22 controls or owns the server or other storage device where the item
23 of alleged child ~~pornography~~ sexual abuse material is located;

1 2. Inform the interactive computer service provider of the
2 provisions of this section; and

3 3. Request that the interactive computer service provider
4 voluntarily comply with this section and remove the item of alleged
5 child ~~pornography~~ sexual abuse material from its server or other
6 storage device expeditiously.

7 C. 1. If an interactive computer service does not voluntarily
8 remove the item of alleged child ~~pornography~~ sexual abuse material
9 in a timely manner, the Attorney General or law enforcement officer
10 shall apply for a court order of authorization to remove the item of
11 alleged child ~~pornography~~ sexual abuse material under this section.
12 The obligation to remove the item of alleged child ~~pornography~~
13 sexual abuse material shall not apply to the transmitting or routing
14 of, or the intermediate, temporary storage or caching of an image,
15 information or data that is otherwise subject to this section.

16 2. The application for a court order shall include:

17 a. the authority of the applicant to make such an
18 application,

19 b. the identity and qualifications of the investigative
20 or law enforcement officer or agency that, in the
21 official scope of that officer's duties or agency's
22 authority, discovered the images, information, or
23 data,
24

1 c. a particular statement of the facts relied upon by the
2 applicant, including:

3 (1) the identity of the interactive computer service,

4 (2) identification of the item of alleged child

5 ~~pornography~~ sexual abuse material discovered on

6 the server or other storage device controlled or

7 owned by an interactive computer service

8 provider,

9 (3) the particular images, information, or data to be

10 removed or to which access is to be disabled

11 identified by uniform resource locator (URL) or

12 Internet protocol (IP) address, a statement

13 certifying that such content resides on a server

14 or storage device controlled or owned by such

15 interactive computer service provider, and

16 (4) the steps taken to obtain voluntary compliance by

17 such interactive computer service provider with

18 the requirements of this act prior to filing the

19 application,

20 d. such additional testimony and documentary evidence in

21 support of the application as the judge may require,

22 and

23

24

1 e. a showing that there is probable cause to believe that
2 the child ~~pornography~~ sexual abuse material items
3 constitutes a violation of this section.

4 D. The Attorney General shall notify the interactive computer
5 service provider which is identified in the court's order in
6 accordance with the provisions of this section. The Attorney
7 General shall notify an interactive computer service provider upon
8 the issuance of an order authorizing the removal of the items of
9 alleged child ~~pornography~~ sexual abuse material.

10 1. The notice by the Attorney General shall include:

11 a. a copy of the application made pursuant to subsection
12 C of this section,

13 b. a copy of the court order issued pursuant to
14 subsection K of this section,

15 c. notification that the interactive computer service
16 shall remove the item of alleged child ~~pornography~~
17 sexual abuse material contained in the order which
18 resides on a server or other storage device controlled
19 or owned by such interactive service provider and
20 which are accessible to persons located within this
21 state expeditiously after receipt of the notification,

22 d. notification of the criminal penalties for failure to
23 remove the item of child ~~pornography~~ sexual abuse
24 material,

- 1 e. notification of the right to appeal the court's order,
2 and
3 f. contact information for the Attorney General's Office.

4 2. An interactive computer service may designate an agent
5 within the state to receive notification pursuant to this section.

6 E. The interactive computer service provider has the right to
7 request a hearing before the court imposes any penalty under this
8 section.

9 F. Nothing in this section may be construed as imposing a duty
10 on an interactive computer service provider to actively monitor its
11 service or affirmatively seek evidence of illegal activity on its
12 service.

13 G. Notwithstanding any other provision of law to the contrary,
14 any interactive computer service provider that intentionally
15 violates subsection L of this section commits:

16 1. A misdemeanor for a first offense punishable by a fine of
17 One Thousand Dollars (\$1,000.00);

18 2. A misdemeanor of a high and aggravated nature for a second
19 offense punishable by a fine of Five Thousand Dollars (\$5,000.00);
20 and

21 3. A felony for a third or subsequent offense punishable by a
22 fine of Thirty Thousand Dollars (\$30,000.00) and imprisonment for a
23 maximum of five (5) years.

1 H. The Attorney General shall have concurrent prosecutorial
2 jurisdiction with a district attorney for violation of this section.

3 I. The removal of the alleged item of child ~~pornography~~ sexual
4 abuse material which resides on a server or other storage device,
5 shall not, to the extent possible, interfere with any request of a
6 law enforcement agency to preserve records or other evidence, which
7 may be kept by the interactive computer service provider in the
8 normal course of business.

9 J. Upon consideration of an application for authorization to
10 remove the item of alleged child ~~pornography~~ sexual abuse material
11 that resides on a server or other storage device controlled or owned
12 by an interactive computer service provider as set forth in
13 subsection C of this section, the judge may enter an ex parte order,
14 as requested or as modified, authorizing the removal of the item of
15 alleged child ~~pornography~~ sexual abuse material, if the court
16 determines on the basis of the facts submitted by the applicant that
17 there is or was probable cause for belief that:

18 1. The item of alleged child ~~pornography~~ sexual abuse material
19 constitutes evidence of an act in violation of this section;

20 2. The investigative or law enforcement officer or agency acted
21 within the official scope of that officer's duties or agency's
22 authority, in discovering the images, information, or data and has
23 complied with the requirements of subsection I and subsection K of
24 this section;

1 3. An item of alleged child ~~pornography~~ sexual abuse material
2 resides on the server or other storage device controlled or owned by
3 the interactive computer service provider and is accessible to
4 persons located in the state; and

5 4. In the case of an application, other than a renewal or
6 extension, for an order removing the item of alleged child
7 ~~pornography~~ sexual abuse material which was the subject of a
8 previous order authorizing the removal or disabling of access, the
9 application is based upon new evidence or information different from
10 and in addition to the evidence or information offered to support
11 the prior order.

12 K. Each order authorizing the removal or disabling of access to
13 an alleged item of child ~~pornography~~ sexual abuse material shall
14 contain:

15 1. The name of the judge authorized to issue the order;

16 2. A particular description of the images, information, or data
17 to be removed or access to such disabled, identified by a URL or IP
18 address, and a statement of the particular violation of the section
19 to which the images, information, or data relate;

20 3. The identity of the investigative or law enforcement officer
21 or agency who discovered the images, information, or data and the
22 identity of whoever authorized the application; and

23 4. Such additional information or instruction as the court
24 deems necessary to execute the order.

1 L. The court shall review the application and testimony, if
2 offered, and, upon a finding of probable cause, issue an order that:

3 1. An item of child ~~pornography~~ sexual abuse material resides
4 on a server or other storage device controlled by the interactive
5 computer service provider and is accessible to persons located in
6 the state;

7 2. The interactive computer service provider shall remove the
8 item residing on a server or other storage device controlled or
9 owned by the interactive computer service provider expeditiously
10 after receiving the order, if practical;

11 3. The order shall specify that removal of any item covered by
12 the order shall be accomplished in a fashion that prevents or
13 minimizes the removal of, or restriction of access to, images,
14 information, or data that are not subject to the order;

15 4. Failure of the interactive computer service provider to
16 comply with the court's order is a violation of this section;

17 5. The removal of the item on the server or other storage
18 device controlled or owned by the interactive computer service
19 provider may not unreasonably interfere with a request by a law
20 enforcement agency to preserve records for a reasonable period and
21 in accordance with law; and

22 6. Provides the interactive computer service provider notice
23 and opportunity for a hearing before the court imposes any penalty
24 under this subsection.

1 M. An interactive computer service provider who is served with
2 a court order under subsection L of this section shall remove the
3 item of child ~~pornography~~ sexual abuse material that is the subject
4 of the order expeditiously after receiving the court order, if
5 practicable.

6 N. 1. An interactive service provider may petition the court
7 for relief for cause from an order issued under subsection L of this
8 section.

9 2. The petition may be based on considerations of:

- 10 a. the cost or technical feasibility of compliance with
- 11 the order, or
- 12 b. the inability of the interactive computer service
- 13 provider to comply with the order without also
- 14 removing data, images or information that are not
- 15 subject to this section.

16 SECTION 33. AMENDATORY 21 O.S. 2021, Section 1123, as
17 amended by Section 4, Chapter 260, O.S.L. 2022 (21 O.S. Supp. 2023,
18 Section 1123), is amended to read as follows:

19 Section 1123. A. It is a felony for any person to knowingly
20 and intentionally:

- 21 1. Make any oral, written or electronically or computer-
- 22 generated lewd or indecent proposal to any child under sixteen (16)
- 23 years of age, or other individual the person believes to be a child

24

1 under sixteen (16) years of age, for the child to have unlawful
2 sexual relations or sexual intercourse with any person;

3 2. Look upon, touch, maul, or feel the body or private parts of
4 any child under sixteen (16) years of age in any lewd or lascivious
5 manner by any acts against public decency and morality, as defined
6 by law;

7 3. Ask, invite, entice, or persuade any child under sixteen
8 (16) years of age, or other individual the person believes to be a
9 child under sixteen (16) years of age, to go alone with any person
10 to a secluded, remote, or secret place, with the unlawful and
11 willful intent and purpose then and there to commit any crime
12 against public decency and morality, as defined by law, with the
13 child;

14 4. In any manner lewdly or lasciviously look upon, touch, maul,
15 or feel the body or private parts of any child under sixteen (16)
16 years of age in any indecent manner or in any manner relating to
17 sexual matters or sexual interest; or

18 5. In a lewd and lascivious manner and for the purpose of
19 sexual gratification:

20 a. urinate or defecate upon a child under sixteen (16)
21 years of age, or force or require a child to defecate
22 or urinate upon the body or private parts of another,
23 or for the purpose of sexual gratification,

24 b. ejaculate upon or in the presence of a child,

- 1 c. cause, expose, force or require a child to look upon
2 the body or private parts of another person,
- 3 d. force or require any child under sixteen (16) years of
4 age or other individual the person believes to be a
5 child under sixteen (16) years of age, to view any
6 obscene materials, child ~~pornography~~ sexual abuse
7 material or materials deemed harmful to minors as such
8 terms are defined by Sections 1024.1 and 1040.75 of
9 this title,
- 10 e. cause, expose, force or require a child to look upon
11 sexual acts performed in the presence of the child, or
- 12 f. force or require a child to touch or feel the body or
13 private parts of the child or another person.

14 Any person convicted of any violation of this subsection shall
15 be punished by imprisonment in the custody of the Department of
16 Corrections for not less than three (3) years nor more than twenty
17 (20) years, except when the child is under twelve (12) years of age
18 at the time the offense is committed, and in such case the person
19 shall, upon conviction, be punished by imprisonment in the custody
20 of the Department of Corrections for not less than twenty-five (25)
21 years. The provisions of this subsection shall not apply unless the
22 accused is at least three (3) years older than the victim, except
23 when accomplished by the use of force or fear. Except as provided
24 in Section 51.1a of this title, any person convicted of a second or

1 subsequent violation of this subsection shall be guilty of a felony
2 punishable as provided in this subsection and shall not be eligible
3 for probation, suspended or deferred sentence. Except as provided
4 in Section 51.1a of this title, any person convicted of a third or
5 subsequent violation of this subsection shall be guilty of a felony
6 punishable by imprisonment in the custody of the Department of
7 Corrections for a term of life or life without parole, in the
8 discretion of the jury, or in case the jury fails or refuses to fix
9 punishment then the same shall be pronounced by the court. Any
10 person convicted of a violation of this subsection after having been
11 twice convicted of a violation of subsection A of Section 1114 of
12 this title, Section 888 of this title, sexual abuse of a child
13 pursuant to Section 843.5 of this title, or of any attempt to commit
14 any of these offenses or any combination of convictions pursuant to
15 these sections shall be punished by imprisonment in the custody of
16 the Department of Corrections for a term of life or life without
17 parole.

18 B. No person shall commit sexual battery on any other person.
19 "Sexual battery" shall mean the intentional touching, mauling or
20 feeling of the body or private parts of any person sixteen (16)
21 years of age or older, in a lewd and lascivious manner:

- 22 1. Without the consent of that person;
- 23 2. When committed by a state, county, municipal or political
24 subdivision employee or a contractor or an employee of a contractor

1 of the state, a county, a municipality or political subdivision of
2 this state upon a person who is under the legal custody, supervision
3 or authority of a state agency, a county, a municipality or a
4 political subdivision of this state, or the subcontractor or
5 employee of a subcontractor of the contractor of the state or
6 federal government, a county, a municipality or a political
7 subdivision of this state;

8 3. When committed upon a person who is at least sixteen (16)
9 years of age and is less than twenty (20) years of age and is a
10 student, or in the legal custody or supervision of any public or
11 private elementary or secondary school, or technology center school,
12 by a person who is eighteen (18) years of age or older and is an
13 employee of a school system;

14 4. When committed upon a person who is nineteen (19) years of
15 age or younger and is in the legal custody of a state agency,
16 federal agency or a tribal court, by a foster parent or foster
17 parent applicant; or

18 5. When the victim is a student at a secondary school, is
19 concurrently enrolled at an institution of higher education, and
20 engages in acts pursuant to this subsection with a perpetrator who
21 is an employee of the institution of higher education of which the
22 student is enrolled.

23 As used in this subsection, "employee of an institution of
24 higher education" means faculty, adjunct faculty, instructors,

1 volunteers, or an employee of a business contracting with an
2 institution of higher education who may exercise, at any time,
3 institutional authority over the victim. Employee of an institution
4 of higher education shall not include an enrolled student who is not
5 more than three (3) years of age or older than the concurrently
6 enrolled student and who is employed or volunteering, in any
7 capacity, for the institution of higher education.

8 As used in this subsection, "employee of a school system" means
9 a teacher, principal or other duly appointed person employed by a
10 school system or an employee of a firm contracting with a school
11 system.

12 C. No person shall in any manner lewdly or lasciviously:

13 1. Look upon, touch, maul, or feel the body or private parts of
14 any human corpse in any indecent manner relating to sexual matters
15 or sexual interest; or

16 2. Urinate, defecate or ejaculate upon any human corpse.

17 D. Any person convicted of a violation of subsection B or C of
18 this section shall be deemed guilty of a felony and shall be
19 punished by imprisonment in the custody of the Department of
20 Corrections for not more than ten (10) years.

21 E. The fact that an undercover operative or law enforcement
22 officer was involved in the detection and investigation of an
23 offense pursuant to this section shall not constitute a defense to a
24 prosecution under this section.

1 F. Except for persons sentenced to life or life without parole,
2 any person sentenced to imprisonment for two (2) years or more for a
3 violation of this section shall be required to serve a term of post-
4 imprisonment supervision pursuant to subparagraph f of paragraph 1
5 of subsection A of Section 991a of Title 22 of the Oklahoma Statutes
6 under conditions determined by the Department of Corrections. The
7 jury shall be advised that the mandatory post-imprisonment
8 supervision shall be in addition to the actual imprisonment.

9 SECTION 34. AMENDATORY 22 O.S. 2021, Section 40, is
10 amended to read as follows:

11 Section 40. As used in Sections 40 through 40.3 of this title:

12 1. "Assault and battery with a deadly weapon" means assault and
13 battery with a deadly weapon or other means likely to produce death
14 or great bodily harm as provided in Section 652 of Title 21 of the
15 Oklahoma Statutes;

16 2. "Forcible sodomy" means the act of forcing another person to
17 engage in the detestable and abominable crime against nature
18 pursuant to Sections 886 and 887 of Title 21 of the Oklahoma
19 Statutes that is punishable under Section 888 of Title 21 of the
20 Oklahoma Statutes;

21 3. "Kidnapping" means kidnapping or kidnapping for purposes of
22 extortion as provided in Sections 741 and 745 of Title 21 of the
23 Oklahoma Statutes;

24

1 4. "Member of the immediate family" means the spouse, a child
2 by birth or adoption, a stepchild, a parent by birth or adoption, a
3 stepparent, a grandparent, a grandchild, a sibling or a stepsibling
4 of a victim of first-degree murder;

5 5. "Rape" means an act of sexual intercourse accomplished with
6 a person pursuant to Sections 1111, 1111.1 and 1114 of Title 21 of
7 the Oklahoma Statutes; and

8 6. "Sex offense" means the following crimes:

9 a. sexual assault as provided in Section 681 of Title 21
10 of the Oklahoma Statutes,

11 b. human trafficking for commercial sex as provided in
12 Section 748 of Title 21 of the Oklahoma Statutes,

13 c. sexual abuse or sexual exploitation by a caretaker as
14 provided in Section 843.1 of Title 21 of the Oklahoma
15 Statutes,

16 d. child sexual abuse or child sexual exploitation as
17 provided in Section 843.5 of Title 21 of the Oklahoma
18 Statutes,

19 e. permitting sexual abuse of a child as provided in
20 Section 852.1 of Title 21 of the Oklahoma Statutes,

21 f. incest as provided in Section 885 of Title 21 of the
22 Oklahoma Statutes,

23 g. forcible sodomy as provided in Section 888 of Title 21
24 of the Oklahoma Statutes,

- 1 h. child stealing for purposes of sexual abuse or sexual
2 exploitation as provided in Section 891 of Title 21 of
3 the Oklahoma Statutes,
- 4 i. indecent exposure or solicitation of minors as
5 provided in Section 1021 of Title 21 of the Oklahoma
6 Statutes,
- 7 j. procuring, producing, distributing or possessing child
8 ~~pornography~~ sexual abuse material as provided in
9 Sections 1021.2 and 1024.2 of Title 21 of the Oklahoma
10 Statutes,
- 11 k. parental consent to child ~~pornography~~ sexual abuse
12 material as provided in Section 1021.3 of Title 21 of
13 the Oklahoma Statutes,
- 14 l. aggravated possession of child ~~pornography~~ sexual
15 abuse material as provided in Section 1040.12a of
16 Title 21 of the Oklahoma Statutes,
- 17 m. distributing obscene material or child ~~pornography~~
18 sexual abuse material as provided in Section 1040.13
19 of Title 21 of the Oklahoma Statutes,
- 20 n. offering or soliciting sexual conduct with a child as
21 provided in Section 1040.13a of Title 21 of the
22 Oklahoma Statutes,
- 23
24

- 1 o. procuring a child for prostitution or other lewd acts
2 as provided in Section 1087 of Title 21 of the
3 Oklahoma Statutes,
4 p. inducing a child to engage in prostitution as provided
5 in Section 1088 of Title 21 of the Oklahoma Statutes,
6 and
7 q. lewd or indecent proposals or acts to a child or
8 sexual battery as provided in Section 1123 of Title 21
9 of the Oklahoma Statutes.

10 SECTION 35. AMENDATORY 22 O.S. 2021, Section 991h, is
11 amended to read as follows:

12 Section 991h. In addition to the other sentencing powers of the
13 court, when sentencing a person who has been convicted, whether upon
14 a verdict or plea of guilty or nolo contendere, or who has received
15 a suspended sentence or any probationary term for a crime or an
16 attempt to commit a crime provided for in:

17 1. Section 843.5 of Title 21 of the Oklahoma Statutes, if the
18 offense involved sexual abuse or sexual exploitation, as those terms
19 are defined in Section 1-1-105 of Title 10A of the Oklahoma
20 Statutes;

21 2. Section 681 of Title 21 of the Oklahoma Statutes, if the
22 offense involved sexual assault;

23 3. Section 741 of Title 21 of the Oklahoma Statutes, if the
24 offense involved sexual abuse or sexual exploitation;

1 4. Section 748 of Title 21 of the Oklahoma Statutes, if the
2 offense involved human trafficking for commercial sex;

3 5. Section 843.1 of Title 21 of the Oklahoma Statutes, if the
4 offense involved sexual abuse or sexual exploitation;

5 6. Section 852.1 of Title 21 of the Oklahoma Statutes, if the
6 offense involved sexual abuse of a child;

7 7. Section 866, 885, 886, 888 or 891 of Title 21 of the
8 Oklahoma Statutes, if the offense involved sexual abuse or sexual
9 exploitation;

10 8. Section 1021, 1021.2, 1021.3, 1024.2 or 1029 of Title 21 of
11 the Oklahoma Statutes, if the offense involved child prostitution;

12 9. Section 1040.8 of Title 21 of the Oklahoma Statutes, if the
13 offense involved child ~~pornography~~ sexual abuse material; or

14 10. Section 1040.12a, 1040.13, 1040.13a, 1087, 1088, 1111.1,
15 1114 or 1123 of Title 21 of the Oklahoma Statutes,
16 the court shall issue an order that the defendant shall have no
17 contact directly or indirectly with the victim or the family of the
18 victim during the full term of the confinement of the defendant,
19 term of probation, period of deferment or term of confinement and
20 probation of the defendant.

21 SECTION 36. AMENDATORY 22 O.S. 2021, Section 996.1, is
22 amended to read as follows:

23 Section 996.1 As used in the Delayed Sentencing Program for
24 Young Adults:

1 "Offender" means any adult eighteen (18) through twenty-five
2 (25) years of age as of the date of a verdict of guilty or a plea of
3 guilty or nolo contendere for a nonviolent felony offense or a
4 juvenile who has been certified to stand trial as an adult for a
5 nonviolent felony offense, who has no charges pending for a violent
6 offense and who has not been sentenced, or adjudicated as a juvenile
7 delinquent or youthful offender, of:

8 1. Assault, battery, or assault and battery with a dangerous or
9 deadly weapon as defined by Sections 645 and subsection C of 652 of
10 Title 21 of the Oklahoma Statutes, or Section 2-219 of Title 43A of
11 the Oklahoma Statutes;

12 2. Aggravated assault and battery on a police officer, sheriff,
13 highway patrolman, or any other officer of the law as defined by
14 Sections 650, subsection C of 650.2, 650.5, subsection B of 650.6,
15 or subsection C of 650.7 of Title 21 of the Oklahoma Statutes;

16 3. Poisoning with intent to kill as defined by Section 651 of
17 Title 21 of the Oklahoma Statutes;

18 4. Shooting with intent to kill as defined by Section 652 of
19 Title 21 of the Oklahoma Statutes;

20 5. Assault with intent to kill as defined by Section 653 of
21 Title 21 of the Oklahoma Statutes;

22 6. Using a vehicle to facilitate the intentional discharge of
23 any kind of firearm in violation of Section 652 of Title 21 of the
24 Oklahoma Statutes;

1 7. Discharging any firearm or other deadly weapon at or into
2 any dwelling as defined in Section 1289.17A of Title 21 of the
3 Oklahoma Statutes;

4 8. Assault with intent to commit a felony as defined by Section
5 681 of Title 21 of the Oklahoma Statutes;

6 9. Assaults while masked or disguised as defined by Section
7 1303 of Title 21 of the Oklahoma Statutes;

8 10. Murder in the first degree as defined by Section 701.7 of
9 Title 21 of the Oklahoma Statutes;

10 11. Murder in the second degree as defined by Section 701.8 of
11 Title 21 of the Oklahoma Statutes;

12 12. Manslaughter in the first degree as defined by Sections
13 711, or 712 ~~or~~ 714 of Title 21 of the Oklahoma Statutes;

14 13. Manslaughter in the second degree as defined by Sections
15 716 or 717 of Title 21 of the Oklahoma Statutes;

16 14. Kidnapping as defined by Section 741 of Title 21 of the
17 Oklahoma Statutes;

18 15. Burglary in the first degree as defined by Section 1431 of
19 Title 21 of the Oklahoma Statutes;

20 16. Kidnapping for extortion as defined by Section 745 of Title
21 21 of the Oklahoma Statutes;

22 17. Maiming as defined by Section 751 of Title 21 of the
23 Oklahoma Statutes;

24

1 18. Robbery as defined by Section 791 of Title 21 of the
2 Oklahoma Statutes;

3 19. Robbery in the first degree as defined by Section 797 of
4 Title 21 of the Oklahoma Statutes;

5 20. Robbery in the second degree as defined by Section 797 of
6 Title 21 of the Oklahoma Statutes;

7 21. Armed robbery as defined by Section 801 of Title 21 of the
8 Oklahoma Statutes;

9 22. Robbery by two (2) or more persons as defined by Section
10 800 of Title 21 of the Oklahoma Statutes;

11 23. Robbery with dangerous weapon or imitation firearm as
12 defined by Section 801 of Title 21 of the Oklahoma Statutes;

13 24. Any crime against a child provided for in Section 843.5 of
14 Title 21 of the Oklahoma Statutes;

15 25. Wiring equipment, vehicle or structure with explosives as
16 defined by Section 849 of Title 21 of the Oklahoma Statutes;

17 26. Forcible sodomy as defined by Section 888 of Title 21 of
18 the Oklahoma Statutes;

19 27. Rape in the first degree as defined by Sections 1111 and
20 1114 of Title 21 of the Oklahoma Statutes;

21 28. Rape by instrumentation as defined by Section 1111.1 of
22 Title 21 of the Oklahoma Statutes;

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1 29. Lewd or indecent proposition or lewd or indecent act with a
2 child as defined by Section 1123 of Title 21 of the Oklahoma
3 Statutes;

4 30. Use of a firearm or offensive weapon to commit or attempt
5 to commit a felony as defined by Section 1287 of Title 21 of the
6 Oklahoma Statutes;

7 31. Pointing firearms as defined by Section 1289.16 of Title 21
8 of the Oklahoma Statutes;

9 32. Rioting as defined by Sections 1311 or 1321.8 of Title 21
10 of the Oklahoma Statutes;

11 33. Inciting to riot as defined by Section 1320.2 of Title 21
12 of the Oklahoma Statutes;

13 34. Arson in the first degree as defined by Section 1401 of
14 Title 21 of the Oklahoma Statutes;

15 35. Endangering human life during arson as defined by Section
16 1405 of Title 21 of the Oklahoma Statutes;

17 36. Procure, produce, distribute, or possess ~~juvenile~~
18 ~~pornography~~ child sexual abuse material as defined by Section 1021.2
19 of Title 21 of the Oklahoma Statutes;

20 37. Parental consent to ~~juvenile pornography~~ child sexual abuse
21 material as defined by Section 1021.3 of Title 21 of the Oklahoma
22 Statutes;

23

24

1 38. Distributing obscene material or child ~~pornography~~ sexual
2 abuse material as defined by Section 1040.13 of Title 21 of the
3 Oklahoma Statutes;

4 39. Unlawful manufacturing, attempting to unlawfully
5 manufacture or aggravated manufacturing of any controlled dangerous
6 substance as defined by subsection G of Section 2-401 and paragraph
7 3 of subsection G of Section 2-401 of Title 63 of the Oklahoma
8 Statutes; or

9 40. Any violation of the Trafficking in Illegal Drugs Act as
10 defined by Section 2-415 of Title 63 of the Oklahoma Statutes.

11 SECTION 37. AMENDATORY 43 O.S. 2021, Section 112.5, is
12 amended to read as follows:

13 Section 112.5 A. Custody or guardianship of a child may be
14 awarded to:

15 1. A parent or to both parents jointly;

16 2. A grandparent;

17 3. A person who was indicated by the wishes of a deceased
18 parent;

19 4. A relative of either parent;

20 5. The person in whose home the child has been living in a
21 wholesome and stable environment including, but not limited to, a
22 foster parent; or

23 6. Any other person deemed by the court to be suitable and able
24 to provide adequate and proper care and guidance for the child.

1 B. In applying subsection A of this section, a court shall
2 award custody or guardianship of a child to a parent, unless a
3 nonparent proves by clear and convincing evidence that:

4 1. For a period of at least twelve (12) months out of the last
5 fourteen (14) months immediately preceding the commencement of the
6 custody or guardianship proceeding, the parent has willfully failed,
7 refused, or neglected to contribute to the support of the child:

8 a. in substantial compliance with a support provision or
9 an order entered by a court of competent jurisdiction
10 adjudicating the duty, amount, and manner of support,
11 or

12 b. according to the financial ability of the parent to
13 contribute to the support of the child if no provision
14 for support is entered by a court of competent
15 jurisdiction, or an order of modification subsequent
16 thereto.

17 For purposes of this paragraph, incidental or token financial
18 contributions shall not be considered in establishing whether a
19 parent has satisfied his or her obligation under subparagraphs a and
20 b of this paragraph; or

21 2. a. the child has been left in the physical custody of a
22 nonparent by a parent or parents of the child for one
23 (1) year or more, excluding parents on active duty in
24 the military, and

1 b. the parent or parents have not maintained regular
2 visitation or communication with the child.

3 For purposes of this paragraph, incidental or token visits or
4 communications shall not be considered in determining whether a
5 parent or parents have regularly maintained visitation or
6 communication.

7 C. In applying subsection A of this section, a court shall
8 award custody or guardianship of a child to a parent, unless the
9 court finds that the parent is affirmatively unfit. There shall be
10 a rebuttable presumption that a parent is affirmatively unfit if the
11 parent:

12 1. Is or has been subject to the registration requirements of
13 the Oklahoma Sex Offenders Registration Act or any similar act in
14 any other state, except as provided in subsection D of this section;

15 2. Has been convicted of a crime listed in Section 582 of Title
16 57 of the Oklahoma Statutes;

17 3. Is an alcohol-dependent person or a drug-dependent person as
18 established by clear and convincing evidence and who can be expected
19 in the near future to inflict or attempt to inflict serious bodily
20 harm to himself or herself or another person as a result of such
21 dependency;

22 4. Has been convicted of domestic abuse within the past five
23 (5) years;

1 5. Is residing with a person who is or has been subject to the
2 registration requirements of the Oklahoma Sex Offenders Registration
3 Act or any similar act in any other state;

4 6. Is residing with a person who has been convicted of a crime
5 listed in Section 843.5 of Title 21 or in Section 582 of Title 57 of
6 the Oklahoma Statutes; or

7 7. Is residing with a person who has been convicted of domestic
8 abuse within the past five (5) years.

9 D. In applying subsection A of this section, a court shall not
10 award custody or guardianship of a child to any person who has been
11 convicted, whether upon a verdict or plea of guilty or upon a plea
12 of nolo contendere, or received a suspended sentence or any
13 probationary term, or is currently serving a sentence or any form of
14 probation or parole in a court in any state of any of the following
15 crimes:

16 1. Sexual abuse or sexual exploitation of a child, Section
17 843.5 of Title 21 of the Oklahoma Statutes;

18 2. Child endangerment, if the offense involved sexual abuse of
19 a child, Section 852.1 of Title 21 of the Oklahoma Statutes;

20 3. Kidnapping, if the offense involved sexual abuse or sexual
21 exploitation of a child, Section 741 of Title 21 of the Oklahoma
22 Statutes;

23 4. Incest, Section 885 of Title 21 of the Oklahoma Statutes;

24

1 5. Forcible sodomy of a child, Section 888 of Title 21 of the
2 Oklahoma Statutes;

3 6. Child stealing, if the offense involved sexual abuse or
4 sexual exploitation, Section 891 of Title 21 of the Oklahoma
5 Statutes;

6 7. Procuring minors for participation in child ~~pornography~~
7 sexual abuse material, Section 1021.2 of Title 21 of the Oklahoma
8 Statutes;

9 8. Consent to participation of minors in child ~~pornography~~
10 child sexual abuse material, Section 1021.3 of Title 21 of the
11 Oklahoma Statutes;

12 9. Facilitating, encouraging, offering or soliciting sexual
13 conduct with a minor by use of technology, Section 1040.13a of Title
14 21 of the Oklahoma Statutes;

15 10. Distributing child ~~pornography~~ sexual abuse material,
16 Section 1040.13 of Title 21 of the Oklahoma Statutes;

17 11. Possession, purchase or procurement of child ~~pornography~~
18 sexual abuse material, Section 1024.2 of Title 21 of the Oklahoma
19 Statutes;

20 12. Aggravated possession of child ~~pornography~~ sexual abuse
21 material, Section 1040.12a of Title 21 of the Oklahoma Statutes;

22 13. Procuring a child under eighteen (18) years of age for
23 prostitution, Section 1087 of Title 21 of the Oklahoma Statutes;

24

1 14. Inducing, keeping, detaining or restraining a child under
2 eighteen (18) years of age for prostitution, Section 1088 of Title
3 21 of the Oklahoma Statutes;

4 15. First degree rape, Section 1114 of Title 21 of the Oklahoma
5 Statutes;

6 16. Lewd or indecent proposals or acts to a child under sixteen
7 (16) years of age, Section 1123 of Title 21 of the Oklahoma
8 Statutes; or

9 17. Solicitation of minors in any crime provided in subsection
10 B of Section 1021 of Title 21 of the Oklahoma Statutes.

11 E. Subject to subsection F of this section, a custody
12 determination made in accordance with subsections B and C of this
13 section shall not be modified unless the person seeking the
14 modification proves that:

15 1. Since the making of the order sought to be modified, there
16 has been a permanent, material, and substantial change of conditions
17 that directly affects the best interests of the child; and

18 2. That as a result of such change of circumstances, the child
19 would be substantially better off with regard to its temporal,
20 mental, and moral welfare if custody were modified.

21 F. If the custody determination made in accordance with
22 subsections B and C of this section indicates that custody is
23 temporary, the determination may be modified upon a showing that the
24

1 conditions which led to the custody or guardianship determination no
2 longer exist.

3 SECTION 38. AMENDATORY 57 O.S. 2021, Section 138, is
4 amended to read as follows:

5 Section 138. A. Except as otherwise provided by law, every
6 inmate of a state correctional institution shall have their term of
7 imprisonment reduced monthly, based upon the class level to which
8 they are assigned. Earned credits may be subtracted from the total
9 credits accumulated by an inmate, upon recommendation of the
10 institution's disciplinary committee, following due process, and
11 upon approval of the warden or superintendent. Each earned credit
12 is equivalent to one (1) day of incarceration. Lost credits may be
13 restored by the warden or superintendent upon approval of the
14 classification committee. If a maximum and minimum term of
15 imprisonment is imposed, the provisions of this subsection shall
16 apply only to the maximum term. No deductions shall be credited to
17 any inmate serving a sentence of life imprisonment; however, a
18 complete record of the inmate's participation in work, school,
19 vocational training, or other approved program shall be maintained
20 by the Department for consideration by the paroling authority. No
21 earned credit deductions shall be credited or recorded for any
22 inmate serving any sentence for a criminal act which resulted in the
23 death of a police officer, a law enforcement officer, an employee of
24 the Department of Corrections, or an employee of a private prison

1 contractor and the death occurred while the police officer, law
2 enforcement officer, employee of the Department of Corrections, or
3 employee of a private prison contractor was acting within the scope
4 of their employment. No earned credit deductions shall be credited
5 or recorded for any person who is referred to an intermediate
6 revocation facility for violating any of the terms and conditions of
7 probation.

8 B. The Department of Corrections is directed to develop a
9 written policy and procedure whereby inmates shall be assigned to
10 one of four class levels determined by an adjustment review
11 committee of the facility to which the inmate is assigned. The
12 policies and procedures developed by the Department shall include,
13 but not be limited to, written guidelines pertaining to awarding
14 credits for rehabilitation, obtaining job skills and educational
15 enhancement, participation in and completion of alcohol/chemical
16 abuse programs, incentives for inmates to accept work assignments
17 and jobs, work attendance and productivity, conduct record,
18 participation in programs, cooperative general behavior, and
19 appearance. When assigning inmates to a class level the adjustment
20 review committee shall consider all aspects of the policy and
21 procedure developed by the Department, including but not limited to,
22 the criteria for awarding credits required by this subsection.

23 C. If an inmate is subject to misconduct, nonperformance or
24 disciplinary action, earned credits may be removed according to the

1 policies and procedures developed by the Department. Earned credits
2 removed for misconduct, nonperformance or disciplinary action may be
3 restored as provided by Department policy, if any.

4 D. 1. Class levels shall be as follows:

5 a. Class level 1 shall include inmates not eligible to
6 participate in class levels 2 through 4, and shall
7 include, but not be limited to, inmates on escape
8 status.

9 b. Class level 2 shall include an inmate who has been
10 given a work, education, or program assignment, has
11 received a good evaluation for participation in the
12 work, education, or program assignment, and has
13 received a good evaluation for personal hygiene and
14 maintenance of living area.

15 c. Class level 3 shall include an inmate who has been
16 incarcerated at least three (3) months, has received
17 an excellent work, education, or program evaluation,
18 and has received an excellent evaluation for personal
19 hygiene and maintenance of living area.

20 d. Class level 4 shall include an inmate who has been
21 incarcerated at least eight (8) months, has received
22 an outstanding work, education, or program evaluation,
23 and has received an outstanding evaluation for
24 personal hygiene and maintenance of living area.

1 2. a. Until November 1, 2001, class level corresponding
2 credits are as follows:

3 Class 1 - 0 Credits per month;

4 Class 2 - 22 Credits per month;

5 Class 3 - 33 Credits per month;

6 Class 4 - 44 Credits per month.

7 b. Class level corresponding credits beginning November
8 1, 2001, for inmates who have ever been convicted as
9 an adult or a youthful offender or adjudicated
10 delinquent as a juvenile for a felony offense
11 enumerated in subsection E of this section are as
12 follows:

13 Class 1 - 0 Credits per month;

14 Class 2 - 22 Credits per month;

15 Class 3 - 33 Credits per month;

16 Class 4 - 44 Credits per month.

17 c. Class level corresponding credits beginning November
18 1, 2001, for inmates who have never been convicted as
19 an adult or a youthful offender or adjudicated
20 delinquent as a juvenile for a felony offense
21 enumerated in subsection E of this section are as
22 follows:

23 Class 1 - 0 Credits per month;

24 Class 2 - 22 Credits per month;

1 Class 3 - 45 Credits per month;

2 Class 4 - 60 Credits per month.

3 Each inmate shall receive the above specified monthly credits
4 for the class to which he or she is assigned. In determining the
5 prior criminal history of the inmate, the Department of Corrections
6 shall review criminal history records available through the Oklahoma
7 State Bureau of Investigation, Federal Bureau of Investigation, and
8 National Crime Information Center to determine the reported felony
9 convictions of all inmates. The Department of Corrections shall
10 also review the Office of Juvenile Affairs Juvenile On-line Tracking
11 System for inmates who were adjudicated delinquent or convicted as a
12 youthful offender for a crime that would be an offense enumerated in
13 subsection E of this section.

14 3. In addition to the criteria established for each class in
15 paragraph 1 of this subsection, the following requirements shall
16 apply to each of levels 2 through 4:

- 17 a. satisfactory participation in the work, education, or
18 program assignment at the standard required for the
19 particular class level,
20 b. maintenance of a clean and orderly living area and
21 personal hygiene at the standard required for the
22 particular class level,
23 c. cooperative behavior toward facility staff and other
24 inmates, and

1 d. satisfactory participation in the requirements of the
2 previous class level.

3 4. The evaluation scale for assessing performance shall be as
4 follows:

5 a. Outstanding - For inmates who display consistently
6 exceptional initiative, motivation, and work habits.

7 b. Excellent - For inmates who display above-average work
8 habits with only minor errors and rarely perform below
9 expectations.

10 c. Good - For inmates who perform in a satisfactory
11 manner and complete tasks as required, doing what is
12 expected, with only occasional performance above or
13 below expectations.

14 d. Fair - For inmates who may perform satisfactorily for
15 some periods of time, but whose performance is marked
16 by obviously deficient and weak areas and could be
17 improved.

18 e. Poor - For inmates whose performance is unsatisfactory
19 and falls below expected and acceptable standards.

20 E. No person ever convicted as an adult or a youthful offender
21 or adjudicated delinquent as a juvenile in this state for any felony
22 offense enumerated in this subsection or a similar felony offense
23 pursuant to the provisions of another state, the United States, or a
24 military court shall be eligible for the credits provided by the

1 provisions of subparagraph c of paragraph 2 of subsection D of this
2 section.

3 1. Assault, battery, or assault and battery with a dangerous
4 weapon as defined by Section 645, subsection C of Section 652 of
5 Title 21 or Section 2-219 of Title 43A of the Oklahoma Statutes;

6 2. Aggravated assault and battery on a police officer, sheriff,
7 highway patrolman, or any other officer of the law as defined by
8 Section 650, subsection C of Section 650.2, 650.5, subsection B of
9 Section 650.6, or subsection C of Section 650.7 of Title 21 of the
10 Oklahoma Statutes;

11 3. Poisoning with intent to kill as defined by Section 651 of
12 Title 21 of the Oklahoma Statutes;

13 4. Shooting with intent to kill as defined by Section 652 of
14 Title 21 of the Oklahoma Statutes;

15 5. Assault with intent to kill as defined by Section 653 of
16 Title 21 of the Oklahoma Statutes;

17 6. Assault with intent to commit a felony as defined by Section
18 681 of Title 21 of the Oklahoma Statutes;

19 7. Assaults while masked or disguised as defined by Section
20 1303 of Title 21 of the Oklahoma Statutes;

21 8. Entering premises of another while masked as defined by
22 Section 1302 of Title 21 of the Oklahoma Statutes;

23 9. Murder in the first degree as defined by Section 701.7 of
24 Title 21 of the Oklahoma Statutes;

- 1 10. Solicitation for Murder in the first degree as defined by
2 Section 701.16 of Title 21 of the Oklahoma Statutes;
- 3 11. Murder in the second degree as defined by Section 701.8 of
4 Title 21 of the Oklahoma Statutes;
- 5 12. Manslaughter in the first degree as defined by Section 711~~7~~
6 or 712 ~~or 714~~ of Title 21 of the Oklahoma Statutes;
- 7 13. Manslaughter in the second degree as defined by Section 716
8 or 717 of Title 21 of the Oklahoma Statutes;
- 9 14. Kidnapping as defined by Section 741 of Title 21 of the
10 Oklahoma Statutes;
- 11 15. Burglary in the first degree as defined by Section 1431 of
12 Title 21 of the Oklahoma Statutes;
- 13 16. Burglary with explosives as defined by Section 1441 of
14 Title 21 of the Oklahoma Statutes;
- 15 17. Kidnapping for extortion as defined by Section 745 of Title
16 21 of the Oklahoma Statutes;
- 17 18. Maiming as defined by Section 751 of Title 21 of the
18 Oklahoma Statutes;
- 19 19. Robbery as defined by Section 791 of Title 21 of the
20 Oklahoma Statutes;
- 21 20. Robbery in the first degree as defined by Section 797 of
22 Title 21 of the Oklahoma Statutes;
- 23 21. Robbery in the second degree as defined by Section 797 of
24 Title 21 of the Oklahoma Statutes;

1 22. Armed robbery as defined by Section 801 of Title 21 of the
2 Oklahoma Statutes;

3 23. Robbery by two or more persons as defined by Section 800 of
4 Title 21 of the Oklahoma Statutes;

5 24. Robbery with dangerous weapon or imitation firearm as
6 defined by Section 801 of Title 21 of the Oklahoma Statutes;

7 25. Any crime against a child provided for in Section 843.5 of
8 Title 21 of the Oklahoma Statutes;

9 26. Wiring any equipment, vehicle or structure with explosives
10 as defined by Section 849 of Title 21 of the Oklahoma Statutes;

11 27. Forcible sodomy as defined by Section 888 of Title 21 of
12 the Oklahoma Statutes;

13 28. Rape in the first degree as defined by Sections 1111 and
14 1114 of Title 21 of the Oklahoma Statutes;

15 29. Rape in the second degree as defined by Sections 1111 and
16 1114 of Title 21 of the Oklahoma Statutes;

17 30. Rape by instrumentation as defined by Section 1111.1 of
18 Title 21 of the Oklahoma Statutes;

19 31. Lewd or indecent proposition or lewd or indecent act with a
20 child as defined by Section 1123 of Title 21 of the Oklahoma
21 Statutes;

22 32. Sexual battery of a person over 16 as defined by Section
23 1123 of Title 21 of the Oklahoma Statutes;

24

1 33. Use of a firearm or offensive weapon to commit or attempt
2 to commit a felony as defined by Section 1287 of Title 21 of the
3 Oklahoma Statutes;

4 34. Pointing firearms as defined by Section 1289.16 of Title 21
5 of the Oklahoma Statutes;

6 35. Rioting as defined by Section 1311 or 1321.8 of Title 21 of
7 the Oklahoma Statutes;

8 36. Inciting to riot as defined by Section 1320.2 of Title 21
9 of the Oklahoma Statutes;

10 37. Arson in the first degree as defined by Section 1401 of
11 Title 21 of the Oklahoma Statutes;

12 38. Endangering human life during arson as defined by Section
13 1405 of Title 21 of the Oklahoma Statutes;

14 39. Injuring or burning public buildings as defined by Section
15 349 of Title 21 of the Oklahoma Statutes;

16 40. Sabotage as defined by Section 1262, 1265.4 or 1265.5 of
17 Title 21 of the Oklahoma Statutes;

18 41. Extortion as defined by Section 1481 or 1486 of Title 21 of
19 the Oklahoma Statutes;

20 42. Obtaining signature by extortion as defined by Section 1485
21 of Title 21 of the Oklahoma Statutes;

22 43. Seizure of a bus, discharging firearm or hurling missile at
23 bus as defined by Section 1903 of Title 21 of the Oklahoma Statutes;

24

1 44. Mistreatment of a vulnerable adult as defined by Section
2 843.1 of Title 21 of the Oklahoma Statutes;

3 45. Sex offender providing services to a child as defined by
4 Section 404.1 of Title 10 of the Oklahoma Statutes;

5 46. A felony offense of domestic abuse as defined by subsection
6 C of Section 644 of Title 21 of the Oklahoma Statutes;

7 47. Prisoner placing body fluid on government employee as
8 defined by Section 650.9 of Title 21 of the Oklahoma Statutes;

9 48. Poisoning food or water supply as defined by Section 832 of
10 Title 21 of the Oklahoma Statutes;

11 49. Trafficking in children as defined by Section 866 of Title
12 21 of the Oklahoma Statutes;

13 50. Incest as defined by Section 885 of Title 21 of the
14 Oklahoma Statutes;

15 51. Procure, produce, distribute, or possess ~~juvenile~~
16 ~~pornography~~ child sexual abuse material as defined by Section 1021.2
17 of Title 21 of the Oklahoma Statutes;

18 52. Parental consent to ~~juvenile pornography~~ child sexual abuse
19 material as defined by Section 1021.3 of Title 21 of the Oklahoma
20 Statutes;

21 53. Soliciting minor for indecent exposure as defined by
22 Section 1021 of Title 21 of the Oklahoma Statutes;

23

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1 54. Distributing obscene material or child ~~pornography~~ sexual
2 abuse material as defined by Section 1040.13 of Title 21 of the
3 Oklahoma Statutes;

4 55. Child prostitution as defined by Section 1030 of Title 21
5 of the Oklahoma Statutes;

6 56. Procuring a minor for prostitution or other lewd acts as
7 defined by Section 1087 of Title 21 of the Oklahoma Statutes;

8 57. Transporting a child under 18 for purposes of prostitution
9 as defined by Section 1087 of Title 21 of the Oklahoma Statutes;

10 58. Inducing a minor to engage in prostitution as defined by
11 Section 1088 of Title 21 of the Oklahoma Statutes;

12 59. A felony offense of stalking as defined by subsection D of
13 Section 1173 of Title 21 of the Oklahoma Statutes;

14 60. Spread of infectious diseases as defined by Section 1192 of
15 Title 21 of the Oklahoma Statutes;

16 61. Advocate overthrow of government by force, commit or
17 attempt to commit acts to overthrow the government, organize or
18 provide assistance to groups to overthrow the government as defined
19 by Section 1266, 1266.4 or 1267.1 of Title 21 of the Oklahoma
20 Statutes;

21 62. Feloniously discharging a firearm as defined by Section
22 1289.17A of Title 21 of the Oklahoma Statutes;

23

24

1 63. Possession, use, manufacture, or threat of incendiary
2 device as defined by Section 1767.1 of Title 21 of the Oklahoma
3 Statutes;

4 64. Causing a personal injury accident while driving under the
5 influence as defined by Section 11-904 of Title 47 of the Oklahoma
6 Statutes; or

7 65. Using a motor vehicle to facilitate the discharge of a
8 firearm as defined by Section 652 of Title 21 of the Oklahoma
9 Statutes.

10 F. The policy and procedure developed by the Department of
11 Corrections shall include provisions for adjustment review
12 committees of not less than three members for each such committee.
13 Each committee shall consist of a classification team supervisor who
14 shall act as chairman, the case manager for the inmate being
15 reviewed or classified, a correctional officer or inmate counselor,
16 and not more than two other members, if deemed necessary, determined
17 pursuant to policy and procedure to be appropriate for the specific
18 adjustment review committee or committees to which they are
19 assigned. At least once every four (4) months the adjustment review
20 committee for each inmate shall evaluate the class level status and
21 performance of the inmate and determine whether or not the class
22 level for the inmate should be changed.

23 Any inmate who feels aggrieved by a decision made by an
24 adjustment review committee may utilize normal grievance procedures

1 in effect with the Department of Corrections and in effect at the
2 facility in which the inmate is incarcerated.

3 G. Inmates granted medical leaves for treatment that cannot be
4 furnished at the penal institution where incarcerated shall be
5 allowed the time spent on medical leave as time served. Any inmate
6 placed into administrative segregation for nondisciplinary reasons
7 by the institution's administration may be placed in Class 2. The
8 length of any jail term served by an inmate before being transported
9 to a state correctional institution pursuant to a judgment and
10 sentence of incarceration shall be deducted from the term of
11 imprisonment at the state correctional institution. Inmates
12 sentenced to the Department of Corrections and detained in a county
13 jail as a result of the Department's reception scheduling procedure
14 shall be awarded earned credits as provided for in subparagraph b of
15 paragraph 1 of subsection D of this section, beginning on the date
16 of the judgment and sentence, unless the inmate is convicted of a
17 misdemeanor or felony committed in the jail while the inmate is
18 awaiting transport to the Lexington Assessment and Reception Center
19 or other assessment and reception location determined by the
20 Director of the Department of Corrections.

21 H. Additional achievement earned credits for successful
22 completion of departmentally approved programs or for attaining
23 goals or standards set by the Department shall be awarded as
24 follows:

1 Bachelor's degree.....200 credits;
2 Associate's degree.....100 credits;
3 High School Diploma or High School
4 Equivalency Diploma.....90 credits;
5 Certification of Completion of
6 Vocational Training.....80 credits;
7 Successful completion of
8 Alcohol/Chemical Abuse Treatment
9 Program of not less than four (4)
10 months continuous participation.....70 credits;
11 Successful completion of other
12 Educational Accomplishments or
13 other programs not specified in
14 this subsection.....10-30 credits;

15 Achievement earned credits are subject to loss and restoration in
16 the same manner as earned credits.

17 I. The accumulated time of every inmate shall be tallied
18 monthly and maintained by the institution where the term of
19 imprisonment is being served. A record of said accumulated time
20 shall be:

- 21 1. Sent to the administrative office of the Department of
22 Corrections on a quarterly basis; and
- 23 2. Provided to the inmate.

24

1 SECTION 39. AMENDATORY 57 O.S. 2021, Section 332.16, is
2 amended to read as follows:

3 Section 332.16 A. No recommendation to the Governor for parole
4 shall remain under consideration and in the possession of that
5 office for a time longer than thirty (30) consecutive calendar days.
6 Except as provided for in subsection B of this section, if upon
7 expiration of the thirty-day time period no action is taken by the
8 Governor to grant or deny parole, the recommendation for parole
9 shall be deemed granted.

10 B. The Governor shall be required to review each parole
11 recommendation and shall grant or deny parole for persons convicted
12 of the following crimes:

13 1. Assault, battery, or assault and battery with a dangerous or
14 deadly weapon as provided in Sections 645 and 652 of Title 21 of the
15 Oklahoma Statutes;

16 2. Aggravated assault and battery on a police officer, sheriff,
17 highway patrolman, or any other officer of the law as provided in
18 Sections 650, 650.2, 650.5, 650.6 and 650.7 of Title 21 of the
19 Oklahoma Statutes;

20 3. Poisoning with intent to kill as provided in Section 651 of
21 Title 21 of the Oklahoma Statutes;

22 4. Shooting with intent to kill as provided in Section 652 of
23 Title 21 of the Oklahoma Statutes;

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- 1 5. Assault with intent to kill as provided in Section 653 of
2 Title 21 of the Oklahoma Statutes;
- 3 6. Assault with intent to commit a felony as provided in
4 Section 681 of Title 21 of the Oklahoma Statutes;
- 5 7. Assaults while masked or disguised as provided in Section
6 1303 of Title 21 of the Oklahoma Statutes;
- 7 8. Murder in the first degree as provided in Section 701.7 of
8 Title 21 of the Oklahoma Statutes;
- 9 9. Murder in the second degree as provided in Section 701.8 of
10 Title 21 of the Oklahoma Statutes;
- 11 10. Manslaughter in the first degree as provided in Sections
12 711, or 712 ~~and 714~~ of Title 21 of the Oklahoma Statutes;
- 13 11. Manslaughter in the second degree as provided in Sections
14 716 and 717 of Title 21 of the Oklahoma Statutes;
- 15 12. Kidnapping as provided in Section 741 of Title 21 of the
16 Oklahoma Statutes;
- 17 13. Burglary in the first degree as provided in Section 1431 of
18 Title 21 of the Oklahoma Statutes;
- 19 14. Burglary with explosives as provided in Section 1441 of
20 Title 21 of the Oklahoma Statutes;
- 21 15. Kidnapping for extortion as provided in Section 745 of
22 Title 21 of the Oklahoma Statutes;
- 23 16. Maiming as provided in Section 751 of Title 21 of the
24 Oklahoma Statutes;

1 17. Robbery as provided in Section 791 of Title 21 of the
2 Oklahoma Statutes;

3 18. Robbery in the first degree as provided in Section 797 of
4 Title 21 of the Oklahoma Statutes;

5 19. Robbery in the second degree as provided in Section 797 of
6 Title 21 of the Oklahoma Statutes;

7 20. Robbery by two or more persons as provided in Section 800
8 of Title 21 of the Oklahoma Statutes;

9 21. Robbery with dangerous weapon or imitation firearm as
10 provided in Section 801 of Title 21 of the Oklahoma Statutes;

11 22. Child abuse as provided in Section 843.5 of Title 21 of the
12 Oklahoma Statutes;

13 23. Wiring any equipment, vehicle or structure with explosives
14 as provided in Section 849 of Title 21 of the Oklahoma Statutes;

15 24. Forcible sodomy as provided in Section 888 of Title 21 of
16 the Oklahoma Statutes;

17 25. Rape in the first degree as provided in Sections 1111 and
18 1114 of Title 21 of the Oklahoma Statutes;

19 26. Rape in the second degree as provided in Sections 1111 and
20 1114 of Title 21 of the Oklahoma Statutes;

21 27. Rape by instrumentation as provided in Section 1111.1 of
22 Title 21 of the Oklahoma Statutes;

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- 1 28. Lewd or indecent proposition or lewd or indecent act with a
2 child as provided in Section 1123 of Title 21 of the Oklahoma
3 Statutes;
- 4 29. Use of a firearm or offensive weapon to commit or attempt
5 to commit a felony as provided in Section 1287 of Title 21 of the
6 Oklahoma Statutes;
- 7 30. Pointing firearms as provided in Section 1289.16 of Title
8 21 of the Oklahoma Statutes;
- 9 31. Rioting as provided in Sections 1311 and 1321.8 of Title 21
10 of the Oklahoma Statutes;
- 11 32. Inciting to riot as provided in Section 1320.2 of Title 21
12 of the Oklahoma Statutes;
- 13 33. Arson in the first degree as provided in Section 1401 of
14 Title 21 of the Oklahoma Statutes;
- 15 34. Injuring or burning public buildings as provided in Section
16 349 of Title 21 of the Oklahoma Statutes;
- 17 35. Sabotage as provided in Sections 1262, 1265.4 and 1265.5 of
18 Title 21 of the Oklahoma Statutes;
- 19 36. Criminal syndicalism as provided in Section 1261 of Title
20 21 of the Oklahoma Statutes;
- 21 37. Extortion as provided in Sections 1481 and 1486 of Title 21
22 of the Oklahoma Statutes;
- 23 38. Obtaining signature by extortion as provided in Section
24 1485 of Title 21 of the Oklahoma Statutes;

- 1 39. Seizure of a bus, discharging firearm or hurling missile at
2 bus as provided in Section 1903 of Title 21 of the Oklahoma
3 Statutes;
- 4 40. Mistreatment of a mental patient as provided in Section
5 843.1 of Title 21 of the Oklahoma Statutes;
- 6 41. Using a vehicle to facilitate the discharge of a weapon as
7 provided in Section 652 of Title 21 of the Oklahoma Statutes;
- 8 42. Aggravated drug trafficking as provided in Section 2-415 of
9 Title 63 of the Oklahoma Statutes;
- 10 43. Racketeering as provided in Section 1403 of Title 22 of the
11 Oklahoma Statutes;
- 12 44. Offenses of public corruption such as bribery of public
13 officials as provided in Section 381 or 382 of Title 21 of the
14 Oklahoma Statutes;
- 15 45. Embezzlement of public money as provided in Section 1451 et
16 seq. of Title 21 or Section 641 of Title 19 of the Oklahoma
17 Statutes;
- 18 46. Failure to pay and collect tax as provided in Section 1361
19 or 2385.3 of Title 68 of the Oklahoma Statutes;
- 20 47. Conspiracy to defraud the state as provided in Section 424
21 of Title 21 of the Oklahoma Statutes;
- 22 48. Child ~~pornography~~ sexual abuse material as provided in
23 Section 1021.2 or 1021.3 or defined in Section 1024.1 of Title 21 of
24 the Oklahoma Statutes;

1 49. Child prostitution as defined by Section 1030 of Title 21
2 of the Oklahoma Statutes;

3 50. Abuse of a vulnerable adult as defined in Section 10-103 of
4 Title 43A of the Oklahoma Statutes;

5 51. Terrorism crimes, including biochemical assault as provided
6 in Section 1268 of Title 21 of the Oklahoma Statutes;

7 52. Trafficking of children as provided in Section 865 et seq.
8 of Title 21 of the Oklahoma Statutes; or

9 53. Trafficking of humans as provided in Section 748 et seq. of
10 Title 21 of the Oklahoma Statutes.

11 C. When the Pardon and Parole Board makes a recommendation for
12 a compassionate parole pursuant to subsection B of Section 332.18 of
13 this title, the Board shall forward all relevant documentation to
14 the Governor within four (4) business days of the parole review of
15 the inmate. Upon receipt, the Governor shall have four (4) business
16 days to grant or deny the compassionate parole.

17 SECTION 40. AMENDATORY 57 O.S. 2021, Section 571, as
18 amended by Section 2, Chapter 212, O.S.L. 2023 (57 O.S. Supp. 2023,
19 Section 571), is amended to read as follows:

20 Section 571. As used in the Oklahoma Statutes, unless another
21 definition is specified:

22 1. "Capacity" means the actual available bedspace as certified
23 by the State Board of Corrections subject to applicable federal and
24

1 state laws and the rules and regulations promulgated under such
2 laws; and

3 2. "Violent crime" means any of the following felony offenses
4 and any attempts to commit or conspiracy or solicitation to commit
5 the following crimes:

6 a. assault, battery, or assault and battery with a
7 dangerous or deadly weapon, as provided for in
8 Sections 645 and 652 of Title 21 of the Oklahoma
9 Statutes,

10 b. assault, battery, or assault and battery with a deadly
11 weapon or by other means likely to produce death or
12 great bodily harm, as provided for in Section 652 of
13 Title 21 of the Oklahoma Statutes,

14 c. aggravated assault and battery on a police officer,
15 sheriff, highway patrolman, or any other officer of
16 the law, as provided for in Section 650 of Title 21 of
17 the Oklahoma Statutes,

18 d. poisoning with intent to kill, as provided for in
19 Section 651 of Title 21 of the Oklahoma Statutes,

20 e. shooting with intent to kill, as provided for in
21 Section 652 of Title 21 of the Oklahoma Statutes,

22 f. assault with intent to kill, as provided for in
23 Section 653 of Title 21 of the Oklahoma Statutes,
24

- 1 g. assault with intent to commit a felony, as provided
2 for in Section 681 of Title 21 of the Oklahoma
3 Statutes,
- 4 h. assaults with a dangerous weapon while masked or
5 disguised, as provided for in Section 1303 of Title 21
6 of the Oklahoma Statutes,
- 7 i. murder in the first degree, as provided for in Section
8 701.7 of Title 21 of the Oklahoma Statutes,
- 9 j. murder in the second degree, as provided for in
10 Section 701.8 of Title 21 of the Oklahoma Statutes,
- 11 k. manslaughter in the first degree, as provided for in
12 Section 711 of Title 21 of the Oklahoma Statutes,
- 13 l. manslaughter in the second degree, as provided for in
14 Section 716 of Title 21 of the Oklahoma Statutes,
- 15 m. kidnapping, as provided for in Section 741 of Title 21
16 of the Oklahoma Statutes,
- 17 n. burglary in the first degree, as provided for in
18 Section 1431 of Title 21 of the Oklahoma Statutes,
- 19 o. burglary with explosives, as provided for in Section
20 1441 of Title 21 of the Oklahoma Statutes,
- 21 p. kidnapping for extortion, as provided for in Section
22 745 of Title 21 of the Oklahoma Statutes,
- 23 q. maiming, as provided for in Section 751 of Title 21 of
24 the Oklahoma Statutes,

- 1 r. robbery, as provided for in Section 791 of Title 21 of
2 the Oklahoma Statutes,
- 3 s. robbery in the first degree, as provided for in
4 Section 797 et seq. of Title 21 of the Oklahoma
5 Statutes,
- 6 t. robbery in the second degree, as provided for in
7 Section 797 et seq. of Title 21 of the Oklahoma
8 Statutes,
- 9 u. armed robbery, as provided for in Section 801 of Title
10 21 of the Oklahoma Statutes,
- 11 v. robbery by two or more persons, as provided for in
12 Section 800 of Title 21 of the Oklahoma Statutes,
- 13 w. robbery with dangerous weapon or imitation firearm, as
14 provided for in Section 801 of Title 21 of the
15 Oklahoma Statutes,
- 16 x. child abuse, as provided for in Section 843.5 of Title
17 21 of the Oklahoma Statutes,
- 18 y. wiring any equipment, vehicle or structure with
19 explosives, as provided for in Section 849 of Title 21
20 of the Oklahoma Statutes,
- 21 z. forcible sodomy, as provided for in Section 888 of
22 Title 21 of the Oklahoma Statutes,
- 23 aa. rape in the first degree, as provided for in Section
24 1114 of Title 21 of the Oklahoma Statutes,

- 1 bb. rape in the second degree, as provided for in Section
2 1114 of Title 21 of the Oklahoma Statutes,
3 cc. rape by instrumentation, as provided for in Section
4 1111.1 of Title 21 of the Oklahoma Statutes,
5 dd. lewd or indecent proposition or lewd or indecent act
6 with a child under sixteen (16) years of age, as
7 provided for in Section 1123 of Title 21 of the
8 Oklahoma Statutes,
9 ee. use of a firearm or offensive weapon to commit or
10 attempt to commit a felony, as provided for in Section
11 1287 of Title 21 of the Oklahoma Statutes,
12 ff. pointing firearms, as provided for in Section 1289.16
13 of Title 21 of the Oklahoma Statutes,
14 gg. rioting, as provided for in Section 1311 of Title 21
15 of the Oklahoma Statutes,
16 hh. inciting to riot, as provided for in Section 1320.2 of
17 Title 21 of the Oklahoma Statutes,
18 ii. arson in the first degree, as provided for in Section
19 1401 of Title 21 of the Oklahoma Statutes,
20 jj. injuring or burning public buildings, as provided for
21 in Section 349 of Title 21 of the Oklahoma Statutes,
22 kk. sabotage, as provided for in Section 1262 of Title 21
23 of the Oklahoma Statutes,
24

- 1 1l. criminal syndicalism, as provided for in Section 1261
2 of Title 21 of the Oklahoma Statutes,
3 mm. extortion, as provided for in Section 1481 of Title 21
4 of the Oklahoma Statutes,
5 nn. obtaining signature by extortion, as provided for in
6 Section 1485 of Title 21 of the Oklahoma Statutes,
7 oo. seizure of a bus, discharging firearm or hurling
8 missile at bus, as provided for in Section 1903 of
9 Title 21 of the Oklahoma Statutes,
10 pp. mistreatment of a mental patient, as provided for in
11 Section 843.1 of Title 21 of the Oklahoma Statutes,
12 qq. using a vehicle to facilitate the discharge of a
13 weapon pursuant to Section 652 of Title 21 of the
14 Oklahoma Statutes,
15 rr. bombing offenses as defined in Section 1767.1 of Title
16 21 of the Oklahoma Statutes,
17 ss. child ~~pornography~~ sexual abuse material or aggravated
18 child ~~pornography~~ sexual abuse material as defined in
19 Section 1021.2, 1021.3, 1024.1 or 1040.12a of Title 21
20 of the Oklahoma Statutes,
21 tt. child prostitution as defined in Section 1030 of Title
22 21 of the Oklahoma Statutes,
23 uu. abuse of a vulnerable adult as defined in Section 10-
24 103 of Title 43A of the Oklahoma Statutes,

- 1 vv. aggravated trafficking as provided for in subsection C
2 of Section 2-415 of Title 63 of the Oklahoma Statutes,
3 ww. aggravated assault and battery upon any person
4 defending another person from assault and battery, as
5 provided for in Section 646 of Title 21 of the
6 Oklahoma Statutes,
7 xx. human trafficking, as provided for in Section 748 of
8 Title 21 of the Oklahoma Statutes,
9 yy. terrorism crimes as provided in Section 1268 et seq.
10 of Title 21 of the Oklahoma Statutes,
11 zz. eluding a peace officer, as provided for in subsection
12 B or C of Section 540A of Title 21 of the Oklahoma
13 Statutes, or
14 aaa. domestic abuse by strangulation, domestic assault with
15 a dangerous weapon, domestic assault and battery with
16 a dangerous weapon, domestic assault and battery
17 resulting in great bodily injury, or domestic assault
18 and battery with a deadly weapon, as provided for in
19 Section 644 of Title 21 of the Oklahoma Statutes.

20 Such offenses shall constitute exceptions to nonviolent offenses
21 pursuant to Article VI, Section 10 of the Oklahoma Constitution.

22 SECTION 41. AMENDATORY 57 O.S. 2021, Section 582, is
23 amended to read as follows:
24

1 Section 582. A. The provisions of the Sex Offenders
2 Registration Act shall apply to any person residing, working or
3 attending school within the State of Oklahoma who, after November 1,
4 1989, has been convicted, whether upon a verdict or plea of guilty
5 or upon a plea of nolo contendere, or received a suspended sentence
6 or any probationary term, or is currently serving a sentence or any
7 form of probation or parole for a crime or an attempt to commit a
8 crime provided for in Section 843.5 of Title 21 of the Oklahoma
9 Statutes if the offense involved sexual abuse or sexual exploitation
10 as those terms are defined in Section 1-1-105 of Title 10A of the
11 Oklahoma Statutes, Section 681, if the offense involved sexual
12 assault, 741, if the offense involved sexual abuse or sexual
13 exploitation, Section 748, if the offense involved human trafficking
14 for commercial sex, Section 843.1, if the offense involved sexual
15 abuse or sexual exploitation, Section 852.1, if the offense involved
16 sexual abuse of a child, 856, if the offense involved child
17 prostitution or human trafficking for commercial sex, 865 et seq.,
18 885, 886, 888, 891, if the offense involved sexual abuse or sexual
19 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense
20 involved child prostitution, 1040.8, if the offense involved child
21 ~~pornography~~ sexual abuse material, 1040.12a, 1040.13, 1040.13a,
22 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
23 Statutes.

24

1 B. The provisions of the Sex Offenders Registration Act shall
2 apply to any person who after November 1, 1989, resides, works or
3 attends school within the State of Oklahoma and who has been
4 convicted or received a suspended sentence at any time in any court
5 of another state, the District of Columbia, Puerto Rico, Guam,
6 American Samoa, the Northern Mariana Islands and the United States
7 Virgin Islands, a federal court, an Indian tribal court, a military
8 court, or a court of a foreign country for a crime, attempted crime
9 or a conspiracy to commit a crime which, if committed or attempted
10 in this state, would be a crime, an attempt to commit a crime or a
11 conspiracy to commit a crime provided for in any of the laws listed
12 in subsection A of this section.

13 C. The provisions of the Sex Offenders Registration Act shall
14 apply to any person who resides, works or attends school within the
15 State of Oklahoma and who has received a deferred judgment at any
16 time in any court of another state, the District of Columbia, Puerto
17 Rico, Guam, American Samoa, the Northern Mariana Islands and the
18 United States Virgin Islands, a federal court, an Indian tribal
19 court, a military court, or a court of a foreign country for a
20 crime, attempted crime or a conspiracy to commit a crime which, if
21 committed or attempted or conspired to be committed in this state,
22 would be a crime, an attempt to commit a crime or a conspiracy to
23 commit a crime provided for in Section 843.5 of Title 21 of the
24 Oklahoma Statutes if the offense involved sexual abuse or sexual

1 exploitation as those terms are defined in Section 1-1-105 of Title
2 10A of the Oklahoma Statutes, Section 681, if the offense involved
3 sexual assault, 741, if the offense involved sexual abuse or sexual
4 exploitation, Section 748, if the offense involved human trafficking
5 for commercial sex, Section 843.1, if the offense involved sexual
6 abuse or sexual exploitation, Section 852.1, if the offense involved
7 sexual abuse of a child, 856, if the offense involved child
8 prostitution or human trafficking for commercial sex, 865 et seq.,
9 885, 886, 888, 891, if the offense involved sexual abuse or sexual
10 exploitation, 1021, 1021.2, 1021.3, 1024.2, 1029, if the offense
11 involved child prostitution, 1040.8, if the offense involved child
12 ~~pornography~~ sexual abuse material, 1040.12a, 1040.13, 1040.13a,
13 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
14 Statutes. The provisions of the Sex Offenders Registration Act
15 shall not apply to any such person while the person is incarcerated
16 in a maximum or medium correctional institution of the Department of
17 Corrections.

18 D. On November 1, 2002, any person registered as a sex offender
19 pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall
20 be summarily removed from the Sex Offender Registry by the
21 Department of Corrections and all law enforcement agencies of any
22 political subdivision of this state, unless the offense involved
23 sexual abuse or sexual exploitation.

24

1 E. The provisions of the Sex Offenders Registration Act shall
2 not apply to any such person who has received a criminal history
3 records expungement for a conviction in another state for a crime or
4 attempted crime which, if committed or attempted in this state,
5 would be a crime or an attempt to commit a crime provided for in any
6 laws listed in subsection A of this section.

7 F. The provisions of the Sex Offenders Registration Act shall
8 apply to any person residing, working or attending school within
9 this state who, after the effective date of this act, has been
10 convicted, whether upon a verdict or plea of guilty or upon a plea
11 of nolo contendere, or received a suspended sentence or any
12 probationary term, or is currently serving a sentence or any form of
13 probation or parole for a crime or an attempt to commit a crime as
14 provided for in subsection G of Section 1040.13b of Title 21 of the
15 Oklahoma Statutes.

16 G. The provisions of the Sex Offenders Registration Act shall
17 apply to any person who resides, works or attends school within this
18 state and who has received a deferred judgment at any time in any
19 court of another state, the District of Columbia, Puerto Rico, Guam,
20 American Samoa, the Northern Mariana Islands and the United States
21 Virgin Islands, a federal court, an Indian tribal court, a military
22 court, or a court of a foreign country for a crime, if committed in
23 this state, would be a crime, as provided for in subsection F of
24 Section 1040.13b of Title 21 of the Oklahoma Statutes. The

1 provisions of the Sex Offenders Registration Act shall not apply to
2 any such person while the person is incarcerated in a maximum or
3 medium correctional institution of the Department of Corrections.

4 SECTION 42. AMENDATORY 68 O.S. 2021, Section 2357.101,
5 is amended to read as follows:

6 Section 2357.101 A. Except as otherwise provided in subsection
7 E of this section, for taxable years beginning after December 31,
8 2004, and ending before January 1, 2015, there shall be allowed
9 against the tax imposed by Section 2355 of this title, a credit
10 equal to twenty-five percent (25%) of the amount of profit made by a
11 taxpayer from investment in an existing Oklahoma film or music
12 project with a production company to pay for production costs that
13 is reinvested by the taxpayer with the production company to pay for
14 the production cost of the production company for a new Oklahoma
15 film or music project.

16 B. In no event shall the amount of the credit provided for in
17 subsection A of this section for an eligible taxpayer exceed the tax
18 liability of the taxpayer in a calendar year.

19 C. The Oklahoma Tax Commission shall have the authority to
20 prescribe forms for purposes of claiming the credit authorized in
21 subsection A of this section. The forms shall include, but not be
22 limited to, requests for information that prove who the investment
23 was with, the amount of the original investment and the amount of
24 the profit realized from the investment.

1 D. As used in this section:

2 1. "Film" means a professional single media, multimedia program
3 or feature, which is not child ~~pornography~~ sexual abuse material as
4 defined in subsection A of Section 1024.1 of Title 21 of the
5 Oklahoma Statutes or obscene material as defined in paragraph 1 of
6 subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes
7 including, but not limited to, national advertising messages that
8 are broadcast on a national affiliate or cable network, fixed on
9 film or digital video, which can be viewed or reproduced and which
10 is exhibited in theaters, licensed for exhibition by individual
11 television stations, groups of stations, networks, cable television
12 stations or other means or licensed for home viewing markets;

13 2. "Music project" means a professional recording released on a
14 national or international level, whether via traditional
15 manufacturing or distributing or electronic distribution, using
16 technology currently in use or future technology including, but not
17 limited to, music CDs, radio commercials, jingles, cues, or
18 electronic device recordings;

19 3. "Production company" means a person who produces a film or
20 music project for exhibition in theaters, on television or
21 elsewhere;

22 4. "Total production cost" includes, but is not limited to:

- 23 a. wages or salaries of persons who have earned income
24 from working on a film or music project in this state,

1 including payments to personal services corporations
2 with respect to the services of qualified performing
3 artists, as determined under Section 62(a)(A) of the
4 Internal Revenue Code,

5 b. the cost of construction and operations, wardrobe,
6 accessories and related services,

7 c. the cost of photography, sound synchronization,
8 lighting and related services,

9 d. the cost of editing and related services,

10 e. rental of facilities and equipment, and

11 f. other direct costs of producing a film or music
12 project;

13 5. "Existing Oklahoma film or music project" means a film or
14 music project produced after July 1, 2005;

15 6. "Profit" means the amount made by the taxpayer to be
16 determined as follows:

17 a. the gross revenues less gross expenses, including
18 direct production, distribution and marketing costs
19 and an allocation of indirect overhead costs, of the
20 film or music project shall be multiplied by,

21 b. a ratio, the numerator of which is Oklahoma production
22 costs, as defined in paragraph 7 of this subsection,
23 and the denominator of which is total production
24

1 costs, as defined in paragraph 4 of this subsection,
2 which shall be multiplied by,

3 c. the percent of the taxpayer's taxable income allocated
4 to Oklahoma in a taxable year, and

5 d. subtract from the result of the formula calculated
6 pursuant to subparagraphs a through c of this
7 paragraph the profit made by a taxpayer from
8 investment in an existing Oklahoma film or music
9 project in previous taxable years. Profit shall
10 include either a net profit or net loss;

11 7. "Oklahoma production cost" means that portion of total
12 production costs which are incurred with any qualified vendor;

13 8. a. "Qualified vendor" means an Oklahoma entity which
14 provides goods or services to a production company and
15 for which:

16 (1) fifty percent (50%) or more of its employees are
17 Oklahoma residents, and

18 (2) fifty percent (50%) or more of gross wages, as
19 reported on Internal Revenue Service Form W-2 or
20 Form 1099, are paid to Oklahoma residents.

21 b. For purposes of this paragraph, an employee shall
22 include a self-employed individual reporting income
23 from a qualified vendor on Internal Revenue Service
24 Form 1040.

1 c. The Oklahoma Tax Commission shall prescribe forms by
2 which an entity may be certified to a production
3 company as a qualified vendor for purposes of this
4 section; and

5 9. "Investment" means costs associated with the original
6 production company. Film or music projects acquired from an
7 original production company do not qualify as investment under
8 subsection A of this section.

9 E. No credit otherwise authorized by the provisions of this
10 section may be claimed for any event, transaction, investment,
11 expenditure or other act occurring on or after July 1, 2010, for
12 which the credit would otherwise be allowable. The provisions of
13 this subsection shall cease to be operative on July 1, 2012.
14 Beginning July 1, 2012, the credit authorized by this section may be
15 claimed for any event, transaction, investment, expenditure or other
16 act occurring on or after July 1, 2012, according to the provisions
17 of this section.

18 SECTION 43. AMENDATORY 68 O.S. 2021, Section 3623, is
19 amended to read as follows:

20 Section 3623. As used in the Compete with Canada Film Act:

21 1. "Crew" means any person who works on preproduction,
22 principal photography, and postproduction, with the exception of
23 producers, principal cast, screenwriters, and the director. The
24 qualifying salary of producers, principal cast, screenwriters, and

1 the director, also known as "above-the-line personnel", may be
2 included as crew if the salaries are paid to loan-out corporations
3 and limited liability companies registered to do business in the
4 State of Oklahoma or the salaries are paid to Oklahoma-based above-
5 the-line personnel. The qualifying salary of above-the-line
6 personnel shall not comprise more than twenty-five percent (25%) of
7 total expenditures as defined in paragraph 2 of this section. For
8 purposes of this paragraph, "Oklahoma-based" means a company or
9 individual with an Oklahoma income tax requirement;

10 2. "Expenditure" or "production cost" includes but is not
11 limited to:

- 12 a. wages or salaries of persons who are residents of this
13 state and who have earned income from working on a
14 film in this state including payments to personal
15 services corporations with respect to the services of
16 qualified performing artists, as determined under
17 Section 62(a)(A) of the Internal Revenue Code,
- 18 b. the cost of construction and operations, wardrobe,
19 accessories and related services,
- 20 c. the cost of photography, sound synchronization,
21 lighting and related services,
- 22 d. the cost of editing and related services,
- 23 e. rental of facilities and equipment,
- 24 f. other direct costs of producing a film, and

1 g. the wages and salaries of persons who are defined and
2 registered as an Oklahoma Expatriate by the Oklahoma
3 Film and Music Office within the Oklahoma Department
4 of Commerce;

5 3. "Film" means a professional single media, multimedia program
6 or feature, which is not child ~~pornography~~ sexual abuse material as
7 defined in subsection A of Section 1024.1 of Title 21 of the
8 Oklahoma Statutes or obscene material as defined in paragraph 1 of
9 subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes
10 including, but not limited to, national advertising messages that
11 are broadcast on a national affiliate or cable network, fixed on
12 film or digital video, which can be viewed or reproduced and which
13 is exhibited in theaters, licensed for exhibition by individual
14 television stations, groups of stations, networks, cable television
15 stations or other means or licensed for home viewing markets;

16 4. "High impact production" means a production for which total
17 expenditures or production costs are equal to or greater than Fifty
18 Million Dollars (\$50,000,000.00), with at least one-third (1/3) of
19 total costs deemed Oklahoma expenditures by the Oklahoma Film and
20 Music Office; and

21 5. "Production company" means a person or company who produces
22 film for exhibition in theaters, on television or elsewhere.
23
24

1 SECTION 44. AMENDATORY 68 O.S. 2021, Section 3632, as
2 amended by Section 1, Chapter 347, O.S.L. 2023 (68 O.S. Supp. 2023,
3 Section 3632), is amended to read as follows:

4 Section 3632. As used in the Filmed in Oklahoma Act of 2021:

5 1. "Above-the-line personnel" means producers, principal cast,
6 screenwriters, and directors who work on production of films or
7 television series. The qualifying salary of above-the-line
8 personnel may be included as crew, as defined in paragraph 3 of this
9 section, if the salaries are paid to loan-out corporations and
10 limited liability companies registered to do business in this state
11 or the salaries are paid to Oklahoma-based above-the-line personnel.
12 The qualifying salary of above-the-line personnel shall not comprise
13 more than twenty-five percent (25%) of total expenditures as defined
14 in paragraph 5 of this section. For purposes of this paragraph,
15 "Oklahoma-based" means a company or individual with an Oklahoma
16 income tax requirement;

17 2. "Apprentice" means a person who works for a skilled or
18 qualified person in order to learn a trade or profession for an
19 agreed-upon period of time. An apprentice may work in any of the
20 trades recognized by the Oklahoma Department of Commerce as
21 necessary for a film production. An apprentice shall be required to
22 complete safety training appropriate for the duties to be performed
23 in connection with a qualified project and also to complete a course

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1 related to and with the objective of preventing workplace
2 misbehavior, such as bullying and sexual harassment;

3 3. "Crew" means any person who works on preproduction,
4 principal photography and post-production, with the exception of
5 above-the-line personnel;

6 4. "Eligible television series" means a project if either
7 seventy-five percent (75%) of the series season is filmed within the
8 state or, for an episodic television pilot, if more than seventy-
9 five percent (75%) of the pilot is filmed within the state;

10 5. "Expenditure" or "production cost" includes but is not
11 limited to:

- 12 a. wages or salaries of persons who are residents of this
13 state or who are enrolled as full-time students at a
14 college or university located in the state offering an
15 undergraduate degree program or who are on active
16 military duty and stationed in Oklahoma or involved in
17 a restorative workforce program and who have earned
18 income from working on a film in this state including
19 payments to personal services corporations with
20 respect to the services of qualified performing
21 artists, pursuant to the provisions of the Internal
22 Revenue Code, 26 U.S.C., Section 62(a)(2),
23 b. the cost of construction and operations, wardrobe,
24 accessories and related services,

- 1 c. the cost of photography, sound synchronization,
2 lighting and related services,
3 d. the cost of editing and related services,
4 e. rental of facilities and equipment,
5 f. other direct costs of producing a film, and
6 g. the wages and salaries of persons who are defined and
7 registered as an Oklahoma Expatriate by the Oklahoma
8 Film and Music Office;

9 6. "Film" means a professional single media, multimedia program
10 or feature, which is not child ~~pornography~~ sexual abuse material as
11 defined in subsection A of Section 1024.1 of Title 21 of the
12 Oklahoma Statutes or obscene material as defined in paragraph 1 of
13 subsection B of Section 1024.1 of Title 21 of the Oklahoma Statutes
14 including, but not limited to, national advertising messages that
15 are broadcast on a national affiliate or cable network, fixed on
16 film or digital video, which can be viewed or reproduced and which
17 is exhibited in theaters, licensed for exhibition by individual
18 television stations, groups of stations, networks, cable television
19 stations or other means or licensed for home viewing markets. The
20 term shall also include filming for interactive and video gaming
21 including, but not limited to, green screen, motion capture and
22 similar production techniques;

23 7. "Multi-film deal" means a project in which a production
24 company films at least seventy-five percent (75%) of main crew

1 principal photography for three (3) or more films in this state
2 within three (3) years or where the third film starts main crew
3 principal photography within the ~~three (3) year~~ three-year period;

4 8. "Nonresident crew member" means a person who is not an
5 Oklahoma resident, hired for a qualifying production project
6 occurring within the state and who is subject to the payment of
7 Oklahoma employment taxes;

8 9. "Production company" means a person, producer or company who
9 produces film for exhibition in theaters, on television or
10 elsewhere;

11 10. "Qualified production expenditure amount" means an
12 expenditure defined pursuant to paragraph 5 of this section; and

13 11. "Qualified soundstage facility" means a ~~state-certified~~
14 state-certified industry standard soundstage facility having not
15 less than seven thousand five hundred (7,500) square feet of
16 combined soundstage space and with a total state rental cost to the
17 production company equal to at least three percent (3%) of the
18 qualifying Oklahoma expenditures with respect to a production.

19 SECTION 45. AMENDATORY Section 1, Chapter 280, O.S.L.
20 2022, as amended by Section 1, Chapter 373, O.S.L. 2023 (70 O.S.
21 Supp. 2023, Section 11-202), is amended to read as follows:

22 Section 11-202. A. A school district, charter school, virtual
23 charter school, state agency, public library, or institution of
24 higher education within The Oklahoma State System of Higher

1 Education may offer digital or online library database resources to
2 students in kindergarten through twelfth grade only if the vendor,
3 person, or entity providing the resources verifies that all the
4 resources comply with the provisions of subsection B of this
5 section.

6 B. Digital or online library database resources offered by
7 school districts, charter schools, virtual charter schools, state
8 agencies, public libraries, or universities to students in
9 kindergarten through twelfth grade shall have safety policies and
10 technology protection measures that:

11 1. Prohibit and prevent a user of the resource from sending,
12 receiving, viewing, or downloading materials that are child
13 ~~pornography~~ sexual abuse material or obscene materials, as defined
14 in Section 1024.1 of Title 21 of the Oklahoma Statutes, or materials
15 that depict child sexual exploitation, as defined in Section 843.5
16 of Title 21 of the Oklahoma Statutes; and

17 2. Filter or block access to child ~~pornography~~ sexual abuse
18 material or obscene materials, as defined in Section 1024.1 of Title
19 21 of the Oklahoma Statutes, or materials that depict child sexual
20 exploitation, as defined in Section 843.5 of Title 21 of the
21 Oklahoma Statutes.

22 C. Notwithstanding any contract provision to the contrary, if a
23 provider of digital or online library resources fails to comply with
24 the requirements of subsection B of this section, the school

1 district, public charter school, state agency, public library, or
2 institution of higher education shall withhold further payments, if
3 any, to the provider pending verification of compliance.

4 D. If a provider of digital or online library database
5 resources fails to timely verify that the provider is in compliance
6 with the safety policies and requirements of subsection B of this
7 section, the school district, public charter school, state agency,
8 public library, or institution of higher education shall consider
9 the provider's act of noncompliance a breach of contract.

10 E. No later than December 1 of each year, libraries shall
11 submit to the Speaker of the Oklahoma House of Representatives and
12 President Pro Tempore of the Oklahoma State Senate an aggregate
13 written report on any issues related to provider compliance with
14 technology protection measures required by subsection B of this
15 section.

16 F. Employees of school districts, charter schools, virtual
17 charter schools, state agencies, public libraries, and universities
18 shall not be exempt from prosecution for willful violations of state
19 law prohibiting indecent exposure to obscene material or child
20 ~~pornography~~ sexual abuse material as provided in Section 1021 of
21 Title 21 of the Oklahoma Statutes.

22 G. Nothing in this act shall be construed in a manner that
23 applies to digital or online library database resources offered by
24

1 institutions of higher education when the primary purpose of the
2 resources is for education or research.

3 SECTION 46. AMENDATORY 70 O.S. 2021, Section 1210.163,
4 is amended to read as follows:

5 Section 1210.163 A. Every school employee having reason to
6 believe that a student under the age of eighteen (18) years is a
7 victim of abuse or neglect shall report the matter immediately to
8 the Department of Human Services and local law enforcement. Reports
9 to the Department shall be made to the hotline provided for in
10 Section 1-2-101 of Title 10A of the Oklahoma Statutes. Any
11 allegation of abuse or neglect reported in any manner to a county
12 office shall immediately be referred to the hotline by the
13 Department.

14 B. Every school employee having reason to believe that a
15 student age eighteen (18) years or older is a victim of abuse or
16 neglect shall report the matter immediately to local law
17 enforcement.

18 C. In reports required by subsection A or B of this section,
19 local law enforcement shall keep confidential and redact any
20 information identifying the reporting school employee unless
21 otherwise ordered by the court. A school employee with knowledge of
22 a report required by subsection A or B of this section shall not
23 disclose information identifying the reporting school employee

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1 unless otherwise ordered by the court or as part of an investigation
2 by local law enforcement or the Department.

3 D. For the purposes of this section, "child abuse and neglect"
4 shall include, but not be limited to:

5 1. Child abuse as defined in Section 843.5 of Title 21 of the
6 Oklahoma Statutes;

7 2. Sexual abuse or sexual exploitation as defined in Section 1-
8 1-105 of Title 10A of the Oklahoma Statutes;

9 3. Contributing to the delinquency of a minor as defined in
10 Section 856 of Title 21 of the Oklahoma Statutes;

11 4. Trafficking in children, as defined in Section 866 of Title
12 21 of the Oklahoma Statutes;

13 5. Incest as described in Section 885 of Title 21 of the
14 Oklahoma Statutes;

15 6. Forcible sodomy, as described in Section 888 of Title 21 of
16 the Oklahoma Statutes;

17 7. Maliciously, forcibly or fraudulently taking or enticing a
18 child away, as described in Section 891 of Title 21 of the Oklahoma
19 Statutes;

20 8. Soliciting or aiding a minor child to perform or showing,
21 exhibiting, loaning or distributing obscene material or child
22 ~~pornography~~ sexual abuse material, as described in Section 1021 of
23 Title 21 of the Oklahoma Statutes;

24

1 9. Procuring or causing the participation of any minor child in
2 any child ~~pornography~~ sexual abuse material or knowingly possessing,
3 procuring or manufacturing child ~~pornography~~ sexual abuse material,
4 as described in Section 1021.2 of Title 21 of the Oklahoma Statutes;

5 10. Permitting or consenting to the participation of a minor
6 child in any child ~~pornography~~ sexual abuse material, as described
7 in Section 1021.3 of Title 21 of the Oklahoma Statutes;

8 11. Facilitating, encouraging, offering or soliciting sexual
9 conduct with a minor, as described in Section 1040.13a of Title 21
10 of the Oklahoma Statutes;

11 12. Offering or offering to secure a minor child for the
12 purposes of prostitution or any other lewd or indecent act, as
13 described in Section 1087 of Title 21 of the Oklahoma Statutes;

14 13. Causing, inducing, persuading or encouraging a minor child
15 to engage or continue to engage in prostitution, as described in
16 Section 1088 of Title 21 of the Oklahoma Statutes;

17 14. Rape or rape by instrumentation, as described in Sections
18 1111.1 and 1114 of Title 21 of the Oklahoma Statutes; and

19 15. Making any oral, written or electronically or computer-
20 generated lewd or indecent proposals to a minor child under the age
21 of sixteen (16) as described in Section 1123 of Title 21 of the
22 Oklahoma Statutes.

23 SECTION 47. AMENDATORY 74 O.S. 2021, Section 151.1, is
24 amended to read as follows:

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

12 B. The Director of the Oklahoma State Bureau of Investigation
13 is hereby authorized to enter into local cooperative agreements with
14 local law enforcement agencies for the purpose of appointing ICAC
15 Affiliate Task Force Agents to assist the ICAC unit of the Bureau.
16 ICAC Affiliate Task Force Agents shall be employees and commissioned
17 law enforcement officers of the local law enforcement agency
18 entering into agreement with the Oklahoma State Bureau of
19 Investigation and shall not be employees of the Bureau. ICAC
20 Affiliate Task Force Agents shall have general peace officer powers
21 and the authority to arrest persons throughout the state for the
22 purpose of investigating Internet crimes committed against children
23 including, but not limited to, offenses related to child ~~pornography~~
24 sexual abuse material, solicitation of minors for ~~pornography~~ sexual

1 abuse material, prostitution or sex-related offenses. ICAC
2 Affiliate Task Force Agents shall promote safe Internet use among
3 children and parents of children by various media or printed-
4 material campaigns or by offering educational programs to schools or
5 communities throughout Oklahoma. The Director of the Bureau may
6 renew, suspend or revoke any agreement appointing an ICAC Affiliate
7 Task Force Agent at any time. ICAC Affiliate Task Force Agents
8 serve solely at the discretion and will of the Director of the
9 Oklahoma State Bureau of Investigation.

10 SECTION 48. This act shall become effective November 1, 2024.

11 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
12 April 9, 2024 - DO PASS
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