

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2002

By: Conley

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2021, Section 1024.1, which relates to  
9 obscenity definitions; updating statutory citation;  
10 modifying definition of obscene material; adding  
11 definition; and providing an effective date.

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

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

15 Section 1024.1 A. As used in Sections 1021, 1021.1 through  
16 1021.4, Sections 1022 ~~through 1024~~ and 1023, and Sections 1040.8  
17 through 1040.24 of this title, "child pornography" means and  
18 includes any visual depiction or individual image stored or  
19 contained in any format on any medium including, but not limited to,  
20 film, motion picture, videotape, photograph, negative, undeveloped  
21 film, slide, photographic product, reproduction of a photographic  
22 product, play or performance wherein a minor under the age of  
23 eighteen (18) years is engaged in any act with a person, other than  
24 his or her spouse, of sexual intercourse which is normal or

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

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

17 1. "Obscene material" means and includes any representation,  
18 performance, depiction or description of sexual conduct, whether in  
19 any form or on any medium including any book, article, magazine,  
20 publication, or written matter of any kind, or any drawing, etching,  
21 painting, still photographs, undeveloped photographs, motion  
22 pictures, undeveloped film, videotape, optical, magnetic or solid-  
23 state storage, CD or DVD, or a purely photographic product or a  
24 reproduction of such product in any book, pamphlet, magazine, or

1 other publication or electronic or photo-optical format, if said  
2 items contain the following elements:

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

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

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

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

- 20 a. acts of sexual intercourse including any intercourse  
21 which is normal or perverted, actual or simulated,
- 22 b. acts of deviate sexual conduct, including oral and  
23 anal sodomy,
- 24 c. acts of masturbation,

1 d. acts of sadomasochistic abuse including but not  
2 limited to:

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

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

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

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

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

14 5. "Obscene material harmful to minors" means and includes any  
15 representation, performance, pictures, or literature, including any  
16 book, article, magazine, publication, or written matter of any kind,  
17 or any drawing, etching, painting, still photographs, undeveloped  
18 photographs, motion pictures, undeveloped film, videotape, optical,  
19 magnetic or solid-state storage, CD or DVD, or a purely photographic  
20 product or a reproduction of such product in any book, pamphlet,  
21 magazine, or other publication or electronic or photo-optical format  
22 that depicts or describes or includes nudity, sexual conduct, sexual  
23 excitement, or sadomasochistic abuse that:

- 1           a. predominantly appeals to the prurient, shameful, or  
2           morbid interest of minors,  
3           b. is patently offensive to the prevailing standards in  
4           the adult community with respect to what is suitable  
5           material for minors, and  
6           c. is utterly without redeeming social importance for  
7           minors.

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

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

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15           59-1-6976           GRS           01/18/23  
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