An Act

ENROLLED SENATE
BILL NO. 446

By: Wyrick of the Senate

and

Glenn of the House

An Act relating to misdemeanors; amending 21 O.S. 2001, Section 1021, as last amended by Section 12, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2010, Section 1021), which relates to indecent exposure; making language gender neutral; clarifying conduct subject to certain prosecution; and providing an effective date.

SUBJECT: Oklahoma law on obscenity and child pornography

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 1021, as last amended by Section 12, Chapter 3, O.S.L. 2008 (21 O.S. Supp. 2010, Section 1021), is amended to read as follows:

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

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

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

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

4. Makes, prepares, cuts, sells, gives, loans, distributes, keeps for sale, or exhibits any disc record, metal, plastic, or wax, wire or tape recording, or any type of obscene material or child pornography,

shall be guilty, upon conviction, of a felony and shall be punished by the imposition of a fine of not less than Five Hundred Dollars ($500.00) nor more than Twenty Thousand Dollars ($20,000.00) or by imprisonment for not less than thirty (30) days nor more than ten (10) years, or by both such fine and imprisonment.

B. Every person who:

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

2. Shows, exhibits, loans, or distributes to a minor child any obscene material or child pornography for the purpose of inducing said minor to participate in,

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

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

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

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

SECTION 2. This act shall become effective November 1, 2011.

Passed the Senate the 16th day of March, 2011.

Presiding Officer of the Senate

Passed the House of Representatives the 27th day of April, 2011.

Presiding Officer of the House of Representatives

OFFICE OF THE GOVERNOR

Received by the Governor this 3rd

day of May, 20 11,

at 12:32 o'clock P M.

By: Jennie R. Byers

Approved by the Governor of the State of Oklahoma the 9th day of

May, 20 11, at 10:38 o'clock A M.

Mary Fallin

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Secretary of State this

9th day of May, 20 11,

at 1:20 o'clock P M.

By: Michelle R Day