ENROLLED HOUSE
BILL NO. 1207

By: Eddins, Pope (Tim) and Worthen of the House

and

Littlefield, Leftwich and Smith of the Senate

An Act relating to offenders; amending 57 O.S. 1991, Sections 581, 582, as amended by Section 4, Chapter 166, O.S.L. 1993, 583, 584, 585, 586, and 587 (57 O.S. Supp. 1994, Section 582), which relate to the Sex Offenders Registration Act; modifying language and references; requiring certain registration with local law enforcement authority; defining term; stating registration requirement and form contents; requiring certain local registry; authorizing certain release of local registry information; prohibiting release of certain information to certain entities; amending 10 O.S. 1991, Section 404.1, as amended by Section 4, Chapter 122, O.S.L. 1993 (10 O.S. Supp. 1994, Section 404.1), which relates to criminal history of childcare applicants; prohibiting sex offender from working with children; authorizing civil fine for violation; stating amount of fine; authorizing civil damages; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 581, is amended to read as follows:

Section 581. Sections ~~1 through 7~~ 581 et seq. of this ~~act~~ title shall be known and may be cited as the "Sex Offenders Registration Act".

SECTION 2. AMENDATORY 57 O.S. 1991, Section 582, as amended by Section 4, Chapter 166, O.S.L. 1993 (57 O.S. Supp. 1994, Section 582), is amended to read as follows:

Section 582. The provisions of the Sex Offenders Registration Act, Sections 581 et seq. of this title, shall apply to any person who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence for a crime or an attempt to commit a crime provided for in Sections 885, 888, 1021, except for a crime provided for in paragraph 1 of subsection A of Section 1021, 1021.2, 1021.3, 1087, 1088, 1114 or 1123 of Title 21 of the Oklahoma Statutes or who enters this state after November 1, 1989, and who has been convicted or received a suspended sentence for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any of said laws. The provisions of the Sex Offenders Registration Act

shall apply to any person who enters this state on or after September 1, 1993, and who has received a deferred judgment for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in Section 885, 888, 1021, except for a crime provided for in paragraph 1 of subsection A of Section 1021, 1021.2, 1021.3, 1087, 1088, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a correctional institution of the Department of Corrections.

SECTION 3. AMENDATORY 57 O.S. 1991, Section 583, is amended to read as follows:

Section 583. ~~Except as provided in subsection B of this section, any~~ A. Any person who becomes subject to the provisions of the Sex Offenders Registration Act, Section 581 et seq. of this title, on or after November 1, 1989, shall register ~~with~~ as follows:

1. With the Department of Corrections within ten (10) business days of being convicted or receiving a suspended sentence if the person is not incarcerated, or within ten (10) business days of release of the person from a correctional institution, except as provided in subsection B of this section; and

2. With the local law enforcement authority having jurisdiction in the area where the person resides or intends to reside for more than seven (7) days. The registration is required within seven (7) days after entering the jurisdiction of the law enforcement authority.

For purposes of this section, "local law enforcement authority" means the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state; or, the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state.

B. Any person who has been convicted of an offense on or after November 1, 1989, in another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section ~~2~~ 582 of this ~~act~~ title and who enters and remains in this state shall register as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for thirty (30) days or longer ~~shall register with the Department of Corrections~~. Such registration is required within thirty (30) days after entering the state; and

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay for more than seven (7) days. The registration is required with local law enforcement within ~~thirty (30)~~ seven (7) days after entering ~~this state~~ the jurisdiction of the law enforcement authority.

C. The registration with the Department of Corrections required by this section shall be maintained by the Department of Corrections for a period of ten (10) years from the date of registration~~,~~; however, persons who successfully complete the sex offender treatment program provided by the Department of Corrections, shall only be required to register with the Department for two (2) years after date of discharge. Repeat offenders after discharge shall be required to register for the full ten-year period.

D. The registration with the local law enforcement authority required by this section shall be maintained by such authority for five (5) years.

SECTION 4. AMENDATORY 57 O.S. 1991, Section 584, is amended to read as follows:

Section 584. A. The registration with the Department of Corrections required by the Sex Offenders Registration Act, Section 581 et seq. of this title, shall be in a form approved by the Department of Corrections and shall include the following information about the person registering:

1. ~~His~~ The person's name and all aliases ~~which he has~~ used or under which ~~he~~ the person has been known;

2. A complete description of ~~his~~ the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood test for purposes of a deoxyribonucleic acid (DNA) profile;

3. The offenses listed in Section 582 of this title of which ~~he~~ the person has been convicted or for which ~~he~~ the person received a suspended sentence, where ~~he committed such offenses~~ the offense was committed, where ~~he~~ the person was convicted or received the suspended sentence, and the name under which ~~he~~ the person was convicted or received the suspended sentence;

4. The name and location of each hospital or penal institution to which ~~he~~ the person was committed for each offense listed in Section 582 of this title; and

5. Where ~~he~~ the person resides, how long ~~he~~ the person has resided there, how long ~~he~~ the person expects to reside there, and how long ~~he~~ the person expects to remain in the county and in the State of Oklahoma.

B. The registration with the local law enforcement authority required by this act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The person's full name, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address; and

2. A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable.

For purposes of this section, "local law enforcement authority" means the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state; or, the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state.

C. Any person subject to the provisions of the Sex Offenders Registration Act who changes ~~his~~ an address ~~within a county~~ shall give written notification of the new address to the Department of Corrections within ten (10) business days after the change of address and the local law enforcement authority within three (3) business days after the change of address.

~~C.~~ D. The Department of Corrections shall maintain a file of all ~~such~~ sex offender registrations ~~which~~. The registration shall be ~~made~~ available to state, county and municipal law enforcement agencies. Said file shall not be made available for public inspection and no person other than a law enforcement officer employed by a state, county or municipal law enforcement agency shall have access to said file. The Department of Corrections shall provide all municipal police departments and all county sheriff departments a list of those sex offenders registered and living in their respective jurisdictions.

E. Each local law enforcement agency shall make its sex offender registry available as follows:

1. To all public and private elementary schools within the jurisdiction;

2. To all childcare facilities licensed by the state within the jurisdiction;

3. To any state agency that licenses individuals to work with children;

4. To the State Office of Personnel Management to screen persons who may work with children; and

5. To other entities that provide services to children and request the registry.

The sex offender registry available to entities in paragraphs 2 and 5 of this subsection shall not contain the home address of any offender whose name appears on the registry. When a law enforcement agency sends a copy of or otherwise makes the sex offender registry available to any entity pursuant to this subsection, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense against a child. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer."

SECTION 5. AMENDATORY 57 O.S. 1991, Section 585, is amended to read as follows:

Section 585. A. Each person in charge of a correctional institution from which a person subject to the provisions of the Sex Offenders Registration Act, Section 581 et seq. of this title, is released and each judge who suspends the sentence of a person subject to the provisions of the Sex Offenders Registration Act shall prior to discharge or release of said person:

1. Explain to the person ~~his~~ the duty to register pursuant to the Sex Offenders Registration Act;

2. Require the person to sign a written statement that ~~his~~ the duty to register has been explained ~~to him~~ and the person understands the duty to register;

3. Obtain the address at which the person is to reside upon discharge or release; and

4. Forward said information to the Department of Corrections.

B. The Department of Public Safety shall issue written notification of the registration requirements of the Sex Offenders Registration Act to any person who enters this state from another jurisdiction and makes an initial application for an operator's or chauffeur's license to operate a motor vehicle in this state.

SECTION 6. AMENDATORY 57 O.S. 1991, Section 586, is amended to read as follows:

Section 586. No person subject to the provisions of the Sex Offenders Registration Act, Sections 581 et seq. of this title, shall furnish any false or misleading information in the registration required by said act.

SECTION 7. AMENDATORY 57 O.S. 1991, Section 587, as amended to read as follows:

Section 587. Any person required to register pursuant to the provisions of the Sex Offenders Registration Act, Sections 581 et seq. of this title, who ~~is convicted of violating a~~ violates any provision of said act shall, upon conviction, be guilty of a misdemeanor ~~and shall be subject to~~ punishable by incarceration in the county jail for not more than one (1) year, ~~to~~ a fine ~~of~~ not ~~more than~~ to exceed One Thousand Dollars ($1,000.00), or both such fine and imprisonment.

SECTION 8. AMENDATORY 10 O.S. 1991, Section 404.1, as amended by Section 4, Chapter 122, O.S.L. 1993 (10 O.S. Supp. 1994, Section 404.1) is amended to read as follows:

Section 404.1 A. The owner or administrator of a child care facility, other than a foster family home or a day care center,

providing full-time care or twenty-four-hour supervised care shall arrange, prior to employment, for a criminal history investigation conducted by the Oklahoma State Bureau of Investigation for an applicant for employment.

B. Every owner or administrator of a day care center and a family day care home shall arrange, prior to employment, for a criminal history investigation conducted by the Oklahoma State Bureau of Investigation for an applicant for employment.

C. A conviction for a crime shall not be an absolute bar to employment, except as provided in subsection F of this section, but shall be considered in relation to specific employment duties and responsibilities.

D. Information received by an owner or administrator of a child care facility or a day care center shall be maintained in a confidential manner. Whenever an applicant is employed by said owner or administrator, said information shall not be made a part of that individual's personnel records.

E. A criminal history investigation conducted by the Oklahoma State Bureau of Investigation shall include a search of Department of Corrections' files maintained pursuant to the Sex Offenders Registration Act, Section 581 et seq. of Title 57 of the Oklahoma Statutes.

F. It shall be unlawful for any person who is required to register pursuant to the Sex Offenders Registration Act, Section 581 et seq. of Title 57 of the Oklahoma Statutes, to work with or provide services to children and for any employer who offers or provides services to children to knowingly and willfully employ or allow continued employment of any person who is required to register pursuant to the Sex Offenders Registration Act. Upon a determination of any violation of the provisions of this section, the violators shall be subject to a civil fine not to exceed One Thousand Dollars ($1,000.00). In addition, the violator may be liable for civil damages.

SECTION 9. This act shall become effective July 1, 1995.

SECTION 10. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 25th day of April, 1995.

Speaker of the House of Representatives

Passed the Senate the 5th day of April, 1995.

President of the Senate