

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

SENATE BILL NO. 723

By: Smith, Capps, and
Littlefield of the Senate

and

Hastings, Roach, Bryant
and Vaughn of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to sex offenders; amending 57 O.S. 1991, Sections 581, 582, 583, 584 and 585, as last amended by Sections 2, 3, 4, 5 and 6 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, 586, as amended by Section 6, Chapter 142, O.S.L. 1995 (57 O.S. Supp. 1996, Section 586), and 587, as last amended by Section 7 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, which relate to the Sex Offenders Registration Act; clarifying language; modifying legislative findings; modifying certain crimes for which conviction requires registration; providing for predator registration; making certain registration open to public inspection; providing for annual registration; including deferred judgment; requiring the Department of Corrections to maintain certain information; establishing procedures for judicial determination of predatory sex offenders; modifying availability of state and local sex offender registries; modifying information to be included in notifications; requiring certain facilities to explain certain duty to register upon release of certain person; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 581, as last amended by Section 2 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

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

B. The Legislature finds that sex offenders who commit ~~other predatory~~ acts against children or other persons and persons who sexually prey on others as a result of mental illness pose a high risk of re-offending after release from custody. The Legislature further finds that the privacy interest of such persons adjudicated guilty of ~~these~~ certain sex crimes is less important than the state's interest in public safety. The Legislature additionally finds that a system of identification and registration for predatory offenders will permit law enforcement officials to identify and alert the public when necessary ~~for protecting~~ to protect the public safety.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 582, as last amended by Section 3 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 582. The provisions of the Sex Offenders Registration Act, ~~Sections~~ Section 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 or deferred sentence for a crime or an attempt to commit a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Sections ~~741,~~ ~~865 et seq.,~~ 885, 886, 888, ~~891,~~ 1021, except for a crime provided for in paragraph 1 of subsection A of Section 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 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 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section ~~741,~~ ~~865 et seq.,~~ 885, 886, 888, ~~891,~~ 1021, except for a crime provided for in paragraph 1 of subsection A of Section 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 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 ~~maximum or medium~~ jail or correctional institution of the Department of Corrections, unless the offender is allowed access to the public through work release or other minimal custody placement.

SECTION 3. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 4 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 583. 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 as follows:

1. ~~With~~ Annually with the Department of Corrections and the initial registration shall be within three (3) business days of being convicted or receiving a suspended or deferred sentence if the person is not incarcerated, or within three (3) business days of release of the person from a correctional institution, except as provided in subsection B of this section; and

2. ~~With~~ Annually 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 pursuant to this paragraph is required within three (3) 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 582 of this 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. Such registration is required within ten (10) days after entering the state and annually thereafter, as provided in subsection A of this section, if the person remains in this 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 three (3) days after entering the jurisdiction of the law enforcement authority and annually thereafter, as provided in subsection A of this section, if the person remains in the jurisdiction.

C. ~~The registration~~ Each offender subject to the provisions of the Sex Offenders Registration Act shall be required to register as provided in this section with the Department of Corrections ~~required by this section shall be maintained by the Department of Corrections and the local law enforcement authority~~ each year for a period of ten (10) years from the date of initial registration, except persons receiving a deferred sentence shall register only during the term of the deferred sentence. The number of years required for registration may be extended by court order.

D. The registration ~~with~~ of each offender shall be maintained by the Department of Corrections and the local law enforcement authority ~~required by this section shall be maintained by such authority for~~ in such a manner as to determine the number of years an offender has registered, is required to register, and reflect other pertinent information about the offender. The registration

form shall be kept for five (5) years following the conclusion of the mandatory registration period as provided in this section or by court order.

E. When registering an offender as provided in this section the Department of Corrections or the local law enforcement agency having jurisdiction shall:

1. Inform the offender of the duty to register and obtain the information required for registration as described in this section;

2. Inform the offender that if the offender changes his or her address, the offender shall give notification of the new address to the Department of Corrections in writing no later than three (3) days before the offender establishes residence or is temporarily domiciled at the new address;

3. Inform the offender that if the offender changes his or her address to another state, the offender shall ~~register~~ give notification of the new address ~~with~~ to the Department of Corrections and ~~with a~~ to the designated law enforcement agency in this state and the new state not later than ten (10) days before the offender establishes residency or is temporarily domiciled in the new state, if the new state has a registration requirement; and

4. Require the offender to read and sign a form stating that the duty of the person to register ~~under this act~~ pursuant to the Sex Offenders Registration Act has been explained.

SECTION 4. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 5 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, 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. The person's name and all aliases used or under which the person has been known, date of birth, sex, race, height, weight,

eye color, social security number, and driver license number and state of issue;

2. A complete description of 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. Submission to testing for individuals registering shall be within thirty (30) days of registration. All individuals registered pursuant to the Sex Offenders Registration Act on July 1, 1997, shall provide a blood sample by October 1, 1997. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate samples for testing;

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

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

5. Where the person resides, how long the person has resided there, how long the person expects to reside there, and how long the person expects to remain in the county and in ~~the State of Oklahoma~~ this state. The Department of Corrections shall conduct address verification of the sex offender on an annual basis by mailing a nonforwardable verification form to the last reported address of the person. The person shall return the verification form in person to the local law enforcement agency of that jurisdiction within ten (10) days after receipt of the form. The local law enforcement agency shall forward the form to the Oklahoma Department of Corrections within three (3) days after receipt of the form. The verification form shall be signed by the person and state the current address of the person. Failure to return the verification form shall be a violation of this act. If

the offender has been determined to be a predatory sex offender by the ~~Department of Corrections~~ court, the address verification shall be conducted every ninety (90) days.

B. Conviction data and fingerprints shall be transmitted at the time of registration to the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) if the state has not previously sent the information at the time of conviction.

C. 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 or received a suspended or deferred sentence, where the offense was committed, the date of the ~~conviction~~ sentence, ~~and the terms of the sentence imposed, if applicable and the court imposing the sentence; and~~

3. A photograph and the fingerprints of the offender.

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.

D. Any person subject to the provisions of the Sex Offenders Registration Act who ~~changes an address shall give written notification of the new address to the Department of Corrections within ten (10) business days after the change of address and local law enforcement authority within three (3) business days after the change of address~~ is judicially determined to be a predatory sex offender shall be registered in a predator registry which shall be open to public inspection and maintained by the Department of Corrections.

E. The Department of Corrections shall maintain a current file of all sex offender registrations. A copy of the information contained in the registration shall be available to state, county and municipal law enforcement agencies. ~~Said~~ The general registration file shall not be made available for public inspection ~~pursuant to rules promulgated by the Department of Corrections;~~ provided, however, the Department may respond to written inquiries for a name verification against the registry. Written inquiries must provide the following information for a name search:

1. The name of the person believed to be subject to the provisions of this act;
2. The person's current address; and
3. The person's physical description or the driver license number or social security number of such person.

The Department of Corrections may charge a fee for a name search from the registry. The Department shall provide all municipal police departments and all county sheriff departments a list of those sex offenders registered and living in their county for verification to the local registry.

F. Each local law enforcement agency ~~shall make~~ is authorized to provide information from its sex offender registry available as follows:

1. To all public and private elementary schools within the jurisdiction;
2. To all child care facilities licensed by the state within the jurisdiction;
3. To any custodial parent using a licensed child care provider;
4. To any state agency that licenses individuals to work with children;
5. To the State Office of Personnel Management to screen persons who may work with children; ~~and~~
6. To other entities that provide services to children and request the registry, including churches; and
7. To the public upon a written request for a name search.

When a law enforcement agency sends a copy of or otherwise makes the information available from its sex offender registry available to any entity listed in paragraph 1 or 2 of 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. Continuing to employ a person to work with children whose name appears on this registry may result in civil liability for the employer."

The information provided to any person or entity from the sex offender registry shall not contain the residential address of any sex offender, but may contain information which locates the offender within the vicinity of schools, parks, churches, child care facilities or other places where children may become victims.

G. Samples of blood for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood samples. Persons collecting blood for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples are mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

H. ~~1. Any person who prior to November 1, 1997, was subject to registration pursuant to this act and:~~

- ~~a. who subsequent to November 1, 1997 was convicted of a crime or an attempt to commit a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Sections~~

~~885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes, or~~

~~b. who enters this state after November 1, 1997, and who has been convicted of 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 subparagraph a of this paragraph, shall, in addition to being subject to all of the registration requirements of this act, be designated by the Department of Corrections as a predatory sex offender. Designation as a predatory sex offender shall be for a period of not less than ten~~
(10) years On and after November 1, 1997, at the time of sentencing any person for any sex offense required to be registered pursuant to the Sex Offenders Registration Act, the court may on its own motion, or upon motion of the district attorney, make a judicial determination that the offender be registered as a predatory sex offender when there is a compelling interest of the state to protect the public against the acts of the defendant. The court shall consider, but not be limited to:

1. Whether or not the victim is one or more child under ten (10) years of age;
2. Whether or not the offender has one or more prior convictions for any sex offense in this state or another state where the victim was a child or the offense was violent;
3. Whether or not the offender has a history of sex offenses;
4. Whether or not the offender has any mental condition, disability, or illness, or suffers from any other condition or other disability which represents a continuing threat to the public for sex crimes by the defendant;
5. Whether or not the sex offense was particularly heinous or atrocious; and
6. Whether or not the sex crime was committed in association with any offense of kidnapping, trafficking in children, or child stealing.

At the hearing, the court shall allow testimony and evidence or may rely on the testimony and evidence presented in the trial

proceedings. The defendant shall be allowed to present any evidence in his or her defense. The determination of any defendant as a predatory sex offender by the court shall be entered upon the judgment and sentence.

~~2.~~ I. 1. Upon registration of any person designated as a predatory sex offender, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

- a. the family of the predatory sex offender,
- b. any prior victim of the predatory sex offender, and
- c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent.

~~3.~~ 2. The notification may include, but is not limited to, the following information:

- a. the name and physical address of the predatory sex offender,
- b. a physical description of the predatory sex offender, including, but not limited to, age, height, weight and eye and hair color,
- c. ~~a description of the vehicle that the predatory sex offender is known to drive,~~
- ~~d.~~ e. any terms and conditions or restrictions upon of the probation, parole or conditional release sentence of the predatory sex offender,
- ~~e.~~ d. a description of the primary and secondary targets of the predatory sex offender,
- ~~f.~~ e. a description of the method ~~of~~ used to entice victims or commit the offense of the predatory sex offender, and
- ~~g.~~ f. a ~~current~~ photograph of the predatory sex offender, ~~and~~
- ~~h.~~ ~~the name and telephone number of the probation or parole officer of the predatory sex offender.~~

~~4.~~ 3. The local law enforcement authority shall make the notification provided for in this section regarding a predatory sex offender available to any person upon request.

~~I.~~ J. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under this act.

1. Nothing in this act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for failing to release information in accordance with this act.

2. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in this act.

SECTION 5. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 6 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 585. A. Each person in charge of a jail, hospital, treatment center, or 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 or defers the sentence of a person subject to the provisions of the Sex Offenders Registration Act shall prior to discharge or release of ~~said~~ the person:

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

2. Require the person to sign a written statement that the duty to register has been explained and the person understands the duty to register and that a criminal penalty may be imposed for failure to register as required by law;

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

4. Forward ~~said~~ the information obtained from paragraphs 1 through 3 of this subsection to the Department of Corrections within three (3) days.

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~~ a driver license to operate a motor vehicle in this state.

C. The Department of Corrections shall coordinate with the Administrative Office of the Courts in promulgating rules to establish other necessary procedures for notifying offenders of the obligation to register pursuant to this act and procedures for registration of those offenders.

SECTION 6. AMENDATORY 57 O.S. 1991, Section 586, as amended by Section 6, Chapter 142, O.S.L. 1995 (57 O.S. Supp. 1996, Section 586), is amended to read as follows:

Section 586. ~~No~~ It is unlawful for any person subject to the provisions of the Sex Offenders Registration Act, ~~Sections~~ Section 581 et seq. of this title, ~~shall to~~ furnish or attempt to furnish any false or misleading information in the registration required by ~~said act~~ Section 583 of this title. Any person convicted of a violation of this section shall be punished as provided in Section 587 of this title.

SECTION 7. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 7 of Enrolled House Bill No. 1729 of the 1st Session of the 46th Oklahoma Legislature, is amended to read as follows:

Section 587. Any person required to register pursuant to the provisions of the Sex Offenders Registration Act, ~~Sections~~ Section 581 et seq. of this title, who violates any provision of said act shall, upon conviction, be guilty of a felony punishable by incarceration in ~~a correctional facility~~ the custody of the Department of Corrections for a term of not more than five (5) years, a fine not to exceed Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

SECTION 8. This act shall become effective November 1, 1997.

