STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2874 By: Paulk

AS INTRODUCED

An Act relating to Oklahoma Sex Offenders Registration Act; amending 57 O.S. 1991, Sections 583, 584 and 585, as last amended by Sections 4, 5 and 6, Chapter 260, O.S.L. 1997 (57 O.S. Supp. 1997, Sections 583, 584 and 585), which relate to registration duties and records; substituting Oklahoma State Bureau of Investigation for Department of Corrections as agency responsible for certain duties; transferring certain responsibilities from Department of Corrections to Oklahoma State Bureau of Investigation; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 4, Chapter 260, O.S.L. 1997 (57 O.S. Supp. 1997, Section 583), 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 the Department of Corrections within three (3) business days of being convicted or receiving a suspended 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 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 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

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.

C. The registration with the Department of Corrections and the local law enforcement authority required by this section shall be maintained by the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation (OSBI) for a period of ten (10) years from the date of registration.

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

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 address, the offender shall give the new address to the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation 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 address to another state, the offender shall register the new address with the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation and with a designated law enforcement agency in 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 has been explained.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 584, as last amended by Section 5, Chapter 260, O.S.L. 1997 (57 O.S. Supp. 1997, Section 584), is amended to read as follows:

Section 584. A. The registration with the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation (OSBI) 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~~ OSBI 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;

2. A complete description of the person, including a photograph and fingerprints, and when requested by the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation, 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 sentence, where the offense was committed, where the person was convicted or received the suspended sentence, and the name under which the person was convicted or received the suspended sentence;

4. The name and location of each hospital 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. The ~~Department of Corrections~~ Oklahoma State Bureau of Investigation

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~~ OSBI 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~~ OSBI, 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, 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.

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~~ Oklahoma State Bureau of Investigation 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.

E. The ~~Department of Corrections~~ Oklahoma State Bureau of Investigation shall maintain a 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 file shall be made available for public inspection pursuant to rules promulgated by the ~~Department of Corrections~~ Oklahoma State Bureau of Investigation. The ~~Department of Corrections~~ OSBI shall provide all municipal police departments and all county sheriff departments a list of those sex offenders registered and living in their county.

F. 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 child care facilities licensed by the state within the jurisdiction;

3. To any parent using a 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.

When a law enforcement agency sends a copy of or otherwise makes the 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 whose name appears on this registry may result in civil liability for the employer."

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~~ Oklahoma State Bureau of Investigation as a predatory sex offender. Designation as a predatory sex offender shall be for a period of not less than ten (10) years.

2. 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. 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. any conditions or restrictions upon the probation, parole or conditional release of the predatory sex offender,

e. a description of the primary and secondary targets of the predatory sex offender,

f. a description of the method of offense of the predatory sex offender,

g. 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. 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. 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 3. AMENDATORY 57 O.S. 1991, Section 585, as last amended by Section 6, Chapter 260, O.S.L. 1997 (57 O.S. Supp. 1997, 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 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;

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.

C. The ~~Department of Corrections~~ Oklahoma State Bureau of Investigation (OSBI) 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 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 589 of Title 57, unless there is created a duplication in numbering, reads as follows:

Upon the effective date of this act, all responsibility for maintenance of the state sex offender registration shall be transferred from the Department of Corrections to the Oklahoma State Bureau of Investigation.

SECTION 5. This act shall become effective November 1, 1998.

46-2-9241 LAC