

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 335

By: Cain

AS INTRODUCED

An Act relating to the Sex Offenders Registration Act; amending 57 O.S. 1991, Section 582, as last amended by Section 1, Chapter 336, O.S.L. 1999 (57 O.S. Supp. 2000, Section 582), which relates to persons required to register; including parolees in registration requirement; modifying language; including deferred sentences in registration; amending 57 O.S. 1991, Section 583, as last amended by Section 3, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, Section 583), which relates to registration time requirements; increasing opportunity for local registration; requiring parolees to register; deleting language; amending 57 O.S. 1991, Section 584, as last amended by Section 4, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, Section 584), which relates to registration periods; setting minimum period of registration; requiring habitual or aggravated offenders to register throughout lifetime; amending 57 O.S. 1991, Section 585, as last amended by Section 5, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, Section 585), which relates to duty to notify offenders of obligation to register; expanding information to be kept in record; including parole information; allowing the Department of Corrections to coordinate notification for out-of-state offenders; requiring unsupervised parolees from other jurisdictions to be supervised by the Department of Corrections; requiring parolees to register; setting registration time limit; providing penalty; amending 57 O.S. 1991, Section 587, as last amended by Section 3, Chapter 347, O.S.L. 1998 (57 O.S. Supp. 2000, Section 587), which relates to penalty; deleting certain penalty relating to sentencing schedule; clarifying existing penalty; 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 582, as last amended by Section 1, Chapter 336, O.S.L. 1999 (57 O.S. Supp. 2000, Section 582), is amended to read as follows:

Section 582. A. The provisions of the Sex Offenders Registration Act, Section 581 et seq. of this title, shall apply to any person residing, working or attending school within the State of Oklahoma 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 or any probationary term or parole 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, Section 741, 843.1, if the offense included sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence in any court of another state, a federal court, an Indian tribal court or a military court or who has been paroled from any correctional institution of another state, the United States, any Indian tribal, or any military facility 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 listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment in any court of this state or another state, a federal court, an Indian tribal court or a military court 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, 843.1, if the offense involved sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, 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 correctional institution of the Department of Corrections.

SECTION 2. AMENDATORY 57 O.S. 1991, Section 583, as last amended by Section 3, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, 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 be registered as follows:

1. With the Department of Corrections within three (3) business days of being convicted or receiving a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, if the person is not incarcerated, or within three (3) business days of release or parole 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, works, or attends school or intends to reside, work, or attend school 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, works, or attends school or intends to reside or stay within the

jurisdiction of any municipality of this state; or the county sheriff, if the person resides, works, or attends school 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 or received a deferred judgment for an offense on or after November 1, 1989, in another jurisdiction, or any person paroled 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~~ subject to the Sex Offenders Registration Act and who enters this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for thirty (30) days or longer, has any type of full-time or part-time employment, with or without compensation for more than fourteen (14) days or an aggregate period ~~exceeding~~ of thirty (30) days or more within a calendar year, or is enrolled as a full-time or part-time student within this state. Such registration is required within three (3) days after entering the state; and

2. With ~~the~~ each local law enforcement authority having jurisdiction in ~~the~~ an area where the person resides, works, or attends school or intends ~~to reside or~~ to stay for ~~more than~~ seven (7) days, ~~has any type of full-time or part-time employment, with or without compensation for more than fourteen (14) days or an aggregate period exceeding thirty (30) days within a calendar year, or is enrolled as a full-time or part-time student within this state or more.~~ The registration is required with local law enforcement within three (3) days after entering the jurisdiction of the law enforcement authority.

C. ~~Except for habitual or aggravated sex offenders, the person shall be required to register~~ The registration requirements of the Sex Offenders Registration Act shall apply to every person subject

to the act for a minimum period of ten (10) years and the from the date of initial registration. The information received pursuant to the registration with the Department of Corrections or a local law enforcement authority required by this section shall be maintained by the Department of Corrections by such authority for at least ten (10) years from the date of registration.

D. ~~Except for habitual or aggravated sex offenders, the person shall be required to register for a period of ten (10) years and the information received pursuant to the registration with the local law enforcement authority required by this section shall be maintained by such authority for at least ten (10) years~~ The registration requirements of the Sex Offenders Registration Act shall apply to habitual or aggravated sex offenders as provided in subsection H of Section 584 of this title for the life of the offender.

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~~ registering authority 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 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;

4. Inform the offender that if the offender participates in any full-time or part-time employment, in another state, with or without

compensation for more than fourteen (14) days or an aggregate period ~~exceeding~~ of thirty (30) days in a calendar year, then the offender has a duty to register as a sex offender in that state;

5. Inform the offender that if the offender enrolls in any type of school in another state as a full-time or part-time student then the offender has a duty to register as a sex offender in that state; and

6. 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 3. AMENDATORY 57 O.S. 1991, Section 584, as last amended by Section 4, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, 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. 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,~~ 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 Every~~ offense subject to the Sex Offenders Registration Act for which the person has been convicted or for which the person received a suspended sentence or has been paroled, where the offense was committed, where the person was convicted, paroled, or received ~~the~~ a suspended sentence, and the name under which the person was convicted, paroled, or received ~~the~~ a suspended sentence;

4. The name and location of each treatment facility, hospital or penal institution to which the person was committed for each offense ~~listed in Section 582 of this title~~ subject to the Sex Offenders Registration Act; 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 an address verification of ~~the~~ each 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 and may be photographed by the local law enforcement agency at that time. 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 shall state the current address of the person. Failure to return the verification form shall be a violation of ~~this act~~ the provisions of the Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department ~~of Corrections,~~ the address verification shall be conducted every ninety (90) days. The Department ~~of Corrections~~ shall notify the district attorney's office and local law enforcement agency of the appropriate county, within forty-five (45) days if unable to verify

the address of a sex offender. A local law enforcement agency may notify the district attorney's office whenever it comes to the attention of the local law enforcement agency that a sex offender is not in compliance with any ~~provisions~~ provision of ~~this act~~ the Sex Offenders Registration Act.

B. Conviction data and fingerprints shall be promptly 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~~ the Sex Offenders Registration 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. The date and conditions of parole, if applicable.

For purposes of this section, "local law enforcement authority" means the municipal police department, if the person resides, works, or attends school or intends to ~~reside or~~ stay within the jurisdiction of any municipality of this state; or, the county sheriff, if the person resides, works, attends school 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 three (3) business days after the change of address and the local law enforcement authority within three (3) business days after

the change of address. If the new address is under the jurisdiction of a different local law enforcement authority, the offender shall notify the new local law enforcement authority of any previous registration. The new local law enforcement authority shall notify the most recent registering agency electronically or by teletype or letter of the change in address of the offender. If the new address is in another state the Department ~~of Corrections~~ shall promptly notify the agency responsible for registration in that state of the new address of the offender.

E. The Department ~~of Corrections~~ shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. ~~Said~~ The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department ~~of Corrections~~ and may be made available through Internet access. The Department ~~of Corrections~~ shall promptly 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 upon request, without restriction, at a cost that is no more than what is charged for other records provided by the law enforcement agency pursuant to the Open Records Act.

When a law enforcement agency sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, 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 has been convicted of or received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime ~~listed in Section 582 of this title~~ subject to the Sex Offenders Registration Act and:

- a. who is subsequently convicted of a crime or an attempt to commit a crime ~~listed in subsection A of Section 582 of this title~~ subject to the Sex Offenders Registration Act, or
- b. who enters this state after November 1, 1997, and who has been convicted of an additional 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 subsection A of Section 582 of this title~~ subject to the Sex Offenders Registration Act,

shall be subject to all of the registration requirements of ~~this act~~ the Sex Offenders Registration Act and shall be designated by the

Department ~~of Corrections~~ as a habitual sex offender. A habitual sex offender shall be required to ~~register for~~ comply with the registration requirements throughout the lifetime of the habitual sex offender.

2. On or after November 1, 1999, any person who has been convicted of a crime or an attempt to commit a crime, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for 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, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department ~~of Corrections~~ as an aggravated sex offender. An aggravated sex offender shall be required to ~~register~~ comply with the registration requirements for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, 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 habitual or aggravated sex offender,
- b. any prior victim of the habitual or aggravated 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.

4. The notification may include, but is not limited to, the following information:

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

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated 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~~ the Sex Offenders Registration 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~~ the Sex Offenders Registration Act.

SECTION 4. AMENDATORY 57 O.S. 1991, Section 585, as last amended by Section 5, Chapter 349, O.S.L. 2000 (57 O.S. Supp. 2000, 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 or orders any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for 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~~ where the person ~~is~~ intends to reside upon discharge or release; and
4. Forward ~~said~~ the 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 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~~ the Sex Offenders Registration Act and procedures for registration of those offenders.

D. The Department of Corrections shall coordinate with surrounding states to establish necessary procedures for notifying sex offenders that reside in other states but outside the jurisdiction of this state, work or attend school within ~~the State of Oklahoma~~ of the obligation to register pursuant to this act and the procedure for registration of those offenders this state, and who are subject to the registration requirements of the Sex Offenders Registration Act.

E. Any person convicted of any offense subject to the Sex Offenders Registration Act who is paroled from the jurisdiction of another state or the United States and who subsequently enters this state during the parole period without supervision by such jurisdiction or pursuant to an interstate compact agreement for supervision by this state shall be supervised by the Department of Corrections. Every parolee from another state of the United States who is without supervision by such jurisdiction or pursuant to an interstate compact agreement for supervision by this state, whose offense is subject to the Sex Offenders Registration Act, shall register within three (3) days of entering this state. Failure to submit to parole supervision by this state or failure to register as required by this subsection is a felony.

SECTION 5. AMENDATORY 57 O.S. 1991, Section 587, as last amended by Section 3, Chapter 347, O.S.L. 1998 (57 O.S. Supp. 2000, Section 587), is amended to read as follows;

Section 587. Any person required to register pursuant to the provisions of the Sex Offenders Registration Act, ~~Section 581 et seq. of this title,~~ who violates any provision of ~~said~~ the act shall, upon conviction, be guilty of a felony. Any person convicted of a violation ~~of this section before the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes~~ shall be punished by

~~incarceration imprisonment in a correctional facility the State Penitentiary for a term of~~ not more than five (5) years, by a fine not ~~to exceed~~ exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. ~~Any person convicted of a violation of this section after the effective date of Section 20.1 of Title 21 of the Oklahoma Statutes shall be guilty of a Schedule E offense.~~

SECTION 6. This act shall become effective July 1, 2001.

SECTION 7. 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.

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