STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 1853

By: Turner and Adkins of the House

and

Wilkerson of the Senate

COMMITTEE SUBSTITUTE

[creating the Mary Rippy Violent Crime Offenders Registration Act - registration requirements, time limits, and duration - duty to register - prohibition to working with children - no duty to provide certain notice - codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 591 of Title 57, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 10 of this act shall be known and may be cited as the "Mary Rippy Violent Crime Offenders Registration Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 592 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in the Mary Rippy Violent Crime Offenders Registration Act, "local law enforcement authority" means:

1. The municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state; or

2. 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; and

3. The police or security department of any institution of higher learning within this state if the person:

a. enrolls as a full-time or part-time student,

b. is a full-time or part-time employee at an institution of higher learning, or

c. resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 593 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. On and after November 1, 2004, the provisions of the Mary Rippy Violent Crime Offenders Registration Act shall apply to:

1. Any person residing, working or attending school in this state who is subsequently convicted of, or who receives a deferred judgment or suspended sentence for, any crime or attempted crime enumerated in subsection B of this act by any court in this state, another state, the United States, a tribal court, or a military court; or

2. Any person who subsequently enters this state for purposes of residence, work or to attend school and who has been previously convicted of or is subject to a deferred judgment, suspended sentence, probation or parole from any court of another state, the United States, a tribal court, or a military court for any crime or attempted crime which, if committed or attempted in this state, would be a crime substantially similar to any crime enumerated in subsection B of this act.

For purposes of this act, “convicted of” means an adjudication of guilt by a court of competent jurisdiction whether upon a verdict or plea of guilty or nolo contendere.

B. The following crimes and attempts to commit such crimes shall be registered under the Mary Rippy Violent Crime Offenders Registration Act:

1. First degree murder as provided for in Section 701.7 of Title 21 of the Oklahoma Statutes;

2. Second degree murder as provided for in Section 701.8 of Title 21 of the Oklahoma Statutes;

3. Manslaughter in the first degree as defined by Section 711 of Title 21 of the Oklahoma Statutes;

4. Shooting or discharging a firearm with intent to kill, use of a vehicle to facilitate the intentional discharge of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of Title 21 of the Oklahoma Statutes;

5. Assault with intent to kill as provided for in Section 653 of Title 21 of the Oklahoma Statutes;

6. Bombing as provided for in Section 1767.1 of Title 21 of the Oklahoma Statutes; and

7. Any crime or attempt to commit a crime constituting a substantially similar offense as stated in paragraphs 1 through 6 of this subsection adjudicated by any court of another state, the United States, a tribal court, or a military court.

C. The registration requirements of the Mary Rippy Violent Crime Offenders Registration Act shall not apply to any person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections, a private correctional institution, or another state, federal, tribal or military facility, but shall apply to all minimum security level placements in this state and all terms of deferred, suspended, probation and parole.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 594 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any person who becomes subject to the provisions of the Mary Rippy Violent Crime Offenders Registration Act, shall be registered as follows:

1. With the Department of Corrections within three (3) business days after being convicted or receiving a deferred or suspended sentence, if the person is not incarcerated, or within three (3) business days after release of the person from a correctional institution, including parole release, except as provided in subsection B of this section;

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; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

B. Any person who enters this state and is subject to the provisions of this act 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 thirty (30) days 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;

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, 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. The registration is required with local law enforcement within three (3) days after entering the jurisdiction of the local law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

C. 1. The person shall be continuously registered during the term of the sentence, as provided in subsections A and B of this section, and for a period of ten (10) years after the date of the completion of the sentence.

2. Information received pursuant to the registration shall be maintained by the Department of Corrections for at least ten (10) years from the date of the last registration.

3. The information received pursuant to the registration shall be maintained by the local law enforcement authority for at least ten (10) years from the date of the last registration.

4. As used in this subsection, "date of the completion of the sentence" means the day an offender completes the entire term of the incarceration imposed by the sentence including any term that is deferred, suspended or subject to parole.

D. When registering an offender as provided in this section, the Department of Corrections or the local law enforcement authority 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 notice of the move and 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 address to another state, the offender shall give notice of the move and shall register the new address with the Oklahoma 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 thirty (30) days in a calendar year, the offender shall register as a violent crime offender in that state, if the state has a registration requirement;

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, the offender shall register as a violent crime offender in that state, if the state has a registration requirement;

6. Inform the offender that if the offender enrolls in any type of school within this state as a full-time or part-time student, the offender shall register as a violent crime offender with the Department of Corrections and the local law enforcement authority;

7. Inform the offender that if the offender participates in any full-time or part-time employment at any school, with or without compensation, or participates in any vocational course or occupation at any school in this state, the offender shall notify the Department of Corrections and the local law enforcement authority in writing of the employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

8. Inform the offender that if the offender graduates, transfers, drops, terminates, or otherwise changes enrollment or employment at any school in this state, the offender shall notify the Department of Corrections and the local law enforcement authority in writing of the change in enrollment or employment within three (3) days of the change; and

9. Require the offender to read and sign a form stating that the duty of the person to register under the Mary Rippy Violent Crime Offenders Registration Act has been explained to the offender.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 595 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Any registration with the Department of Corrections required by the Mary Rippy Violent Crime Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The name of the person 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 the registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to DNA testing shall be within thirty (30) days of notification by the Department. Registrants who already have valid DNA 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 offense for which the person is required to register pursuant to the Mary Rippy Violent Crime Offenders Registration Act, where the offense was committed, where the person was convicted or received the deferred or suspended sentence, and the name under which the person was convicted or received the sentence;

4. The name and location of each hospital or penal institution to which the person was committed for each offense subject to this act;

5. Where the person previously resided, where the person currently 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 this state; and

6. The name and address of any school where the person expects to enroll or is enrolled or employed for any length of time.

B. The Department of Corrections shall conduct address verification of each registered violent crime 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 authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement authority at that time. The local law enforcement authority shall forward the form to the 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 the Mary Rippy Violent Crime Offenders Registration Act. The Department of Corrections shall have the authority to determine whether a person registered is a habitual violent offender. If the offender has been determined to be a habitual violent offender by the Department of Corrections, the address verification shall be conducted every ninety (90) days.

C. Any person subject to the provisions of the Mary Rippy Violent Crime Offenders Registration Act who changes an address shall give written notification to the Department of Corrections and the local law enforcement authority of the change of address and the new address no later than three (3) business days prior to the

abandonment of or move from the current 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 by teletype or letter of the change in address of the offender. If the new address is in another state that has a registration requirement, the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender.

D. The Department of Corrections shall notify the district attorney's office and local law enforcement authority of the appropriate county, within forty-five (45) days if the Department is unable to verify the address of a violent crime offender. A local law enforcement authority may notify the district attorney's office whenever it comes to the attention of the local law enforcement authority that a violent crime offender is not in compliance with any provision of the Mary Rippy Violent Crime Offenders Registration Act.

E. 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.

F. The registration with the local law enforcement authority required by the Mary Rippy Violent Crime 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 full name of the person, 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.

G. The Department of Corrections shall maintain a file of all violent crime offender registrations. A copy of the information contained in the registration shall promptly be made available to state, county, and municipal law enforcement agencies. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments, and all campus police departments a list of those violent crime offenders registered and living in their county or jurisdiction.

H. Each local law enforcement authority shall make its violent crime offender registry available upon request, without restriction, at a cost that is no more than what is charged for other records provided by the local law enforcement authority pursuant to the Oklahoma Open Records Act.

I. Samples of blood or saliva for DNA testing authorized by this section shall be taken by employees or contractors of the Department of Corrections. The individuals shall be properly trained to collect blood or saliva samples. The Department of Corrections shall ensure the collection of samples is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days after 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 Fund.

J. 1. Any person who has been convicted of or received a deferred or suspended sentence for any crime required to register pursuant to this act and:

a. who is subsequently convicted of a crime or an attempt to commit a crime listed in subsection B of Section 3 of this act, or

b. who enters this state after November 1, 2004, 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 B of Section 3 of this act,

shall be subject to all of the registration requirements of the Mary Rippy Violent Crime Offenders Registration Act and shall be designated by the Department of Corrections as a habitual violent crime offender. A habitual violent crime offender shall be required to register for the lifetime of the habitual violent crime offender.

2. Upon registration of any person designated as a habitual violent crime 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 habitual violent crime offender,

b. any prior victim of the habitual violent crime 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 shall include, but is not limited to, the following information:

a. the name and physical address of the habitual violent crime offender,

b. a physical description of the habitual violent crime offender, including, but not limited to, age, height, weight and eye and hair color,

c. a description of the vehicle that the habitual violent crime offender is known to drive,

d. any conditions or restrictions upon the probation, parole or conditional release of the habitual violent crime offender,

e. a description of the primary and secondary targets of the habitual violent crime offender,

f. a description of the method of offense of the habitual violent crime offender,

g. a current photograph of the habitual violent crime offender, and

h. the name and telephone number of the probation or parole officer of the habitual violent crime offender.

4. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual violent crime offender available to any person upon request.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 596 of Title 57, unless there is created a duplication in numbering, reads as follows:

Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under any provision of the Mary Rippy Violent Crime Offenders Registration Act.

1. Nothing in the Mary Rippy Violent Crime Offenders Registration 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 the Mary Rippy Violent Crime Offenders Registration Act.

2. Persons collecting samples for DNA testing shall be immune from civil liabilities arising from the collection of blood and saliva samples.

3. 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 the Mary Rippy Violent Crime Offenders Registration Act.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 597 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. Each person in charge of a correctional institution from which a person subject to the provisions of the Mary Rippy Violent Crime Offenders Registration Act is released and each judge who defers or suspends the sentence of a person subject to the provisions of the Mary Rippy Violent Crime Offenders Registration Act shall prior to discharge or release of the person:

1. Explain to the person the duty to register pursuant to the Mary Rippy Violent Crime 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 the information to the Department of Corrections.

B. The Department of Public Safety shall issue written notification of the registration requirements of the Mary Rippy Violent Crime Offenders Registration Act to any person who enters this state from another jurisdiction and makes an initial application for a driver license to operate a motor vehicle in this state, or for a state identification card.

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 the Mary Rippy Violent Crime 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 offenders that reside in other states but work or attend school within the State of Oklahoma of the obligation to register pursuant to the Mary Rippy Violent Crime Offenders Registration Act and the procedure for registration of those offenders.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 598 of Title 57, unless there is created a duplication in numbering, reads as follows:

No person subject to the provisions of the Mary Rippy Violent Crime Offenders Registration Act shall furnish any false or misleading information in the registration required by the Mary Rippy Violent Crime Offenders Registration Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 599 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any person required to register pursuant to the provisions of the Mary Rippy Violent Crime Offenders Registration Act who violates any provision of the act shall, upon conviction, be guilty of a felony. Any person convicted of a violation of this section shall be punished by incarceration in a correctional facility for not more than five (5) years, a fine not to exceed Five Thousand Dollars ($5,000.00), or both such fine and imprisonment.

SECTION 10. AMENDATORY 57 O.S. 2001, Section 589, as amended by Section 35, Chapter 460, O.S.L. 2002 (57 O.S. Supp. 2003, Section 589), is amended to read as follows:

Section 589. A. It is unlawful for any person registered pursuant to the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children or to work on school premises, or for any person or business who offers or provides services to children or contracts for work to be performed on school premises to knowingly and willfully allow any employee to work with children or to work on school premises who is registered pursuant to the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Upon conviction for any violation of the provisions of this subsection, the violator shall be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars ($1,000.00). In addition, the violator may be liable for civil damages.

B. A person or business who offers or provides services shall ensure compliance with subsection A of this section as provided by Section 6-101.48 of Title 70 of the Oklahoma Statutes.

C. It is unlawful for any law enforcement agency to employ any person as a peace officer or criminal investigator who has received a verdict of guilty or pled guilty or nolo contendere to any offense required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, including those receiving a verdict of guilt, pleading guilty or nolo contendere as part of a deferred judgment or other provision of law authorizing a delayed or suspended judgment or sentence. Every person receiving a verdict of guilty or pleading guilty or nolo contendere to any offense required to register pursuant to the Sex ~~Offender Registry~~ Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act shall be prohibited from being certified by the Council on Law Enforcement Education and Training (CLEET) as a peace officer, private investigator, or security guard, and if at the time of the verdict or plea such

person has been previously CLEET certified such certification shall be revoked. Any violator shall be guilty of a misdemeanor upon conviction of noncompliance with the provisions of this subsection.

SECTION 11. AMENDATORY 59 O.S. 2001, Section 858-514, is amended to read as follows:

Section 858-514. The provisions of the Sex Offenders Registration Act~~, Section 581 et seq. of Title 57 of the Oklahoma Statutes,~~ and the Mary Rippy Violent Crime Offenders Registration Act shall not be construed as imposing a duty upon a person licensed under the Oklahoma Real Estate License Code to disclose any information regarding an offender required to register under such provision.

SECTION 12. This act shall become effective November 1, 2004.

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