

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

SENATE BILL 622

By: Smith

AS INTRODUCED

An Act relating to the Sex Offenders Registration Act; amending 57 O.S. 2001, Section 581, 582, as last amended by Section 34, Chapter 460, O.S.L. 2002, 583, as amended by Section 1, Chapter 153, O.S.L. 2002, 584, as amended by Section 2, Chapter 235, O.S.L. 2002, 585, 587, 589, as amended by Section 35, Chapter 460, O.S.L. 2002 (57 O.S. Supp. 2002, Sections 582, 583, 584 and 589), which relate to the Sex Offenders Registration Act; clarifying language; modifying legislative findings; modifying certain crimes for purpose of registration; making registration a requirement for certain inmates; providing for sexual predator registration; requiring court determination for certain registration; making certain registration open to public inspection; providing for annual registration; requiring the Department of Corrections to maintain certain information; modifying extent of information to be maintained; providing exception for address verification on certain confined offenders; 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 explain certain duty to register upon release of certain person; creating a civil commitment procedure for sex offenders; stating certain legislative findings; defining terms; establishing multidisciplinary team; providing certain immunity; providing certain notice, reviews and hearings; establishing certain review committee; requiring certain petition be filed; authorizing detention of defendant; providing due process; requiring commitment of adjudicated sexually violent predators; providing probable cause hearing; specifying certain defendant rights; requiring certain evaluation by certain professional or expert; requiring trial; authorizing certain representation and evaluations; authorizing certain payment for certain services; allowing jury trial; specifying procedure for selection of jury members; allowing appeal of certain determination; providing for certain commitment to the Department of Mental Health and Substance Abuse Services; providing for segregation in secure facility; authorizing certain interagency contract; stating effect of mistrial; requiring certain procedure in event of certain incompetency; making rules of evidence applicable; requiring specific findings before proceeding with hearing; requiring annual examination of mental condition; requiring certain report by certain

person; requiring annual notice for purpose of release consideration; providing for certain release hearing; restricting defendant's attendance at certain hearing; requiring certain burden of proof of state to maintain or obtain commitment; stating effect of frivolous petition; directing responsibility for costs and care; authorizing certain reimbursement; requiring certain notification to victims; construing certain provisions; providing for special allegations on certain offenses; requiring notice and hearing; prohibiting certain withdrawal; providing certain exception to withdrawal; providing for release and sealing of certain records; providing severability; providing for codification; 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. 2001, Section 581, is amended to read as follows:

Section 581. A. Sections 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 persons adjudicated guilty of these 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 the public safety.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 582, as last amended by Section 34, Chapter 460, O.S.L. 2002 (57 O.S. Supp. 2002, 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~~ this state 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 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 681 of Title 21 of the Oklahoma Statutes, if the offense involved sexual assault, Section 741 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation, Section 843.1 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation, and Sections 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 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~~ this state and who has received a deferred judgment in any court of 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 681, if the offense involved sexual assault, Section 741 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation, Section 843.1 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation, and Sections 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~~ any correctional institution ~~of the Department of Corrections~~ or jail in this state, unless the inmate is allowed access to the public through work release or other minimal custody placement.

D. ~~On the effective date of this act~~ As of November 1, 2002, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

SECTION 3. AMENDATORY 57 O.S. 2001, Section 583, as amended by Section 1, Chapter 153, O.S.L. 2002 (57 O.S. Supp. 2002, 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 on or after November 1, 1989, shall be registered as follows:

1. ~~With~~ Annually with the Department of Corrections with the initial registration to be 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 of the person from a ~~correctional~~ jail or penal institution, except as provided in subsection B of this section;

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 person enters the jurisdiction of the law enforcement authority; and

3. ~~With the Department of Corrections and the local law enforcement authority no~~ Not less than three (3) business days prior to abandoning or moving from the address of the previous registration with the Department of Corrections and the local law enforcement authority.

For purposes of this section, "local law enforcement authority" means:

- a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or
- b. 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
- c. the police or security department of any institution of higher learning within this state if the person:
  - (1) enrolls as a full-time or part-time student,
  - (2) is a full-time or part-time employee at an institution of higher learning, or
  - (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

B. Any person who has been convicted of ~~an~~ a sex offense or received a deferred judgment for 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 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 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, and annually thereafter, as provided in subsection A of this section, if the person remains in the jurisdiction;

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 law enforcement authority, and annually thereafter, as provided in subsection A of this section, if the person remains in the jurisdiction; 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. ~~Except for habitual or aggravated sex offenders, the person~~  
Each offender subject to the provisions of the Sex Offenders  
Registration Act shall be required to register ~~for a period of ten~~  
~~(10) years and the information received pursuant to the registration~~

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 at least a period of ten (10)  
years from the date of initial registration, except that 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 for predatory sex  
offenders.

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~~ The registration with the local  
~~law enforcement authority of each offender~~ required by this section  
shall be maintained by such each registration authority for at least  
~~ten (10)~~ in such a manner as to determine the number of years an  
offender has registered and is required to register, and to reflect  
other pertinent information about the offender. The registration  
records shall be kept for three (3) years following the conclusion  
of the mandatory registration period or three (3) years after  
notification of an offender's death.

E. When registering an offender as provided in this section the  
Department of Corrections ~~or~~ and 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~~ a  
residence address, the offender shall give notice of the move and  
the new residence address to the ~~Department of Corrections~~  
registration authority in writing no later than three (3) days  
before the offender establishes a new residence address or is  
temporarily domiciled at the new address;

3. Inform the offender that if the offender changes ~~address~~  
residence to another state or is temporarily residing in 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, if the new state has a registration requirement, 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, then the offender has a duty to register as a sex offender in that state, if the new 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 then the offender has a duty to register as a sex offender in that state, if the new state has a registration requirement;

6. Inform the offender that if the offender enrolls in any school within this state as a full-time or part-time student, then the offender has a duty to register as a sex 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, then the offender has a duty to notify the Department of Corrections and the local law enforcement authority in writing of such 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, then the offender shall



notify the Department of Corrections and the local law enforcement authority in writing of such 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 this act~~ pursuant to the Sex Offenders Registration Act has been explained.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 584, as amended by Section 2, Chapter 235, O.S.L. 2002 (57 O.S. Supp. 2002, 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 shall ~~be~~ require registration 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, 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 or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to testing for individuals registering shall be within thirty (30) days of registration. 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 or any form of probation, where the offense was committed, where the person was convicted or received the suspended sentence or any form of probation, and the name under which the

person was convicted or received the suspended sentence or probation;

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

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 ~~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 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 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 punishable by Section 587 of this title. ~~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 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~~ 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, similar to the information required by the Department of Corrections.~~

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 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 the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender~~ is judicially determined to be a predatory sex offender shall be listed in a predatory sex offender registry, by the Department of Corrections, which shall be open to public inspection and reproduction and accessible through Internet access. A nominal copy fee may be charged for access to or reproduction of any registration records.

E. The Department of Corrections shall maintain ~~a file of~~ all sex offender registrations as provided in the Sex Offenders Registration Act. A copy of the information contained in the registration file 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 upon request or as provided by law. ~~Said 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~~ periodically provide all municipal police departments and all county sheriff departments a list of those sex offenders currently registered ~~and~~ as living in their respective county for verification to the local registry.

F. Each ~~local law enforcement agency~~ registration authority required to maintain sex offender registrations 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~~ registration authority pursuant to the Oklahoma 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 or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. ~~Said~~ The individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples 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~~ that samples collected 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 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, 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,~~

~~shall be subject to all of the registration requirements of this 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 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 C 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 for the lifetime of the aggravated sex offender~~  
On the effective date of this act, any registration designations of habitual or aggravated sex offender imposed by the Department of Corrections by prior operation of law shall be removed from the registry; provided, however, the Department may indicate on the sex offender registry if a person has been released from registration after a mandatory ten-year registration period and subsequently registered for another sex offense.

~~3. I.~~ On and after the effective date of this act, at the time of sentencing an offender for any sex offense required to be registered pursuant to the Sex Offenders Registration Act, the court may on its own motion, and shall upon the motion of the district attorney, make a judicial determination whether the offender is a predatory sex offender who must be registered as such for life when

there is a compelling interest of the state to protect the public against the acts of the defendant. In making a judicial determination of a sexual predator, the court shall consider, but not be limited to:

1. Whether any victim is a child under ten (10) years of age;
2. Whether the offender has one or more prior convictions for any sex offense in this state or another state where the victim was a child;
3. Whether the offender has a history of violent offenses and the sex offense was violent;
4. Whether the offender has a history of sex offenses;
5. Whether the offender has any mental condition, abnormality, disability, or other disability which represents a continuing threat to the public of sex crimes by the defendant;
6. Whether the sex offense was particularly heinous or atrocious; and
7. Whether the sex offense was committed in association with any offense of kidnapping, trafficking in children, or child stealing.

At the hearing, the court may allow testimony and evidence or may rely on the testimony and evidence presented in the trial proceedings. The defendant shall be allowed to present evidence in defense. The determination of any defendant as a predatory sex offender by the court shall be entered upon the judgment and sentence and shall require registration pursuant to the Sex Offenders Registration Act as a sexual predator for life.

J. 1. Upon registration of any person designated as a ~~habitual~~ or ~~aggravated~~ predatory sex offender, pursuant to ~~this~~ subsection I of this section, 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.~~ 2. 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 terms and conditions of the sentence 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~~ used to entice victims or commit the 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, if released to the community.

~~5.~~ 3. The local law enforcement authority shall make the notification provided for in this subsection regarding a ~~habitual or~~



~~aggravated~~ predatory sex offender available to any person upon request.

~~1.~~ K. 1. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct ~~under this act~~ pursuant to any duty or obligation specified in the Sex Offenders Registration Act.

~~1.~~ 2. Nothing in ~~this act~~ the Sex 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 this act.

~~2.~~ 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 ~~this act~~ the Sex Offenders Registration Act.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 585, 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 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~~ 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 pursuant to paragraphs 2 and 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~~ 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 offenders that reside in other states ~~but work or attend while working or attending school within the State of Oklahoma~~ this state of the obligation to register ~~pursuant to this act~~ and the procedure for registration ~~of those offenders~~.

SECTION 6. AMENDATORY 57 O.S. 2001, 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~~ act shall be punished by incarceration in a correctional facility for not more than five (5)

years, a fine not ~~to exceed~~ exceeding Five Thousand Dollars (\$5,000.00), or both such fine and imprisonment.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 589, as amended by Section 35, Chapter 460, O.S.L. 2002 (57 O.S. Supp. 2002, 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 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 currently registered pursuant to the ~~Oklahoma~~ Sex 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~~ requiring the offender to register pursuant to the Sex 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~~ requiring the offender to register pursuant to the Sex Offender Registry 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 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that a small but extremely dangerous group of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for involuntary treatment pursuant to treatment for mentally ill persons as defined in Title 43A of the Oklahoma Statutes, which is intended to provide short-term treatment to individuals with serious mental disorders and then return such persons to the community. In contrast to persons appropriate for civil commitment under Title 43A of the Oklahoma Statutes, sexually violent predators generally have antisocial personality features which are not amenable to existing mental illness treatment modalities, and those features render such persons likely to engage in sexually violent behavior. The Legislature further finds that a sexually violent predator likelihood of engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment procedure pursuant to treatment for mentally ill persons is inadequate to address the risk these sexually violent predators pose to society. The Legislature further finds that the prognosis for rehabilitating sexually violent predators in a prison setting is poor, the treatment needs of this population are long-term and the treatment modalities for this population are different from the traditional treatment modalities for persons appropriate for commitment for mental illness, and therefore a civil commitment procedure for the long-term care and

treatment of sexually violent predators is found to be necessary by the Legislature.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in Sections 9 through 23 of this act:

1. "Agency with jurisdiction" means that agency which releases upon lawful order or authority a person serving a sentence or term of confinement and includes the Department of Corrections and the Pardon and Parole Board;

2. "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity of a person which predisposes a person to commit sexually violent offenses to a degree that the person constitutes a menace to the health and safety of others;

3. "Predatory acts" means acts directed toward strangers or individuals with whom relationships have been established or promoted for the primary purpose of victimization;

4. "Sexually motivated crime" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification;

5. "Sexually violent offense" means:

- a. rape as defined in Sections 1111 and 1114 of Title 21 of the Oklahoma Statutes,
- b. forcible sodomy as defined in Section 888 of Title 21 of the Oklahoma Statutes,
- c. solicitation of a child as defined in subsection B of Section 1021 and Section 1021.2 of Title 21 of the Oklahoma Statutes,
- d. sexual exploitation of a child as defined in Section 1021.3 of Title 21 of the Oklahoma Statutes,

- e. lewd or indecent proposals to a child as defined in Section 1123 of Title 21 of the Oklahoma Statutes,
- f. rape by instrumentation as defined in Section 1111.1 of Title 21 of the Oklahoma Statutes,
- g. sexual abuse of a child as defined in Section 7115 of Title 10 of the Oklahoma Statutes and Section 7102 of Title 10 of the Oklahoma Statutes,
- h. any conviction for a felony offense in effect at any time prior to the effective date of this act that is comparable to a sexually violent offense as defined in subparagraphs a through g of this paragraph or any federal or other state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this section,
- i. an attempt, conspiracy or criminal solicitation of a sexually violent offense as defined in this section, or
- j. any act which either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to the provisions of this act has been determined beyond a reasonable doubt to have been sexually motivated; and

6. "Sexually violent predator" means any person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in the predatory act of sexual violence if not confined in a secure facility.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. When it appears that a person may meet the criteria of a sexually violent predator as defined in Section 9 of this act, the

agency with jurisdiction shall give written notice of such to the Attorney General and the multidisciplinary team established in subsection D of this section, ninety (90) days prior to:

1. The anticipated release from total confinement of a person who has been convicted of a sexually violent offense, except that in the case of a person who is returned to prison for no more than ninety (90) days as a result of revocation of postimprisonment supervision, written notice shall be given as soon as practicable following the person's readmission to prison;

2. Release of a person who has been charged with a sexually violent offense and who has been determined to be incompetent to stand trial pursuant to lawful authority;

3. Release of a person who has been found not guilty by reason of insanity of a sexually violent offense pursuant to lawful authority; or

4. Release of a person who has been found not guilty of a sexually violent offense.

B. The agency with jurisdiction shall inform the Attorney General and the multidisciplinary team established in subsection D of this section of the following:

1. The person's name, identifying factors, anticipated future residence, and offense history; and

2. Documentation of institutional adjustment and any treatment received.

C. The agency with jurisdiction, its employees, officials, members of the multidisciplinary team established in subsection D of this section, members of the prosecutor's review committee appointed as provided in subsection E of this section, and individuals contracting, appointed or volunteering to perform services pursuant to the provisions of this act shall be immune from liability for any good-faith conduct under this act.

D. The Secretary of the Department of Safety and Security shall establish a multidisciplinary team which may include individuals from other state agencies to review available records of each person referred to such team pursuant to subsection A of this section. The team, within thirty (30) days of receiving notice, shall assess whether or not the person meets the definition of a sexually violent predator as established in Section 9 of this act. The team shall notify the Attorney General of its assessment.

E. The Attorney General shall appoint a prosecutor's review committee to review the records of each person referred to the Attorney General pursuant to subsection A of this section. The prosecutor's review committee shall assist the Attorney General in the determination of whether or not the person meets the definition of a sexually violent predator. The assessment of the multidisciplinary team shall be made available to the Attorney General and the prosecutor's review committee.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

When it appears that a person presently confined may be a sexually violent predator and the multidisciplinary team and the prosecutor's review committee appointed as provided in Section 10 of this act has determined that the person meets the definition of a sexually violent predator, the Attorney General may file a petition, within seventy-five (75) days of the date the Attorney General received the written notice by the agency of jurisdiction, as provided in subsection A of Section 10 of this act, alleging that the person is a sexually violent predator and stating sufficient facts to support such allegation.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.4 of Title 57, unless there is created a duplication in numbering, reads as follows:



A. Upon filing a petition under Section 11 of this act, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made, the judge shall direct that person be taken into custody unless the person is already in custody. If the person is in custody by a law enforcement agency or the Department of Corrections, the court shall direct that person be held for purposes of the proceedings established by this act.

B. Within seventy-two (72) hours after a person is taken into custody or the custodial agency is notified pursuant to subsection A of this section, such person shall be provided with notice of, and an opportunity to appear in person at, a hearing to contest probable cause as to whether the detained person is a sexually violent predator. At this hearing the court shall:

1. Verify the person's identity; and
2. Determine whether probable cause exists to believe that the person is a sexually violent predator. The state may rely upon the petition and supplement the petition with additional documentary evidence or live testimony.

C. At the probable cause hearing as provided in subsection B of this section, the person shall have the following rights in addition to the rights previously specified:

1. To be represented by counsel;
  2. To present evidence on such person's behalf;
  3. To cross-examine witnesses who testify against such person;
- and
4. To view and copy all petitions and reports in the court file.

D. If the court finds probable cause exists that the person is a sexually violent predator, the court shall direct that the person be transferred to an appropriate secure facility, including, but not limited to, a county jail, for an evaluation as to whether the

person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be a qualified expert or a professional qualified to conduct such an examination.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.5 of Title 57, unless there is created a duplication in numbering, reads as follows:

Within sixty (60) days after the completion of any hearing in which probable cause is found pursuant to Section 12 of this act, the court shall conduct a trial to determine whether the person is a sexually violent predator. The trial may be continued upon the request of either party and a showing of good cause, or by the court on its own motion in the due administration of justice, and when the respondent will not be substantially prejudiced. At all stages of the proceedings under this act, any person subject to this act shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist such person. Whenever any person is subjected to an examination under this act, such person may retain qualified experts or professionals to perform an examination on such person's behalf. When the person wishes to be examined by a qualified expert or professional of such person's own choice, such examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court, upon the person's request, shall determine whether the services are necessary and set reasonable compensation for such services. If the court determines that the services are necessary and the qualified expert's or professional's requested compensation for such services is reasonable, the court shall assist the person in obtaining an expert or professional to perform an examination or participate in the trial on the person's behalf. The court shall approve payment for such services upon the filing of a certified claim for compensation

supported by a written statement specifying the time expended, services rendered, expenses incurred on behalf of the person and compensation received in the same case or for the same services from any other source. The person, the Attorney General, or the judge shall have the right to demand that the trial be before a jury. Such demand for the trial to be before a jury shall be filed, in writing, at least four (4) days prior to trial. Number and selection of jurors shall be determined as provided by law for criminal trials. If no demand is made, the trial shall be before the court.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.6 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. A jury determination that the person is a sexually violent predator must be unanimous. The determination may be appealed. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the Department of Mental Health and Substance Abuse Services for control, care and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. The control, care and treatment shall be provided at a facility operated by the Department of Mental Health and Substance Abuse Services. At all times, persons committed for control, care and treatment to the Department of Mental Health and Substance Abuse Services pursuant to this act shall be kept in a secure facility and such persons shall be segregated at all times from any other patient under the supervision of the Department of Mental Health and Substance Abuse Services. The Department of Mental Health and Substance Abuse Services is authorized to enter into an interagency agreement with the Department of Corrections for the confinement of such persons.

Such persons who are in the confinement of the Department of Corrections pursuant to an interagency agreement shall be housed and managed separately from other offenders in the custody of the Department of Corrections, except for occasional instances of supervised incidental contact. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person's release. Upon a mistrial, the court shall direct that the person be held at an appropriate secure facility, including, but not limited to, a county jail, until another trial is conducted. Any subsequent trial following a mistrial shall be held within ninety (90) days of the previous trial, unless such subsequent trial is continued as provided in Section 13 of this act.

B. If commitment of a person charged with a sexually violent offense who has been found incompetent to stand trial and is to be released from custody is sought pursuant to the provisions of this act, the court shall first hear evidence and determine whether the person did commit the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on such person's own behalf, the extent to which the evidence could be reconstructed without the assistance of the person and the strength of the prosecution's case. If after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act

or acts charged, the court shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to the provisions of this act.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.7 of Title 57, unless there is created a duplication in numbering, reads as follows:

Each person committed pursuant to the provisions of this act shall have a current examination of the person's mental condition made once every year by the Department of Mental Health and Substance Abuse Services. The person may retain, or if the person is indigent and so requests the court may appoint, a qualified expert or professional to examine such person, and such expert or professional shall have access to all records concerning the person. The yearly report shall be provided to the court that committed the person under this act. The court shall conduct an annual review of the status of the committed person. Nothing contained in this act shall prohibit the person from otherwise petitioning the court for discharge at this hearing. The Commissioner of the Department of Mental Health and Substance Abuse Services shall provide the committed person with an annual written notice of the person's right to petition the court for release over the Commissioner's objection. The notice shall contain a waiver of rights. The Commissioner shall forward the notice and waiver form to the court with the annual report. The committed person shall have a right to have an attorney to represent the person at the hearing, but the person is not entitled to be present at the hearing. At the hearing, if the court determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and will not engage in acts of sexual violence if discharged, then the court shall set a special hearing on the issue. At the special hearing, the committed person shall be entitled to be present and entitled to the benefit of all

constitutional protections that were afforded the person at the initial commitment proceedings. The Attorney General shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have a qualified expert or professional evaluate the person on the person's behalf and the court shall appoint an expert or professional if the person is indigent and requests such evaluation. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released is likely to engage in acts of sexual violence.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.8 of Title 57, unless there is created a duplication in numbering, reads as follows:

The involuntary detention or commitment of any person pursuant to the provisions of Sections 9 through 23 of this act shall conform to constitutional requirements for care and treatment.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.9 of Title 57, unless there is created a duplication in numbering, reads as follows:

If the Commissioner of the Department of Mental Health and Substance Abuse Services determines that a person's mental abnormality or personality disorder has so changed that the person is not likely to commit predatory acts of sexual violence if released, the Commissioner shall authorize the person to petition the court for release. The petition shall be served upon the court and the Attorney General. The court, upon receipt of the petition for release, shall order a hearing to be held within thirty (30) days. The Attorney General shall represent the state and shall have the right to have the petitioner examined by a qualified expert or professional of such attorney's choice. The hearing shall be before

a jury if demanded by either the petitioner or the Attorney General. The burden of proof shall be upon the state to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and if discharged is likely to commit predatory acts of sexual violence.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.10 of Title 57, unless there is created a duplication in numbering, reads as follows:

Nothing in Sections 9 through 23 of this act shall prohibit a person from filing a petition for discharge at any time. However, if a person has previously filed a petition for discharge without the approval of the Commissioner of the Department of Mental Health and Substance Abuse Services and the court determined either upon review of the petition or following a hearing that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that the person was safe to be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from the committed person without the Commissioner's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and, if so, shall deny the petition without a hearing.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.11 of Title 57, unless there is created a duplication in numbering, reads as follows:

The Commissioner of the Department of Mental Health and Substance Abuse Services shall be responsible for all costs relating to the evaluation and treatment of persons committed to the Department's custody under any provision of Sections 9 through 23 of

this act. Reimbursement may be obtained by the Department of Corrections for the cost of care and treatment of persons committed to the Department of Correction's custody under this act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.12 of Title 57, unless there is created a duplication in numbering, reads as follows:

In addition to any other information required to be released under this act, prior to the release of a person committed under Sections 9 through 23 of this act, the Commissioner of the Department of Mental Health and Substance Abuse Services and the Secretary of the Department of Safety and Security shall each give written notice of such release to any victim who is alive and whose address is known to the Commissioner and Secretary or, if the victim is deceased, to the victim's family, if the family's address is known. Failure to notify shall not be a reason for postponement of release. Nothing in this section shall create a cause of action against the state or an employee of the state acting within the scope of the employee's position as a result of the failure to notify pursuant to this section.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.13 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. The district attorney shall file a special allegation of sexual motivation within ten (10) days after arraignment in every criminal case other than sex offenses defined in Section 9 of this act, when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

B. In a criminal case wherein there has been a special allegation as provided in this section, the state shall prove beyond a reasonable doubt that the accused committed the crime with a



sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is held, the jury, if it finds the defendant guilty, also shall find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in Section 9 of this act.

C. The district attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.14 of Title 57, unless there is created a duplication in numbering, reads as follows:

In order to protect the public, relevant information and records which are otherwise confidential or privileged shall be released to the agency with jurisdiction or the Attorney General for the purpose of meeting the notice requirement provided in Section 10 of this act and determining whether a person is or continues to be a sexually violent predator.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.15 of Title 57, unless there is created a duplication in numbering, reads as follows:

Any psychological reports, drug and alcohol reports, treatment records, reports of the diagnostic center, medical records or victim impact statements which have been submitted to the court or admitted into evidence pursuant to any provision of this act shall be part of the record but shall be sealed and opened only on order of the court or as otherwise provided in this act.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.16 of Title 57, unless there is created a duplication in numbering, reads as follows:

If any provision of Sections 9 through 23 of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application and, to this end, the provisions of this act are severable.

SECTION 25. This act shall become effective July 1, 2003.

SECTION 26. 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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