

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 2569

By: Kiesel

COMMITTEE SUBSTITUTE

An Act relating to sex offenders; amending 57 O.S. 2001, Section 584, as last amended by Section 9, Chapter 465, O.S.L. 2005 (57 O.S. Supp. 2005, Section 584), which relates to the Sex Offenders Registration Act; modifying address verification requirements; authorizing address verification by local law enforcement; requiring notification to local law enforcement of change in status; clarifying scope of liability; requiring determination of numeric risk level prior to release; directing certain information and numeric risk level be forwarded to certain entities; directing court to assign numeric risk level and provide certain notification; requiring verification of certain information by local law enforcement; requiring publication of certain information; providing an exception; providing for duplicate notice; directing certain information be included in notice; requiring notice be provided to certain entities; authorizing release of information to certain persons; requiring verification of numeric risk level under certain circumstances; requiring written notice to certain persons under certain circumstances; stating notice requirements; providing for establishment of procedures; requiring payment of certain costs; providing for establishment of risk assessment review committee; stating membership; stating function of committee; providing guidelines for selection of screening tool; providing for override of numeric risk level under certain circumstances; providing exemption to certain act; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 9, Chapter 465, O.S.L. 2005 (57 O.S. Supp. 2005, Section 584), is amended to read as follows:

Section 584. A. Any registration with the Department of Corrections required by the Sex Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The ~~person's~~ 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, 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 for which the person has been convicted or 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 or penal institution to which the person was committed for each offense listed in Section 582 of this title;

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. The Department of Corrections shall conduct address verification of each registered 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~~ authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement ~~agency~~ authority at that time. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address. Upon confirming the information contained within the verification form, the local law enforcement ~~agency~~ 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 Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department of Corrections, the address verification shall be conducted every ninety (90) days. The Department of Corrections shall notify the district attorney's office and local law enforcement ~~agency~~ authority of the appropriate county, within forty-five (45) days if unable to verify the address of a sex offender. A local law enforcement ~~agency~~ authority may notify the district attorney's office whenever it comes to the attention of the local law enforcement ~~agency~~ authority that a sex offender is not in compliance with any provisions of this act. A local law enforcement authority designated as the primary registration authority of the person may, at any time, mail 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 that mailed the form within ten (10) days after receipt of the form. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address; and

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

7. The numeric risk level of the person.

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 the Sex Offenders Registration Act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The ~~person's~~ full name 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, and the numeric risk level of the person.

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.

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~~ the:

1. The Department of Corrections and the local law enforcement authority shall notify the new local law enforcement authority by teletype, electronic transmission, or letter of the change of address;

2. The offender shall notify the new local law enforcement authority of any previous registration; and

3. 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.

E. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies, the State Superintendent of Public Instruction, and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments,

all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with 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 or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

F. Each local law enforcement ~~agency~~ authority 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 local law enforcement ~~agency~~ authority pursuant to the Oklahoma Open Records Act.

When a local law enforcement ~~agency~~ authority 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 or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

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 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 is 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 G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in

Section 7115 of Title 10 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department of Corrections as an aggravated sex offender. An aggravated sex offender shall be required to register for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

- a. the family of the habitual or aggravated sex offender,
- b. any prior victim of the habitual or aggravated sex offender,
- c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent, and
- d. a nursing facility, a specialized facility, a residential care home, a continuum-of-care facility, an assisted living center, and an adult day care facility.

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

- a. the name and physical address of the habitual or aggravated sex offender,
- b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,

- c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,
- d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,
- e. a description of the primary and secondary targets of the habitual or aggravated sex offender,
- f. a description of the method of offense of the habitual or aggravated sex offender,
- g. a current photograph of the habitual or aggravated sex offender, ~~and~~
- h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender, and
- i. the numeric risk level of the person.

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated sex offender available to any person upon request.

I. If the probation and parole officer supervising a person subject to registration, receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or educational status, higher educational status, incarceration, or terms of release, the supervising officer or administrator shall notify the appropriate local law enforcement authority or authorities of that change.

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

1. Nothing in 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 releasing information to the public or for failing to release information in accordance with the Sex Offenders Registration Act.

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

SECTION 2. 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:

Before a person, who will be subject to the provisions of the Sex Offenders Registration Act, is due to be released from a correctional institution, the Department of Corrections shall determine the level of risk of the person to the community using the sex offender screening tool developed or selected pursuant to Section 6 of this act, and assign to the person a numeric risk level of one, two, or three.

SECTION 3. 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. No less than seven (7) days prior to the date on which a person, who will be subject to the provisions of the Sex Offenders Registration Act, is to be released from a correctional institution, the person in charge of the correctional institution shall forward the registration information, as provided in subsection A of Section 585 of Title 57 of the Oklahoma Statutes, and numeric risk level to the Department of Corrections and to:

1. The local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside within this state; or

2. The local law enforcement authority that is identified by the correctional institution as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

B. If a person, who will be subject to the provisions of the Sex Offenders Registration Act, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991a of Title 22 of the Oklahoma Statutes, the court shall, on the day of pronouncing the judgment and sentence:

1. Make a determination of the numeric risk level of the person using the sex offender screening tool developed or selected pursuant to Section 6 of this act;

2. Assign to the person a numeric risk level of one, two, or three; and

3. Notify the person of the obligation to register as a sex offender as provided for in Section 585 of Title 57 of the Oklahoma Statutes.

SECTION 4. 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:

A. Not more than seven (7) days after receiving any registration information and numeric risk level of a person, the local law enforcement authority shall verify the basis on which the person is subject to registration pursuant to the Sex Offenders Registration Act, and the numeric risk level of the person.

B. Upon verification, the local law enforcement authority shall immediately cause to be published notification in the newspaper of largest paid circulation located in the city or municipality in which the person subject to registration intends to reside or, if there is no newspaper of paid circulation located in that city or

municipality, in the newspaper with the largest paid circulation in the county; provided, however, a local law enforcement authority shall not publish notice in a newspaper if the person subject to registration is assigned a numeric risk level of one. If the local law enforcement authority publishes notice under this subsection, the local law enforcement authority shall publish a duplicate notice in the newspaper, with any necessary corrections, during the week immediately following the week of initial publication.

C. The local law enforcement authority shall include in the notice by publication the following information:

1. The full name, age, and gender of the person;
2. A brief description of the offense for which the person is subject to registration;
3. The municipality, numeric street address or physical address, if a numeric street address is not available, and zip code number where the person intends to reside;
4. Either a recent photograph of the person or the Internet address of a website on which the photograph of the person is accessible free of charge; and
5. The numeric risk level assigned to the person and the guidelines used to determine the risk level of a person subject to registration.

D. The local law enforcement authority shall also immediately provide notice by mail to the office of the superintendent of the school district and to the administrator of any private primary or secondary school located in the public school district in which the person subject to registration intends to reside. On receipt of a notice under this paragraph, the superintendent or administrator shall release the information contained in the notice to appropriate school district personnel including, but not limited to, campus police officers and security personnel, principals, nurses, and counselors.

SECTION 5. 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 receipt of notice pursuant to the provisions of Section 3 of this act, that a person subject to registration is to be released from a correctional institution, has been placed on any form of probation or parole, or intends to move to a new residence in this state, the Department of Corrections shall verify the numeric risk level assigned to the person. If the person is assigned a numeric risk level of three, the Department shall, not more than seven (7) days after the date on which the person is released or not more than seven (7) days after the date on which the person moves, provide written notice mailed or delivered to at least each residential address within a one-mile radius, in an area that has not been subdivided, or a three-block area, in an area that has been subdivided, of the place where the person intends to reside.

B. The Department shall include in the notice any information that is public information.

C. The Department shall establish procedures for a person with respect to whom notice is provided under subsection A of this section to pay to the Department all costs incurred by the Department in providing the notice. The person shall pay those costs in accordance with the procedures established under this subsection.

SECTION 6. 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:

A. The Department of Corrections shall establish a risk assessment review committee composed of at least five members, each of whom is a state employee whose service on the review committee is in addition to the regular duties of the employee. The review committee, to the extent feasible, should include the following:

1. One member having experience in law enforcement;
2. One member having experience as a sex offender treatment provider; and
3. One member having experience working with victims of sex offenses.

B. The risk assessment review committee functions in an oversight capacity. The committee shall:

1. Develop or select from among existing tools, a sex offender screening tool to be used in determining the level of risk of a person subject to registration pursuant to the provisions of the Sex Offenders Registration Act;
2. Ensure that staff is trained on the use of the screening tool;
3. Monitor the use of the screening tool in the state; and
4. Analyze other screening tools as they become available and revise or replace the existing screening tool, if warranted.

C. The sex offender screening tool must use an objective point system under which a person is assigned a designated number of points for each of the various factors. In developing or selecting the sex offender screening tool, the risk assessment review committee shall use or shall select a screening tool that may be adapted to use the following general guidelines:

1. Level one (low): a designated range of points on the sex offender screening tool indicating that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

2. Level two (moderate): a designated range of points on the sex offender screening tool indicating that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and

3. Level three (high): a designated range of points on the sex offender screening tool indicating that the person poses a serious

danger to the community and will continue to engage in criminal sexual conduct.

D. The risk assessment review committee, the Department of Corrections, or a court may override a risk level only if the entity:

1. Believes that the risk level assessed is not an accurate prediction of the risk the offender poses to the community; and

2. Documents the reason for the override in the case file of the offender.

E. All records and files relating to a person for whom a court, or the Department of Corrections is required under this act to determine a level of risk, shall be released to the court or the Department of Corrections as appropriate, for the purpose of determining the risk level of the person.

F. The provisions of the Oklahoma Open Meeting Act do not apply to a meeting of the risk assessment review committee.

SECTION 7. This act shall become effective November 1, 2006.

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