STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 870 By: Leftwich

COMMITTEE SUBSTITUTE

[prisons and reformatories - public health and safety - registration of sex offenders – codification - effective date –

emergency]

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 49, Chapter 3, O.S.L. 2003 (57 O.S. Supp. 2004, 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 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 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 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 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; 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.

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, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address; and

2. A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable.

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

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 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.

E. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. 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.

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

When a law enforcement agency sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer."

G. Samples of blood 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, ~~and~~

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.

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

I. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under 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 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. AMENDATORY 63 O.S. 2001, Section 1-1909, is amended to read as follows:

Section 1-1909. Every facility shall conspicuously post for display in an area of its offices accessible to residents, employees and visitors the following:

1. Its current license;

2. A description, provided by the State Department of Health, of complaint procedures established under this act and the name, address and telephone number of a person authorized by the Department to receive complaints. A copy of the complaint procedure shall also be given to each resident or in certain cases, the court appointed guardian;

3. A copy of any order pertaining to the facility issued by the Department or a court which is currently in effect; ~~and~~

4. A copy of any notification from the local law enforcement authority of the registration of any person designated as a habitual

or aggravated sex offender pursuant to the provisions of subsection H of Section 584 of Title 57 of the Oklahoma Statutes; and

5. A list of the material available for public inspection under Section ~~10~~ 1-1910 of this ~~act~~ title.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1-1950.1a of Title 63, unless there is created a duplication in numbering, reads as follows:

A. 1. Before any facility accepts an offer from a volunteer to provide services at a nursing facility, a specialized facility, a residential care home, continuum of care facility, assisted living center or adult day care facility, the facility shall provide for a criminal history background check to be made on the volunteer.

2. The requirement of a criminal history background check shall apply only to a volunteer who:

a. will have unsupervised contact with residents,

b. has a regular and ongoing assignment at the facility, or

c. will transport residents in vehicles.

3. The requirement of a criminal history background check may be waived if the volunteer:

a. is fifteen (15) years of age or younger,

b. is on ombudsman,

c. will have supervised contact with residents, or

d. provides less than four (4) hours of service per month or eight (8) hours of service or less, one day, every six (6) months.

B. As used in this section, "volunteer" means any person who provides services without cost or compensation to a nursing facility, a specialized facility, a residential care home, a continuum of care facility, an assisted living center or an adult day care facility.

SECTION 4. AMENDATORY Section 2, Chapter 470, O.S.L. 2002 (63 O.S. Supp. 2004, Section 1-1950.6), is amended to read as follows:

Section 1-1950.6 A. ~~Sections 2~~ Section 1-1950.6 through ~~5~~ 1-1950.9 of this ~~act~~ title shall ~~be~~ become effective September 1, ~~2003, subject to the availability of funds~~ 2005.

B. ~~For the purposes of Sections 2 through 5 of~~ As used in this act:

1. "Board" means the State Board of Health;

2. "Bureau" means the Oklahoma State Bureau of Investigation;

3. "Department" means the State Department of Health;

4. "Nursing facility" means a nursing facility and specialized facility as such terms are defined in Section 1-1902 of Title 63 of the Oklahoma Statutes;

5. "Nontechnical services worker" means a person employed by a nursing facility to provide, for compensation, nontechnical services in or upon the premises of a nursing facility. The term "nontechnical services worker" shall not include a nurse aide, or any person who is exempt from the criminal arrest check provisions of Section 1-1950.1 of Title 63 of the Oklahoma Statutes; and

6. "Nontechnical services" means services that:

a. are performed in or on the premises of a nursing facility and that are predominantly physical or manual in nature, and

b. involve or may involve patient contact including, but not limited to, housekeeping, janitorial or maintenance services, food preparation and administrative services.

SECTION 5. This act shall become effective July 1, 2005.

SECTION 6. 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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