

CS for EHB 1963

1 THE STATE SENATE  
2 Wednesday, April 13, 2005

3 Committee Substitute for  
4 ENGROSSED  
5 House Bill No. 1963

6 COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1963 - By: STEELE,  
7 HAMILTON, DePUE, DUNCAN, MORRISSETTE, NANCE, THOMPSON and WESSELHOFT  
8 of the House and LEFTWICH and CRUTCHFIELD of the Senate.

9 [ prisons and reformatories and public health and safety -  
10 creating Long-Term Care Security Act - amending Title 57 and  
11 Title 63 - notification of sex offenders and violent  
12 offenders -  
13 emergency ]

14 SECTION 1. NEW LAW A new section of law not to be  
15 codified in the Oklahoma Statutes reads as follows:

16 This act shall be known and may be cited as the "Long-Term Care  
17 Security Act".

18 SECTION 2. AMENDATORY 57 O.S. 2001, Section 584, as last  
19 amended by Section 49, Chapter 3, O.S.L. 2003 (57 O.S. Supp. 2004,  
20 Section 584), is amended to read as follows:

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

25 1. The person's name and all aliases used or under which the  
26 person has been known;

1           2. A complete description of the person, including a photograph  
2 and fingerprints, and when requested by the Department of  
3 Corrections, such registrant shall submit to a blood or saliva test  
4 for purposes of a deoxyribonucleic acid (DNA) profile. Submission  
5 to testing for individuals registering shall be within thirty (30)  
6 days of registration. Registrants who already have valid samples on  
7 file in the Oklahoma State Bureau of Investigation (OSBI) DNA  
8 Offender Database shall not be required to submit duplicate samples  
9 for testing;

10           3. The offenses listed in Section 582 of this title for which  
11 the person has been convicted or the person received a suspended  
12 sentence or any form of probation, where the offense was committed,  
13 where the person was convicted or received the suspended sentence or  
14 any form of probation, and the name under which the person was  
15 convicted or received the suspended sentence or probation;

16           4. The name and location of each hospital or penal institution  
17 to which the person was committed for each offense listed in Section  
18 582 of this title;

19           5. Where the person previously resided, where the person  
20 currently resides, how long the person has resided there, how long  
21 the person expects to reside there, and how long the person expects  
22 to remain in the county and in this state. The Department of  
23 Corrections shall conduct address verification of each registered

1 sex offender on an annual basis by mailing a nonforwardable  
2 verification form to the last reported address of the person. The  
3 person shall return the verification form in person to the local law  
4 enforcement agency of that jurisdiction within ten (10) days after  
5 receipt of the form and may be photographed by the local law  
6 enforcement agency at that time. The local law enforcement agency  
7 shall forward the form to the Department of Corrections within three  
8 (3) days after receipt of the form. The verification form shall be  
9 signed by the person and state the current address of the person.  
10 Failure to return the verification form shall be a violation of the  
11 Sex Offenders Registration Act. If the offender has been determined  
12 to be a habitual or aggravated sex offender by the Department of  
13 Corrections, the address verification shall be conducted every  
14 ninety (90) days. The Department of Corrections shall notify the  
15 district attorney's office and local law enforcement agency of the  
16 appropriate county, within forty-five (45) days if unable to verify  
17 the address of a sex offender. A local law enforcement agency may  
18 notify the district attorney's office whenever it comes to the  
19 attention of the local law enforcement agency that a sex offender is  
20 not in compliance with any provisions of this act; and

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

1           B. Conviction data and fingerprints shall be promptly  
2 transmitted at the time of registration to the Oklahoma State Bureau  
3 of Investigation (OSBI) and the Federal Bureau of Investigation  
4 (FBI) if the state has not previously sent the information at the  
5 time of conviction.

6           C. The registration with the local law enforcement authority  
7 required by the Sex Offenders Registration Act shall be in a form  
8 approved by the local law enforcement authority and shall include  
9 the following information about the person registering:

10           1. The person's full name, alias, date of birth, sex, race,  
11 height, weight, eye color, social security number, driver license  
12 number, and home address; and

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

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

18           a. the municipal police department, if the person resides  
19 or intends to reside or stay within the jurisdiction  
20 of any municipality of this state, or

21           b. the county sheriff, if the person resides or intends  
22 to reside or stay at any place outside the

1 jurisdiction of any municipality within this state,  
2 and

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

11 D. Any person subject to the provisions of the Sex Offenders  
12 Registration Act who changes an address shall give written  
13 notification to the Department of Corrections and the local law  
14 enforcement authority of the change of address and the new address  
15 no later than three (3) business days prior to the abandonment of or  
16 move from the current address. If the new address is under the  
17 jurisdiction of a different local law enforcement authority, the  
18 offender shall notify the new local law enforcement authority of any  
19 previous registration. The new local law enforcement authority  
20 shall notify the most recent registering agency by teletype or  
21 letter of the change in address of the offender. If the new address  
22 is in another state the Department of Corrections shall promptly

1 notify the agency responsible for registration in that state of the  
2 new address of the offender.

3 E. The Department of Corrections shall maintain a file of all  
4 sex offender registrations. A copy of the information contained in  
5 the registration shall promptly be available to state, county and  
6 municipal law enforcement agencies and the National Sex Offender  
7 Registry maintained by the Federal Bureau of Investigation. The  
8 file shall promptly be made available for public inspection or  
9 copying pursuant to rules promulgated by the Department of  
10 Corrections and may be made available through Internet access. The  
11 Department of Corrections shall promptly provide all municipal  
12 police departments, all county sheriff departments and all campus  
13 police departments a list of those sex offenders registered and  
14 living in their county.

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

20 When a law enforcement agency sends a copy of or otherwise makes  
21 the sex offender registry available to any public or private school  
22 offering any combination of prekindergarten through twelfth grade  
23 classes or child care facility licensed by the state, the agency

1 shall provide a notice using the following or similar language: "A  
2 person whose name appears on this registry has been convicted of a  
3 sex offense. Continuing to employ a person whose name appears on  
4 this registry may result in civil liability for the employer."

5 G. Samples of blood or saliva for DNA testing required by  
6 subsection A of this section shall be taken by employees or  
7 contractors of the Department of Corrections. Said individuals  
8 shall be properly trained to collect blood or saliva samples.  
9 Persons collecting samples for DNA testing pursuant to this section  
10 shall be immune from civil liabilities arising from this activity.  
11 The Department of Corrections shall ensure the collection of samples  
12 is mailed to the Oklahoma State Bureau of Investigation (OSBI)  
13 within ten (10) days of the time the subject appears for testing.  
14 The Department shall use sample kits provided by the OSBI and  
15 procedures promulgated by the OSBI. Persons subject to DNA testing  
16 pursuant to this section shall be required to pay to the Department  
17 of Corrections a fee of Fifteen Dollars (\$15.00). Any fees  
18 collected pursuant to this subsection shall be deposited in the  
19 Department of Corrections revolving account.

20 H. 1. Any person who has been convicted of or received a  
21 suspended sentence or any probationary term, including a deferred  
22 sentence imposed in violation of subsection G of Section 991c of

1 Title 22 of the Oklahoma Statutes, for any crime listed in Section  
2 582 of this title and:

3 a. who is subsequently convicted of a crime or an attempt  
4 to commit a crime listed in subsection A of Section  
5 582 of this title, or

6 b. who enters this state after November 1, 1997, and who  
7 has been convicted of an additional crime or attempted  
8 crime which, if committed or attempted in this state,  
9 would be a crime or an attempt to commit a crime  
10 provided for in subsection A of Section 582 of this  
11 title,

12 shall be subject to all of the registration requirements of this act  
13 and shall be designated by the Department of Corrections as a  
14 habitual sex offender. A habitual sex offender shall be required to  
15 register for the lifetime of the habitual sex offender.

16 2. On or after November 1, 1999, any person who has been  
17 convicted of a crime or an attempt to commit a crime, received a  
18 suspended sentence or any probationary term, including a deferred  
19 sentence imposed in violation of subsection G of Section 991c of  
20 Title 22 of the Oklahoma Statutes, for a crime provided for in  
21 Section 7115 of Title 10 of the Oklahoma Statutes, if the offense  
22 involved sexual abuse or sexual exploitation as these terms are  
23 defined in Section 7102 of Title 10 of the Oklahoma Statutes,

1 Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma  
2 Statutes shall be subject to all the registration requirements of  
3 this act and shall be designated by the Department of Corrections as  
4 an aggravated sex offender. An aggravated sex offender shall be  
5 required to register for the lifetime of the aggravated sex  
6 offender.

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

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

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

- 3           a. the name and physical address of the habitual or  
4 aggravated sex offender,  
5           b. a physical description of the habitual or aggravated  
6 sex offender, including, but not limited to, age,  
7 height, weight and eye and hair color,  
8           c. a description of the vehicle that the habitual or  
9 aggravated sex offender is known to drive,  
10          d. any conditions or restrictions upon the probation,  
11 parole or conditional release of the habitual or  
12 aggravated sex offender,  
13          e. a description of the primary and secondary targets of  
14 the habitual or aggravated sex offender,  
15          f. a description of the method of offense of the habitual  
16 or aggravated sex offender,  
17          g. a current photograph of the habitual or aggravated sex  
18 offender, and  
19          h. the name and telephone number of the probation or  
20 parole officer of the habitual or aggravated sex  
21 offender.

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

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

7           1. Nothing in the Sex Offenders Registration Act shall be  
8 deemed to impose any liability upon or to give rise to a cause of  
9 action against any public official, public employee, or public  
10 agency for failing to release information in accordance with the Sex  
11 Offenders Registration Act.

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

16           SECTION 3.           AMENDATORY           Section 5, Chapter 358, O.S.L.  
17 2004 (57 O.S. Supp. 2004, Section 595), is amended to read as  
18 follows:

19           Section 595. A. Any registration with the Department of  
20 Corrections required by the Mary Rippy Violent Crime Offenders  
21 Registration Act shall be in a form approved by the Department and  
22 shall include the following information about the person  
23 registering:

1           1. The name of the person and all aliases used or under which  
2 the person has been known;

3           2. A complete description of the person, including a photograph  
4 and fingerprints, and when requested by the Department of  
5 Corrections the registrant shall submit to a blood or saliva test  
6 for purposes of a deoxyribonucleic acid (DNA) profile. Submission  
7 to DNA testing shall be within thirty (30) days of notification by  
8 the Department. Registrants who already have valid DNA samples on  
9 file in the Oklahoma State Bureau of Investigation (OSBI) DNA  
10 Offender Database shall not be required to submit duplicate samples  
11 for testing;

12           3. The offense for which the person is required to register  
13 pursuant to the Mary Rippe Violent Crime Offenders Registration Act,  
14 where the offense was committed, where the person was convicted or  
15 received the deferred or suspended sentence, and the name under  
16 which the person was convicted or received the sentence;

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

20           5. Where the person previously resided, where the person  
21 currently resides, how long the person has resided there, how long  
22 the person expects to reside there, and how long the person expects  
23 to remain in the county and in this state; and

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

3           B. The Department of Corrections shall conduct address  
4 verification of each registered violent crime offender on an annual  
5 basis by mailing a nonforwardable verification form to the last-  
6 reported address of the person. The person shall return the  
7 verification form in person to the local law enforcement authority  
8 of that jurisdiction within ten (10) days after receipt of the form  
9 and may be photographed by the local law enforcement authority at  
10 that time. The local law enforcement authority shall forward the  
11 form to the Department of Corrections within three (3) days after  
12 receipt of the form. The verification form shall be signed by the  
13 person and state the current address of the person. Failure to  
14 return the verification form shall be a violation of the Mary Rippy  
15 Violent Crime Offenders Registration Act. The Department of  
16 Corrections shall have the authority to determine whether a person  
17 registered is a habitual violent offender. If the offender has been  
18 determined to be a habitual violent offender by the Department of  
19 Corrections, the address verification shall be conducted every  
20 ninety (90) days.

21           C. Any person subject to the provisions of the Mary Rippy  
22 Violent Crime Offenders Registration Act who changes an address  
23 shall give written notification to the Department of Corrections and

1 the local law enforcement authority of the change of address and the  
2 new address no later than three (3) business days prior to the  
3 abandonment of or move from the current address. If the new address  
4 is under the jurisdiction of a different local law enforcement  
5 authority, the offender shall notify the new local law enforcement  
6 authority of any previous registration. The new local law  
7 enforcement authority shall notify the most recent registering  
8 agency by teletype or letter of the change in address of the  
9 offender. If the new address is in another state that has a  
10 registration requirement, the Department of Corrections shall  
11 promptly notify the agency responsible for registration in that  
12 state of the new address of the offender.

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

22 E. Conviction data and fingerprints shall be promptly  
23 transmitted at the time of registration to the Oklahoma State Bureau

1 of Investigation (OSBI) and the Federal Bureau of Investigation  
2 (FBI) if the state has not previously sent the information at the  
3 time of conviction.

4 F. The registration with the local law enforcement authority  
5 required by the Mary Rippy Violent Crime Offenders Registration Act  
6 shall be in a form approved by the local law enforcement authority  
7 and shall include the following information about the person  
8 registering:

9 1. The full name of the person, alias, date of birth, sex,  
10 race, height, weight, eye color, social security number, driver  
11 license number, and home address; and

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

15 G. The Department of Corrections shall maintain a file of all  
16 violent crime offender registrations. A copy of the information  
17 contained in the registration shall promptly be made available to  
18 state, county, and municipal law enforcement agencies. The file  
19 shall promptly be made available for public inspection or copying  
20 pursuant to rules promulgated by the Department of Corrections. The  
21 Department of Corrections shall promptly provide all municipal  
22 police departments, all county sheriff departments, and all campus

1 police departments a list of those violent crime offenders  
2 registered and living in their county or jurisdiction.

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

8 I. Samples of blood or saliva for DNA testing authorized by  
9 this section shall be taken by employees or contractors of the  
10 Department of Corrections. The individuals shall be properly  
11 trained to collect blood or saliva samples. The Department of  
12 Corrections shall ensure the collection of samples is mailed to the  
13 Oklahoma State Bureau of Investigation (OSBI) within ten (10) days  
14 after the subject appears for testing. The Department shall use  
15 sample kits provided by the OSBI and procedures promulgated by the  
16 OSBI. Persons subject to DNA testing pursuant to this section shall  
17 be required to pay to the Department of Corrections a fee of Fifteen  
18 Dollars (\$15.00). Any fees collected pursuant to this subsection  
19 shall be deposited in the Department of Corrections Revolving Fund.

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

1           a.    who is subsequently convicted of a crime or an attempt  
2                   to commit a crime listed in subsection B of Section 3  
3                   of this act, or  
4           b.    who enters this state after November 1, 2004, and who  
5                   has been convicted of an additional crime or attempted  
6                   crime which, if committed or attempted in this state,  
7                   would be a crime or an attempt to commit a crime  
8                   provided for in subsection B of Section 3 of this act,  
9 shall be subject to all of the registration requirements of the Mary  
10 Rippy Violent Crime Offenders Registration Act and shall be  
11 designated by the Department of Corrections as a habitual violent  
12 crime offender. A habitual violent crime offender shall be required  
13 to register for the lifetime of the habitual violent crime offender.  
14        2.    Upon registration of any person designated as a habitual  
15 violent crime offender, a local law enforcement authority shall  
16 notify, by any method of communication it deems appropriate, anyone  
17 that the local law enforcement authority determines appropriate,  
18 including, but not limited to:  
19           a.    the family of the habitual violent crime offender,  
20           b.    any prior victim of the habitual violent crime  
21                   offender, ~~and~~  
22           c.    residential neighbors and churches, community parks,  
23                   schools, convenience stores, businesses and other

1 places that children or other potential victims may  
2 frequent, and

3 d. a nursing facility, a specialized facility, a  
4 residential care home, a continuum-of-care facility,  
5 an assisted-living center and an adult day care  
6 facility.

7 3. The notification shall include, but is not limited to, the  
8 following information:

- 9 a. the name and physical address of the habitual violent  
10 crime offender,
- 11 b. a physical description of the habitual violent crime  
12 offender, including, but not limited to, age, height,  
13 weight and eye and hair color,
- 14 c. a description of the vehicle that the habitual violent  
15 crime offender is known to drive,
- 16 d. any conditions or restrictions upon the probation,  
17 parole or conditional release of the habitual violent  
18 crime offender,
- 19 e. a description of the primary and secondary targets of  
20 the habitual violent crime offender,
- 21 f. a description of the method of offense of the habitual  
22 violent crime offender,

- 1           g.    a current photograph of the habitual violent crime  
2                   offender, and
- 3           h.    the name and telephone number of the probation or  
4                   parole officer of the habitual violent crime offender.

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

8           SECTION 4.        AMENDATORY        63 O.S. 2001, Section 1-1909 , is  
9 amended to read as follows:

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

- 13          1.    Its current license;
- 14          2.    A description, provided by the State Department of Health,  
15 of complaint procedures established under this act and the name,  
16 address and telephone number of a person authorized by the  
17 Department to receive complaints. A copy of the complaint procedure  
18 shall also be given to each resident or in certain cases, the court\_  
19 appointed guardian;
- 20          3.    A copy of any order pertaining to the facility issued by the  
21 Department or a court which is currently in effect; ~~and~~
- 22          4.    A copy of any notification from the local law enforcement  
23 authority of the registration of any person designated as a habitual

1 or aggravated sex offender pursuant to the provisions of subsection  
2 H of Section 584 of Title 57 of the Oklahoma Statutes and of any  
3 notification from the local law enforcement authority of the  
4 registration of any person designated as a habitual violent crime  
5 offender pursuant to the provisions of subsection B of Section 593  
6 of Title 57 of the Oklahoma Statutes; and

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

9 SECTION 5. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 4-6-05 - DO  
14 PASS, As Amended and Coauthored.