

3 Senate Bill No. 440
4 As Amended

5 SENATE BILL NO. 440 - By: MYERS of the Senate and DeWITT of the
6 House.

7 [sex offenders - sex offender registry - State
8 Superintendent of Public Instruction - copy and distribute -
9 schools -
10 emergency]

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

12 SECTION 1. AMENDATORY 57 O.S. 2001, Section 584, as last
13 amended by Section 3, Chapter 49, O.S.L. 2003 (57 O.S. Supp. 2004,
14 Section 584), is amended to read as follows:

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

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

21 2. A complete description of the person, including a photograph
22 and fingerprints, and when requested by the Department of
23 Corrections, such registrant shall submit to a blood or saliva test
24 for purposes of a deoxyribonucleic acid (DNA) profile. Submission
25 to testing for individuals registering shall be within thirty (30)

1 days of registration. Registrants who already have valid samples on
2 file in the Oklahoma State Bureau of Investigation (OSBI) DNA
3 Offender Database shall not be required to submit duplicate samples
4 for testing;

5 3. The offenses listed in Section 582 of this title for which
6 the person has been convicted or the person received a suspended
7 sentence or any form of probation, where the offense was committed,
8 where the person was convicted or received the suspended sentence or
9 any form of probation, and the name under which the person was
10 convicted or received the suspended sentence or probation;

11 4. The name and location of each hospital or penal institution
12 to which the person was committed for each offense listed in Section
13 582 of this title;

14 5. Where the person previously resided, where the person
15 currently resides, how long the person has resided there, how long
16 the person expects to reside there, and how long the person expects
17 to remain in the county and in this state. The Department of
18 Corrections shall conduct address verification of each registered
19 sex offender on an annual basis by mailing a nonforwardable
20 verification form to the last reported address of the person. The
21 person shall return the verification form in person to the local law
22 enforcement agency of that jurisdiction within ten (10) days after
23 receipt of the form and may be photographed by the local law

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

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

18 B. Conviction data and fingerprints shall be promptly
19 transmitted at the time of registration to the Oklahoma State Bureau
20 of Investigation (OSBI) and the Federal Bureau of Investigation
21 (FBI) if the state has not previously sent the information at the
22 time of conviction.

1 C. The registration with the local law enforcement authority
2 required by the Sex Offenders Registration Act shall be in a form
3 approved by the local law enforcement authority and shall include
4 the following information about the person registering:

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

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

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

13 a. the municipal police department, if the person resides
14 or intends to reside or stay within the jurisdiction
15 of any municipality of this state, or

16 b. the county sheriff, if the person resides or intends
17 to reside or stay at any place outside the
18 jurisdiction of any municipality within this state,
19 and

20 c. the police or security department of any institution
21 of higher learning within this state if the person:

22 (1) enrolls as a full-time or part-time student,

- 1 (2) is a full-time or part-time employee at an
2 institution of higher learning, or
3 (3) resides or intends to reside or stay on any
4 property owned or controlled by the institution
5 of higher learning.

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

20 E. The Department of Corrections shall maintain a file of all
21 sex offender registrations. A copy of the information contained in
22 the registration shall promptly be available to state, county and
23 municipal law enforcement agencies, the State Superintendent of

1 Public Instruction, and the National Sex Offender Registry
2 maintained by the Federal Bureau of Investigation. The file shall
3 promptly be made available for public inspection or copying pursuant
4 to rules promulgated by the Department of Corrections and may be
5 made available through Internet access. The Department of
6 Corrections shall promptly provide all municipal police departments,
7 all county sheriff departments and all campus police departments a
8 list of those sex offenders registered and living in their county.
9 The Superintendent of Public Instruction is authorized to copy and
10 distribute information from the sex offender registry to school
11 districts and individual public and private schools within the state
12 with a notice using the following or similar language: "A person
13 whose name appears on this registry has been convicted of a sex
14 offense. Continuing to employ a person whose name appears on this
15 registry may result in civil liability for the employer or criminal
16 prosecution pursuant to Section 589 of Title 57 of the Oklahoma
17 Statutes."

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

22 When a law enforcement agency sends a copy of or otherwise makes
23 the sex offender registry available to any public or private school

1 offering any combination of prekindergarten through twelfth grade
2 classes or child care facility licensed by the state, the agency
3 shall provide a notice using the following or similar language: "A
4 person whose name appears on this registry has been convicted of a
5 sex offense. Continuing to employ a person whose name appears on
6 this registry may result in civil liability for the employer or
7 criminal prosecution pursuant to Section 589 of Title 57 of the
8 Oklahoma Statutes."

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

1 H. 1. Any person who has been convicted of or received a
2 suspended sentence or any probationary term, including a deferred
3 sentence imposed in violation of subsection G of Section 991c of
4 Title 22 of the Oklahoma Statutes, for any crime listed in Section
5 582 of this title and:

6 a. who is subsequently convicted of a crime or an attempt
7 to commit a crime listed in subsection A of Section
8 582 of this title, or

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

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

19 2. On or after November 1, 1999, any person who has been
20 convicted of a crime or an attempt to commit a crime, received a
21 suspended sentence or any probationary term, including a deferred
22 sentence imposed in violation of subsection G of Section 991c of
23 Title 22 of the Oklahoma Statutes, for a crime provided for in

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

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

- 15 a. the family of the habitual or aggravated sex offender,
- 16 b. any prior victim of the habitual or aggravated sex
17 offender, and
- 18 c. residential neighbors and churches, community parks,
19 schools, convenience stores, businesses and other
20 places that children or other potential victims may
21 frequent.

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

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

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

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

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

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

13 SECTION 2. It being immediately necessary for the preservation
14 of the public peace, health and safety, an emergency is hereby
15 declared to exist, by reason whereof this act shall take effect and
16 be in full force from and after its passage and approval.

17 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 2-14-05 - DO
18 PASS, As Amended and Coauthored.