

CS for SB 870

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**THE STATE SENATE**  
**Thursday, February 24, 2005**

**Committee Substitute for**  
**Senate Bill No. 870**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 870 - By: LEFTWICH of the Senate and HAMILTON of the House.

[ 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)

**(Bold face denotes Committee Amendments)**

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 and the National Sex Offender

1 Registry maintained by the Federal Bureau of Investigation. The  
2 file shall promptly be made available for public inspection or  
3 copying pursuant to rules promulgated by the Department of  
4 Corrections and may be made available through Internet access. The  
5 Department of Corrections shall promptly provide all municipal  
6 police departments, all county sheriff departments and all campus  
7 police departments a list of those sex offenders registered and  
8 living in their county.

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

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

21 G. Samples of blood or saliva for DNA testing required by  
22 subsection A of this section shall be taken by employees or  
23 contractors of the Department of Corrections. Said individuals

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

13 H. 1. Any person who has been convicted of or received a  
14 suspended sentence or any probationary term, including a deferred  
15 sentence imposed in violation of subsection G of Section 991c of  
16 Title 22 of the Oklahoma Statutes, for any crime listed in Section  
17 582 of this title and:

18 a. who is subsequently convicted of a crime or an attempt  
19 to commit a crime listed in subsection A of Section  
20 582 of this title, or

21 b. who enters this state after November 1, 1997, and who  
22 has been convicted of an additional crime or attempted  
23 crime which, if committed or attempted in this state,

1           would be a crime or an attempt to commit a crime  
2           provided for in subsection A of Section 582 of this  
3           title,  
4 shall be subject to all of the registration requirements of this act  
5 and shall be designated by the Department of Corrections as a  
6 habitual sex offender. A habitual sex offender shall be required to  
7 register for the lifetime of the habitual sex offender.

8       2. On or after November 1, 1999, any person who has been  
9 convicted of a crime or an attempt to commit a crime, received a  
10 suspended sentence or any probationary term, including a deferred  
11 sentence imposed in violation of subsection G of Section 991c of  
12 Title 22 of the Oklahoma Statutes, for a crime provided for in  
13 Section 7115 of Title 10 of the Oklahoma Statutes, if the offense  
14 involved sexual abuse or sexual exploitation as these terms are  
15 defined in Section 7102 of Title 10 of the Oklahoma Statutes,  
16 Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma  
17 Statutes shall be subject to all the registration requirements of  
18 this act and shall be designated by the Department of Corrections as  
19 an aggravated sex offender. An aggravated sex offender shall be  
20 required to register for the lifetime of the aggravated sex  
21 offender.

22       3. Upon registration of any person designated as a habitual or  
23 aggravated sex offender, pursuant to this subsection, a local law

1 enforcement authority shall notify, by any method of communication  
2 it deems appropriate, anyone that the local law enforcement  
3 authority determines appropriate, including, but not limited to:

- 4 a. the family of the habitual or aggravated sex offender,
- 5 b. any prior victim of the habitual or aggravated sex  
6 offender, ~~and~~
- 7 c. residential neighbors and churches, community parks,  
8 schools, convenience stores, businesses and other  
9 places that children or other potential victims may  
10 frequent; and
- 11 d. a nursing facility, a specialized facility, a  
12 residential care home, a continuum of care facility,  
13 an assisted living center and an adult day care  
14 facility.

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

- 17 a. the name and physical address of the habitual or  
18 aggravated sex offender,
- 19 b. a physical description of the habitual or aggravated  
20 sex offender, including, but not limited to, age,  
21 height, weight and eye and hair color,
- 22 c. a description of the vehicle that the habitual or  
23 aggravated sex offender is known to drive,

- 1           d. any conditions or restrictions upon the probation,  
2                    parole or conditional release of the habitual or  
3                    aggravated sex offender,  
4           e. a description of the primary and secondary targets of  
5                    the habitual or aggravated sex offender,  
6           f. a description of the method of offense of the habitual  
7                    or aggravated sex offender,  
8           g. a current photograph of the habitual or aggravated sex  
9                    offender, and  
10          h. the name and telephone number of the probation or  
11                    parole officer of the habitual or aggravated sex  
12                    offender.

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

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

19          1. Nothing in the Sex Offenders Registration Act shall be  
20 deemed to impose any liability upon or to give rise to a cause of  
21 action against any public official, public employee, or public  
22 agency for failing to release information in accordance with the Sex  
23 Offenders Registration Act.

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

5           SECTION 2.           AMENDATORY           63 O.S. 2001, Section 1-1909, is  
6 amended to read as follows:

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

10          1. Its current license;

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

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

19          4. A copy of any notification from the local law enforcement  
20 authority of the registration of any person designated as a habitual  
21 or aggravated sex offender pursuant to the provisions of subsection  
22 H of Section 584 of Title 57 of the Oklahoma Statutes; and

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

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

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

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

- 13                a.    will have unsupervised contact with residents,
- 14                b.    has a regular and ongoing assignment at the facility,
- 15                            or
- 16                c.    will transport residents in vehicles.

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

- 19                a.    is fifteen (15) years of age or younger,
- 20                b.    is on ombudsman,
- 21                c.    will have supervised contact with residents, or

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

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

9           SECTION 4.        AMENDATORY        Section 2, Chapter 470, O.S.L.  
10 2002 (63 O.S. Supp. 2004, Section 1-1950.6), is amended to read as  
11 follows:

12           Section 1-1950.6 A. ~~Sections 2~~ Section 1-1950.6 through ~~5~~ 1-  
13 1950.9 of this ~~act~~ title shall ~~be~~ become effective September 1,  
14 ~~2003, subject to the availability of funds~~ 2005.

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

- 17           1.  "Board" means the State Board of Health;
- 18           2.  "Bureau" means the Oklahoma State Bureau of Investigation;
- 19           3.  "Department" means the State Department of Health;
- 20           4.  "Nursing facility" means a nursing facility and specialized  
21 facility as such terms are defined in Section 1-1902 of Title 63 of  
22 the Oklahoma Statutes;

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

7           6. "Nontechnical services" means services that:

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

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

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

16           SECTION 6. It being immediately necessary for the preservation  
17 of the public peace, health and safety, an emergency is hereby  
18 declared to exist, by reason whereof this act shall take effect and  
19 be in full force from and after its passage and approval.

20           COMMITTEE REPORT BY: COMMITTEE ON HEALTH & HUMAN RESOURCES, dated  
21 2-17-05 - DO PASS, As Amended and Coauthored.