

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2136

By: Wilt

AS INTRODUCED

An Act relating to prisons and reformatories; amending 12 O.S. 2001, Section 397, as last amended by Section 2, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2005, Section 397), which relates to civil actions involving inmates; including certain proceedings within scope of statute; modifying time for payment of certain transportation costs; amending 57 O.S. 2001, Section 549, as last amended by Section 3, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2005, Section 549), which relates to the powers and duties of the State Board of Corrections; specifying fees that may be paid for from inmate savings; amending Section 5, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2005, Section 564.1), which relates to judicial review of disciplinary proceedings; providing that proceedings apply to earned credits that have vested; prohibiting raising issues that were not raised in the administrative appeal; providing procedure if the court issues certain orders; amending 57 O.S. 2001, Section 566.2, which relates to frivolous or malicious actions and actions failing to state a claim upon which relief could be granted that are brought by inmates; expanding who must provide certain documents for a registry; amending 57 O.S. 2001, Section 566.3, as last amended by Section 12, Chapter 168, O.S.L. 2004 (57 O.S. Supp. 2005, Section 566.3), which relates to prisoner applications for in forma pauperis; authorizing the court to dismiss certain actions with prejudice; clarifying conditions for dismissal; amending 57 O.S. 2001, Sections 582 and 583, as last amended by Sections 1 and 2, Chapter 123, O.S.L. 2005 and Section 1, Chapter 223, O.S.L. 2003 (57 O.S. Supp. 2005, Sections 582, 583 and 590), which relate to the Sex Offenders Registration Act; adding offense for which registration is required; providing that certain time period applies to a calendar year; modifying application of the act for persons with out-of-state convictions or deferred judgments; modifying time for maintaining registration; requiring registration in any jurisdiction in which the offender is found for certain period of time; requiring registration in multiple jurisdictions in certain circumstances; expanding certain residency restriction; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 397, as last amended by Section 2, Chapter 159, O.S.L. 2005 (12 O.S. Supp. 2005, Section 397), is amended to read as follows:

Section 397. A. A person confined in any prison in this state may by order of any court of record, be required to be produced for oral examination as a witness by the court in the county where he is imprisoned, but in all other cases his examination must be by deposition.

B. Any person or a prisoner confined in any prison or jail in this state who is the complaining party or defending party in any form of a civil action, including but not limited to any proceeding brought pursuant to Title 10 of the Oklahoma Statutes, may apply for a Writ of Habeas Corpus for the purpose of having the prisoner appear before the court for an evidentiary hearing in which the court shall take testimony from the prisoner. The custodian of the prisoner shall be given prior notice of the application and fifteen (15) days to respond prior to the decision of the court. If the court issues such writ, it shall be issued and delivered to the custodian of the prisoner at least fifteen (15) days prior to the date the prisoner is to appear, shall order the custodian to be paid for all costs of transportation and shall order the prisoner to be delivered to the court named in the writ. The court shall not consider a writ of habeas corpus ad testificandum except for a hearing on the merits of the civil action. The court shall not award attorney fees and costs to the prevailing party in this matter. All pretrial hearings for the civil action that involve a prisoner shall be conducted by telephone, deposition or video conference.

C. If upon application, the court issues a Writ of Habeas Corpus as provided in subsection B of this section, it shall order the person applying for such writ or other appropriate party to pay

to the custodian executing the writ all costs of transporting the prisoner to and from the court. No court shall waive the requirement to pay the costs of transportation to the custodian. The writ shall also serve as a judgment against the prisoner, if the prisoner is the party ordered to pay transportation costs or was the party seeking the writ, and may be enforced by the detaining governmental unit without further order of any court for a period of five (5) years after the date of the ~~writ~~ release of the prisoner from incarceration, detention, probation, or parole. The custodian executing the release shall notify the prisoner and the court, at the time of delivery, of the costs of transportation.

D. Any writ that fails to comply with all of the requirements of this section shall be void and unenforceable and no officer or employee of the custodian shall be liable for failing to execute said writ.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 549, as last amended by Section 3, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2005, Section 549), is amended to read as follows:

Section 549. A. The State Board of Corrections shall have the following powers and duties with respect to the operation of prison industries, the Construction Division, and administration of inmate trust funds:

1. The power to make leases or other contracts consistent with the operation of prison industries, and to set aside land or facilities for the use of such industry;

2. The power to establish conditions for expenditures by the Department of Corrections from the Industries Revolving Fund;

3. The power to negotiate wages and working conditions on behalf of prisoners working in prison industries or prisoners working in the Construction Division. Pay grades for the Construction Division "on-the-job training" inmate crews shall be as follows:

- a. Pay Grade "A" - Inmate Worker,
- b. Pay Grade "B" - Inmate Worker,
- c. Pay Grade "C" - Apprentice,
- d. Pay Grade "D" - Skilled Craft;

4. The power to collect wages on behalf of the inmate, to apportion inmate wages in accordance with the law; and the duty to preserve those wages reserved for the inmate in an account for his or her benefit, and to establish procedures by which the inmate can draw funds from this account under the conditions and limitations and for the purposes allowed by law;

5. The duty to establish the percentages of such wages which shall be available for apportionment to inmate savings; to the inmate for his or her personal use; to the lawful dependents of the inmate, if any; to the victim of the inmate's crime; for payment of creditors; for payment of costs and expenses for criminal actions against such inmate; and to the Department of Corrections for costs of incarceration. Provided, that not less than twenty percent (20%) of such wages shall be placed in an account, payable to the prisoner upon his or her discharge or upon assignment to a prerelease program. Funds from this account may be used by the inmate for fees ~~or costs~~ to be paid to the court clerk in filing a civil or criminal action as defined in Section 151 et seq. of Title 28 of the Oklahoma Statutes or for federal action as defined in Section 1911 et seq. of Title 28 of the United States Code, ~~28 U.S.C., Section 1911 et seq.~~; and

6. The power to invest funds held by the Department of Corrections on behalf of each inmate in an interest-bearing account with the interest accruing and payable to the Crime Victims Compensation Fund, as provided in Section 142.17 of Title 21 of the Oklahoma Statutes. The interest from each inmate's savings account shall be payable to the Crime Victims Compensation Fund, at such intervals as may be determined by the Board, in addition to any

other payments to such fund required by the inmate's sentence or otherwise by law. An inmate shall not have the right, use or control of any interest derived from any funds placed in a mandatory savings account.

B. The State Board of Corrections shall cause to be placed in an account income from the inmate's employment and any other income or benefits accruing to or payable to and for the benefit of said inmate, including any workers' compensation or Social Security benefits.

1. From this account the State Board of Corrections may charge for costs of incarceration any inmate working in private prison industries or any other inmate for costs of incarceration not to exceed fifty percent (50%) of any deposits made to said account, unless said deposits were from a workers' compensation benefit.

2. From this account, the State Board of Corrections may charge any inmate for costs of incarceration, an amount equivalent to one hundred percent (100%) of any deposits from a workers' compensation benefit to said account.

3. The Department of Corrections shall pay into the Crime Victims Compensation Revolving Fund, Section 142.17 of Title 21 of the Oklahoma Statutes, an amount equal to five percent (5%) of the gross wages earned by inmates working in a private prison industries program, said amount to be paid from the amount deducted for cost of incarceration.

4. Withdrawals and deposits shall be made according to rules and regulations established by the State Board of Corrections.

C. The Department of Corrections may assess costs of incarceration against all inmates beginning on September 1, 1992. Such costs shall be a debt of the inmate owed to the Department of Corrections and may be collected as provided by law for collection of any other civil debt. In addition to the provisions of this section authorizing expenditure of inmate trust funds for costs of

incarceration, any monies received for costs of incarceration shall be deposited in the Department of Corrections Revolving Fund.

SECTION 3. AMENDATORY Section 5, Chapter 159, O.S.L. 2005 (57 O.S. Supp. 2005, Section 564.1), is amended to read as follows:

Section 564.1 A. In those instances of prison disciplinary proceedings that result in the revocation of earned credits that have vested in accordance with Section 138 of this title, the prisoner, after exhausting administrative remedies, may seek judicial review in the district court of the official residence of the Department of Corrections. To be considered by the court, the inmate shall meet the following requirements:

1. The petition shall be filed within ninety (90) days of the date the petitioner is notified of the final Department of Corrections decision in the Department disciplinary appeal process.

2. The petition shall only name the Department of Corrections as the respondent and service shall be in accordance with the rules for service under the laws of this state.

3. The petition shall be limited to the review of only one disciplinary report and no other pleading is allowed other than the petition and the answer.

4. The court shall not consider any pleadings from any intervening parties and shall not stay the Department disciplinary process during the review of the misconduct hearing.

B. The answer of the Department shall be filed within thirty (30) days of receipt of the petition unless the court orders a special report upon motion by one party or upon its own motion.

C. The petition shall assert that due process was not provided and prove which element of due process, relevant only to a prison administrative disciplinary proceeding, was not provided by the prison staff. No issue may be raised in this proceeding that was not raised originally by the inmate in the administrative appeal.

D. The court shall only determine whether due process was provided by the revoking authority. In determining whether due process was provided, the court shall determine:

1. Whether written notice of the charge was provided to the inmate;

2. Whether the inmate had a minimum of twenty-four (24) hours to prepare after notice of the charge;

3. Whether the inmate was provided an opportunity for a hearing by a prison employee not involved in bringing the charge;

4. Whether the inmate had the opportunity to present relevant documentary evidence;

5. Whether the inmate had the opportunity to call witnesses when doing so would not be hazardous to institutional safety or burden correctional goals;

6. Whether the inmate was provided a written statement as to the evidence relied on and the reasons for the discipline imposed; and

7. Whether any evidence existed in the record upon which the hearing officer could base a finding of guilt.

E. The judicial review as provided in this section shall not be an independent assessment of the credibility of any witness or a weighing of the evidence, and there shall be no right to an error free proceeding or to confront accusers. The only remedy to be provided, if the court finds due process was not provided, is an order to the Department to provide due process. If the court issues an order granting the petition and ordering the Department to provide due process, the Director of the Department of Corrections or the designee of the Director shall decide whether to conduct a rehearing or dismiss the disciplinary report. If the Director decides to dismiss the disciplinary report, the Director may only order the revoked earned credits restored.

F. There shall be no recovery allowed for costs and fees, providing that frivolous petitions are subject to the sanctions provided by the laws of this state.

G. Either party aggrieved by the final order of the district court on a petition for judicial review may only appeal the order to the Oklahoma Court of Criminal Appeals as set forth in the rules of such Court.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 566.2, is amended to read as follows:

Section 566.2 A. A prisoner who has, on three or more prior occasions, while incarcerated or detained in any facility, or while on probation or parole, brought an action or appeal in a court of this state or a court of the United States that has been dismissed on the grounds that the case was frivolous, or malicious, or failed to state a claim upon which relief could be granted, may not proceed in a matter arising out of a civil case, or upon an original action or on appeal without prepayment of all fees required by law, unless the prisoner is under immediate danger of serious physical injury.

B. The court administrator of the Oklahoma courts shall maintain a registry of those prisoners who have had any cases dismissed as frivolous or malicious or for failure to state a claim upon which relief can be granted. The Attorney General, the General Counsel of the Department of Corrections, the district attorneys ~~and, the~~ general counsels of the various state agencies, and private attorneys representing individuals or parties against whom the prisoner filed any frivolous or malicious action, shall forward to the court administrator copies of all orders in which there was a finding the case filed by a prisoner was dismissed as frivolous or malicious or for failure to state a claim upon which relief can be granted.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 566.3, as last amended by Section 12, Chapter 168, O.S.L. 2004 (57 O.S. Supp. 2005, Section 566.3), is amended to read as follows:

Section 566.3 A. 1. If an applicant for in forma pauperis is a prisoner and the prisoner brings an action of any kind, upon filing, the court shall order the prisoner to pay, as a partial payment of any court costs required by law, before the commencement of the action, a first-time payment of twenty percent (20%) of the deposits of the preceding six (6) months to the trust account of the prisoner administered by the confining agency and thereafter monthly payments of twenty percent (20%) of the deposits of the preceding month to the account, but only if the prisoner does not have enough funds to pay the total costs required by law at the time of filing. In those cases where the prisoner has sufficient funds available, the prisoner shall be ordered to pay the required costs before the action may commence. The confining agency shall withdraw monies maintained in the trust account for payment of court fees and shall forward the monies collected at any time the monies exceed Ten Dollars (\$10.00) to the appropriate court clerk, or clerks if multiple courts are involved, until the actual court costs are paid in full. If the prisoner is discharged before payment in full, the court clerk shall be notified of the reported forwarding address and date of discharge of the prisoner. The prisoner must file a certified copy of the trust account records of the prisoner with the court that reflects the balance and activity of the previous six (6) months at the time the petition is filed. If the prisoner is on probation or parole, the prisoner will file certified copies of bank or savings statements of the account and income receipts for the prior six (6) months.

2. Nothing in this section prevents a prisoner from authorizing payment beyond that required by law or the Department of Corrections

or political subdivision from forwarding payment beyond that required by law if the prisoner has the funds available.

3. The court may dismiss with prejudice any civil action in which the prisoner has failed to pay fees and costs assessed by the court and it is determined the prisoner had or has the funds available and did not pay the required fees and costs as ordered by the court.

4. If a prisoner is found to be indigent and totally without any funds pursuant to this section at the time of filing, the case may proceed without prepayment of fees or partial fees. Even in those cases where the court finds the prisoner is without funds, the court shall assess costs against the prisoner, establish a payment schedule and order the costs paid when the prisoner has funds.

B. 1. An affidavit of inability to pay containing complete information as to the identity of the prisoner, prisoner identification number, nature and amount of income, income of the spouse of the prisoner, property owned, cash or checking accounts, dependents, debts and monthly expenses shall be filed with the court. In addition to the information required above, the affidavit shall contain the following statements: "I am unable to pay the court costs at this time. I verify that the statements made in this affidavit are true and correct." The affidavit shall be sworn as required by law.

2. The Attorney General or other counsel for the defendant shall be authorized to receive information from any source verifying the financial information given by the prisoner.

3. When considering the ability of a prisoner to pay fees and costs and establishing a payment schedule, the court shall consider, but is not limited to consideration of, the following:

- a. all living support received by the person from any source, including the state, whether in money or any form of services,

- b. any income of a spouse,
- c. gifts,
- d. savings accounts,
- e. retirement plans,
- f. trust accounts,
- g. personal property,
- h. inmate trust accounts, and
- i. any dispositions of property, real or personal, in the past twelve (12) months.

C. A court, in which an affidavit of inability to pay has been filed, shall dismiss the action in whole or in part upon a finding that the allegation of poverty is false. If a portion of the action is dismissed, the court shall also designate the issues and defendants on which the action is to proceed without prepaying costs. This order is not subject to an interlocutory appeal.

D. In determining whether the allegation of poverty is false, the court is authorized to hold a hearing, before or after service of process, on its own motion or upon the motion of a party.

E. If the court concludes, based on information contained in the affidavit of inability to pay or other information available to the court, that the prisoner is able to prepay part of the fees or costs required, then the court shall order a partial payment to be made as a condition precedent to the commencement and further prosecution of the action.

F. Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that:

1. The allegation of poverty is untrue; or
2. The action or appeal:
 - a. is frivolous or malicious,
 - b. fails to state a claim on which relief may be granted,or

c. seeks monetary relief against a defendant who is immune from such relief.

G. 1. The Department of Corrections and each sheriff is hereby authorized to adopt a grievance procedure at its institutions for receiving and disposing of any and all grievances by prisoners against the Department or any officials or employees thereof or a sheriff, deputies of the sheriff or employees of the county, which arise while a prisoner is within the custody or under the supervision of the Department or sheriff. The grievances may include, but are not limited to, any and all claims seeking monetary damages or any other form of relief otherwise authorized by law. All such grievance procedures, including the prisoner disciplinary process, shall be deemed to be the exclusive internal administrative remedy for complaints and grievances.

2. No court of the State of Oklahoma shall entertain a grievance, petition, or complaint of a prisoner unless and until the prisoner has exhausted all the remedies as provided in the grievance procedure of the Director of the Department of Corrections or sheriff. Nothing in this section shall modify requirements of The Governmental Tort Claims Act.

3. Failure to timely institute administrative review of a claim shall be considered an abandonment, and upon motion of the defendants, supported by an affidavit of the defendant that the prisoner has failed to timely institute and exhaust the administrative remedy, the court shall enter a judgment of dismissal with prejudice in that cause of action. Strict adherence to the notice requirement established in the grievance procedures shall be complied with by the prisoner or the attorney of the prisoner.

4. In addition to any other provisions of law providing for the confidentiality of records of the Department of Corrections or a sheriff, all reports, investigations, and like supporting documents prepared by the Department or sheriff for purposes of responding to

the request of a prisoner for an administrative remedy shall be deemed to be prepared in anticipation of litigation and are confidential and not subject to discovery by the prisoner in any civil action or subject to release under the Oklahoma Open Records Act. All formal written responses to the grievance of the prisoner shall be furnished to the prisoner as provided for in the grievance procedure.

5. Any prisoner who is allegedly aggrieved by an adverse decision by the Department of Corrections or a sheriff rendered pursuant to any grievance procedure must file the appropriate civil cause of action or application for extraordinary writ, within one hundred eighty (180) days after the final decision is issued and within the limitations period set forth in The Governmental Tort Claims Act, to the appropriate court alleging specifically what legal right was violated and what remedy exists.

H. Nothing in this section shall be construed as waiving the sovereign immunity or the tort immunity of the state, its agencies, officers or employees for injuries allegedly suffered while in the custody of the state and its agency or any county, sheriff, or officers or employees of the county for injuries allegedly suffered while in the custody of the county.

SECTION 6. AMENDATORY 57 O.S. 2001, Section 582, as last amended by Section 1, Chapter 123, O.S.L. 2005 (57 O.S. Supp. 2005, Section 582), is amended to read as follows:

Section 582. A. The provisions of the Sex Offenders Registration Act, Section 581 et seq. of this title, shall apply to any person residing, working or attending school within the State of Oklahoma who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a crime or an attempt to commit a crime provided for in Section 7115

of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1024.2, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence at any time in any court of another state, a federal court, an Indian tribal court or a military court for a 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 any of said laws listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment at any time in any court of another state, a federal court, an Indian tribal court or a military court for a 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 Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, 865 et seq., 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1024.2, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The

provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections.

D. On the effective date of this act, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 2, Chapter 123, O.S.L. 2005 (57 O.S. Supp. 2005, Section 583), is amended to read as follows:

Section 583. A. Any person who becomes subject to the provisions of the Sex Offenders Registration Act on or after November 1, 1989, shall be registered as follows:

1. With the Department of Corrections within three (3) business days of being convicted or receiving 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, if the person is not incarcerated, or within three (3) business days of release of the person from a correctional institution, except as provided in subsection B of this section;

2. With the local law enforcement authority having jurisdiction in the area where the person resides or intends to reside for more than seven (7) days of a calendar year. The registration is required within three (3) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration.

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.

B. Any person who at any time has been convicted of an offense or received a deferred judgment for an offense ~~on or after November 1, 1989,~~ in another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title and who enters this state, on or after November 1, 1989, shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) days or longer, has any type of full-time or part-time employment, with or without compensation for more than five (5) days, or is enrolled as a full-time or part-time student within this state. Such registration is required within two (2) days after entering the state;

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay for more than five (5) days, has any type of full-time or part-time

employment, with or without compensation for more than five (5) days, or is enrolled as a full-time or part-time student within this state. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority;

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration; and

4. For persons convicted of an offense or receiving a deferred judgment in another jurisdiction requiring registration, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title, shall maintain the registration for a period of ten (10) years from the date the person was initially ~~required to register~~ registered in Oklahoma, unless the person was convicted of a crime that would be classified as an habitual or aggravated sex offender within the State of Oklahoma, at which time registration shall continue at all times.

C. When a person has been convicted or received probation within the State of Oklahoma and the person is not classified as an habitual or aggravated sex offender, the person shall be required to register for a period of ten (10) years from the date of the completion of the sentence and the information received pursuant to the registration with the Department of Corrections required by this section shall be maintained by the Department of Corrections for at least ten (10) years from the date of the last registration.

D. When a person has been convicted or received probation within the State of Oklahoma and the person is not classified as an habitual or aggravated sex offender, the person shall be required to register for a period of ten (10) years from the date of completion of the sentence and the information received pursuant to the

registration with the local law enforcement authority required by this section shall be maintained by such authority for at least ten (10) years from the date of the last registration.

E. When registering an offender as provided in this section the Department of Corrections or the local law enforcement agency having jurisdiction shall:

1. Inform the offender of the duty to register and obtain the information required for registration as described in this section;

2. Inform the offender that if the offender changes address, the offender shall give notice of the move and the new address to the Department of Corrections and to the local law enforcement authority in the location in which the offender previously resided in writing no later than three (3) days before the offender establishes residence or is temporarily domiciled at the new address;

3. Inform the offender that if the offender changes address to another state, the offender shall give notice of the move and shall register the new address with the Department of Corrections and with a designated law enforcement agency in the new state not later than ten (10) days before the offender establishes residency or is temporarily domiciled in the new state, if the new state has a registration requirement;

4. Inform the offender that if the offender participates in any full-time or part-time employment, in another state, with or without compensation for more than fourteen (14) days or an aggregate period exceeding thirty (30) days in a calendar year, then the offender has a duty to register as a sex offender in that state;

5. Inform the offender that if the offender enrolls in any type of school in another state as a full-time or part-time student then the offender has a duty to register as a sex offender in that state;

6. Inform the offender that if the offender enrolls in any school within this state as a full-time or part-time student, then

the offender has a duty to register as a sex offender with the Department of Corrections and the local law enforcement authority;

7. Inform the offender that if the offender participates in any full-time or part-time employment at any school, with or without compensation, or participates in any vocational course or occupation at any school in this state, then the offender has a duty to notify the Department of Corrections and the local law enforcement authority in writing of such employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

8. Inform the offender that if the offender graduates, transfers, drops, terminates or otherwise changes enrollment or employment at any school in this state, then the offender shall notify the Department of Corrections and the local law enforcement authority in writing of such change in enrollment or employment within three (3) days of the change; and

9. Require the offender to read and sign a form stating that the duty of the person to register under the Sex Offenders Registration Act has been explained.

F. For the purpose of this section, the "date of the completion of the sentence" means the day an offender completes all incarceration, probation and parole pertaining to the sentence.

G. Any person who resides in another state and who has been convicted of an offense or received a deferred judgment for an offense in this state, or in another jurisdiction, which offense if committed or attempted in this state would have been punishable as one or more of the offenses listed in Section 582 of this title, and who is the spouse of a person living in this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) days or longer or an aggregate period of five (5) days or longer in a

calendar year. Such registration is required within two (2) days after entering the state; and

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay within this state for two (2) days or longer. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority.

H. For the purpose of the Sex Offenders Registration Act, the registration requirement shall apply to any jurisdiction in which the person required to register is found for two (2) or more days in a calendar year. Any person that is required to register that has living arrangements at more than one location shall maintain registration at all of the locations, if located in different jurisdictions and shall make this information known to the registering authority.

SECTION 8. AMENDATORY Section 1, Chapter 223, O.S.L. 2003 (57 O.S. Supp. 2005, Section 590), is amended to read as follows:

Section 590. It is unlawful for any person registered pursuant to the Oklahoma Sex Offenders Registration Act to reside within a two thousand-foot radius of any public or private school site or educational institution or any location provided for in Section 1125 of Title 21 of the Oklahoma Statutes.

Nothing in this provision shall require any person to sell or otherwise dispose of any real estate or home acquired or owned prior to the conviction of the person as a sex offender. Any person willfully violating the provisions of this section by intentionally moving into any neighborhood or to any real estate or home within the prohibited distance shall, upon conviction, be guilty of a misdemeanor punishable by a fine not to exceed Three Thousand Dollars (\$3,000.00) on a first offense, and any second or subsequent

offense shall be punishable by incarceration for one (1) year in the county jail in addition to such fine.

SECTION 9. This act shall become effective November 1, 2006.

50-2-7678 SD 12/19/05