

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2508

By: Wesselhoft

AS INTRODUCED

An Act relating to sex offenders; making certain acts unlawful; providing penalties; amending 21 O.S. 2001, Section 1123, as last amended by Section 1, Chapter 159, O.S.L. 2003 (21 O.S. Supp. 2005, Section 1123), which relates to lewd or indecent proposals or acts as to child under 16 and sexual battery; updating language; making certain acts unlawful; providing penalties; establishing time limitation for issuance of driver licenses for certain persons; providing time limitation for initial and renewal licenses; specifying fee to be charged; directing compliance with certain driver license and renewal requirements; amending 57 O.S. 2001, Section 510.10, as last amended by Section 3, Chapter 188, O.S.L. 2005 (57 O.S. Supp. 2005, Section 510.10), which relates to electronic monitoring of inmates; authorizing electronic monitoring of certain persons; amending 57 O.S. 2001, Section 587, which relates to Sex Offenders Registration Act; modifying scope of certain prohibited act; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 446 of Title 21, unless there is created a duplication in numbering, reads as follows:

Any person who has reason to believe that a sex offender, who is required by law to register pursuant to the Sex Offenders Registration Act, is not complying or has not complied with the requirements of the Sex Offenders Registration Act and who, with the intent to assist the sex offender in eluding a law enforcement agency:

1. Withholds information from or does not notify the law enforcement agency about the noncompliance with the requirements of

the Sex Offenders Registration Act by the sex offender and, if known, the whereabouts of the sex offender;

2. Harbors or attempts to harbor or assists another person in harboring or attempting to harbor, the sex offender;

3. Conceals or attempts to conceal or assists another person in concealing or attempting to conceal, the sex offender; or

4. Provides information to the law enforcement agency regarding the sex offender which the person knows to be false information, shall, upon conviction, be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not less than one (1) year, or by a fine of not less than One Thousand Dollars (\$1,000.00), or by both such fine and imprisonment.

SECTION 2. AMENDATORY 21 O.S. 2001, Section 1123, as last amended by Section 1, Chapter 159, O.S.L. 2003 (21 O.S. Supp. 2005, Section 1123), is amended to read as follows:

Section 1123. A. It is a felony for any person to knowingly and intentionally:

1. Make any oral, written or electronically or computer-generated lewd or indecent proposal to any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, for the child to have unlawful sexual relations or sexual intercourse with any person; or

2. Look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

3. Ask, invite, entice, or persuade any child under sixteen (16) years of age, or other individual the person believes to be a child under sixteen (16) years of age, to go alone with any person to a secluded, remote, or secret place, with the unlawful and willful intent and purpose then and there to commit any crime

against public decency and morality, as defined by law, with the child; or

4. In any manner lewdly or lasciviously look upon, touch, maul, or feel the body or private parts of any child under sixteen (16) years of age in any indecent manner or in any manner relating to sexual matters or sexual interest; or

5. In a lewd and lascivious manner and for the purpose of sexual gratification:

- a. urinate or defecate upon a child under sixteen (16) years of age,
- b. ejaculate upon or in the presence of a child,
- c. cause, expose, force or require a child to look upon the body or private parts of another person,
- d. force or require any child under sixteen (16) years of age or other individual the person believes to be a child under sixteen (16) years of age, to view any obscene materials, child pornography or materials deemed harmful to minors as such terms are defined by Sections 1024.1 and 1040.75 of this title,
- e. cause, expose, force or require a child to look upon sexual acts performed in the presence of the child, or
- f. force or require a child to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection ~~A of this section~~ shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for not less than one (1) year nor more than twenty (20) years. The provisions of this ~~section~~ subsection shall not apply unless the accused is at least three (3) years older than the victim. Any person convicted of a second or subsequent violation of this subsection ~~A of this section~~ shall be guilty of a felony punishable as provided in this subsection and shall not be eligible for probation, suspended or

deferred sentence. Any person convicted of a third or subsequent violation of this subsection A of this section shall be guilty of a felony punishable by imprisonment in the State Penitentiary custody of the Department of Corrections for a term of life or life without parole, in the discretion of the jury, or in case the jury fails or refuses to fix punishment then the same shall be pronounced by the court. Any person convicted of a violation of this subsection after having been twice convicted of a violation of subsection A of Section 1114 of this title, Section 888 of this title, sexual abuse of a child pursuant to Section 7115 of Title 10 of the Oklahoma Statutes, or of any attempt to commit any of these offenses or any combination of convictions pursuant to these sections shall be punished by imprisonment in the State Penitentiary custody of the Department of Corrections for a term of life or life without parole.

B. It is a felony for any person to knowingly and intentionally:

1. Look upon, touch, maul, or feel the body or private parts of any child under twelve (12) years of age in any lewd or lascivious manner by any acts against public decency and morality, as defined by law; or

2. In a lewd and lascivious manner and for the purpose of sexual gratification force or require any child under twelve (12) years of age to touch or feel the body or private parts of said child or another person.

Any person convicted of any violation of this subsection shall, upon conviction, be punished by imprisonment in the custody of the Department of Corrections for a term of not less than twenty-five (25) years nor more than life.

C. No person shall commit sexual battery on any other person. "Sexual battery" shall mean the intentional touching, mauling or feeling of the body or private parts of any person sixteen (16) years of age or older, in a lewd and lascivious manner and without

the consent of that person or when committed by a state, county, municipal or political subdivision employee or a contractor or an employee of a contractor of the state, a county, a municipality or political subdivision of this state upon a person who is under the legal custody, supervision or authority of a state agency, a county, a municipality or a political subdivision of this state.

~~C.~~ D. Any person convicted of any violation of ~~this~~ subsection B of this section shall be deemed guilty of a felony and shall be punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of Corrections for not more than five (5) years.

~~D.~~ E. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense pursuant to this section shall not constitute a defense to a prosecution under this section.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6-115.3 of Title 47, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by law, any applicant or licensee who is subject to registration pursuant to the Sex Offenders Registration Act shall be issued a driver license for a period of no more than one (1) year. The applicant or licensee shall be subject to the provisions of this section for the duration of the registration period.

B. The expiration date of an initial license shall be no more than one (1) year from the last day of the month of issuance or no more than one (1) year from the last day of the birth month of the applicant immediately preceding the date of issuance, if requested by the applicant.

C. The expiration date of a renewal license shall be no more than one (1) year from the last day of the month of expiration of the previous license or no more than one (1) year from the last day of the birth month of the licensee immediately preceding the

expiration date of the previous license, if requested by the licensee.

D. The fee charged for the issuance or renewal of a driver license shall be not more than one-fourth (1/4) of the fee charged, as provided in Section 6-101 of Title 47 of the Oklahoma Statutes, for the issuance or renewal of an Oklahoma driver license.

E. All other requirements for a driver license or renewal shall apply to persons subject to the provisions of this section.

SECTION 4. AMENDATORY 57 O.S. 2001, Section 510.10, as last amended by Section 3, Chapter 188, O.S.L. 2005 (57 O.S. Supp. 2005, Section 510.10), is amended to read as follows:

Section 510.10 A. The Department of Corrections is hereby authorized to use electronic monitoring devices for any inmate sentenced for a crime or for any person granted parole, or as disciplinary sanction as authorized by law.

B. The electronic monitoring of an inmate pursuant to this section shall be in addition to active supervision required by law. An inmate assigned to electronic monitoring shall be required to pay the Department of Corrections for all or part of any monitoring equipment or fee, supervision cost, or other costs while assigned to electronic monitoring. The Department shall determine whether the person has the ability to pay all or part of such costs or fee.

C. From and after the effective date of this act, any person in the custody of the Department of Corrections who is subject to probation or is assigned to a community corrections center, community work center, or halfway house, and who has any current or previous convictions for a crime which would require the person to register as a sex offender pursuant to the Oklahoma Sex Offenders Registration Act, shall be assigned to a global position monitoring system for the duration of the ~~registration period~~ probation or sentence. Any offender paroled who is subject to the provisions of

the Oklahoma Sex Offenders Registration Act shall be assigned to a global position monitoring system for the duration of the parole.

D. As used in this section, "electronic monitoring" means monitoring of an inmate within a specified location or locations by means of a global positioning device approved by the Department of Corrections with active supervision by correctional officers or other employees of the Department of Corrections. A global position monitoring system must utilize a backup data storage collection system.

E. The Department shall promulgate and adopt rules and procedures necessary to implement the provisions of this section.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 587, is amended to read as follows:

Section 587. Any person required to register or reregister pursuant to the provisions of the Sex Offenders Registration Act, ~~Section 581 et seq. of this title,~~ who violates any provision of ~~said the~~ act shall, upon conviction, be guilty of a felony. Any person convicted of a violation of this section shall be punished by ~~incarceration~~ imprisonment ~~in a correctional facility~~ the custody of the Department of Corrections for not more than five (5) years, or a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 6. This act shall become effective November 1, 2006.

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