

STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

SENATE BILL 1588

By: Branam

AS INTRODUCED

An Act relating to sex offenders; creating the Sexual Offenses Against Children Act; providing short title; defining terms; setting penalties for certain offenses; providing exception to certain penalties; providing penalties for subsequent offenses; establishing statute of limitations; prohibiting pretrial release; requiring certain supervision and monitoring for certain period of time; creating a felony offense for certain withholding of information or harboring certain person; stating penalty; establishing certain registration requirements; requiring release of certain information to entities in community; requiring certain updates to registration information; setting penalty for failure to provide certain information; making certain violation a reason to revoke certain supervision; providing certain term of monitoring for certain second or subsequent violation; directing certain duties for certain law enforcement authorities; requiring lifetime registration for certain offenders; authorizing petition for removal from certain registration upon certain conditions; making certain provisions retroactive to certain offenders; stating certain victim rights; requiring certain considerations before excluding a victim from a court proceeding; requiring certain statement on court record; providing for codification; providing an effective date; and declaring an emergency.

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 630 of Title 57, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Sexual Offenses Against Children Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.1 of Title 57, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Sexual offense against a victim who is a minor" includes every offense, other than an offense involving sexual conduct where the victim is at least thirteen (13) years of age and the offender is not more than four (4) years older than the victim and sexual conduct was consensual, which involves any one or more of the following prohibited acts:

- a. sexual conduct,
- b. solicitation to engage in sexual conduct,
- c. use in sexual performance,
- d. solicitation to practice prostitution,
- e. kidnapping, unless committed by a parent of the minor,
- f. false imprisonment, unless committed by a parent of the minor,
- g. production or distribution of child pornography, or
- h. any attempt or conspiracy to commit any offense enumerated in subparagraphs a through g of this paragraph; and

2. "Sexual offender" means any person convicted of a sexual offense as defined in this section against a victim who is a minor.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. A person who is convicted of a sexual offense against a victim who is a minor pursuant to this act shall, unless a greater mandatory minimum sentence of imprisonment is otherwise provided by law and regardless of any maximum term of imprisonment otherwise provided for the offense, be sentenced as follows:

1. If the sexual offense results in death of the minor, the sentence shall be mandatory life imprisonment or death;

2. If the sexual offense includes kidnapping, forcible rape, forcible sodomy or maiming or results in serious bodily injury, the

sentence shall be life imprisonment or any term of imprisonment not less than thirty (30) years;

3. If the sexual offense results in bodily injury, the sentence shall be life imprisonment or any term of imprisonment not less than twenty (20) years;

4. If the sexual offense includes the use of any dangerous weapon during or in relation to the sexual offense, the sentence shall be life imprisonment or any term of imprisonment for not less than fifteen (15) years; or

5. In all other cases the sentence shall be life imprisonment or any term of imprisonment not less than ten (10) years.

B. A person who is convicted of a sexual offense against a victim who is a minor pursuant to this act shall be sentenced to life imprisonment if the person has a prior conviction for a sexual offense in which a minor was the victim, unless the death sentence is imposed. The term "prior conviction for a sexual offense" means a conviction for which the sentence was imposed before the conduct occurred constituting the subsequent sexual offense, and which was a sexual offense under any state or federal law.

C. A sexual offense against a victim who is a minor pursuant to this act must be prosecuted within ten (10) years of the offense, or within five (5) years after the minor reaches the age of emancipation, whichever is longer.

D. Where the charge is a sexual offense against a victim who is a minor pursuant to this act, pretrial release shall not be available to the accused.

E. A person who has been convicted of a sexual offense against a victim who is a minor pursuant to this act shall, in addition to the term of imprisonment, be placed on a term of probation or supervised release after imprisonment for a term not less than five (5) years, and up to life.

F. A person who has been convicted of a sexual offense against a victim who is a minor pursuant to this act shall be required to have electronic monitoring or global position system (GPS) monitoring for the remainder of the person's probation or supervised release.

G. A person, with the intent to assist the sexual offender in eluding a law enforcement entity when a law enforcement officer is seeking to find the sexual offender for questioning or arrest, commits a felony offense by:

1. Withholding information from or failing to notify the law enforcement agency about the sexual offender's noncompliance with the requirements of this section, and, if known, the whereabouts of the sexual offender;

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

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

4. Provides information to the law enforcement agency regarding the sexual offender which the person knows to be false information.

Any person violating the provisions of this subsection shall be punished by imprisonment in the custody of the Department of Corrections for a term not more than two (2) years, or by a fine in an amount not exceeding One Hundred Thousand Dollars (\$100,000.00), or by both such fine and imprisonment.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.3 of Title 57, unless there is created a duplication in numbering, reads as follows:

In the case of a sexual offender as defined in this act, the following requirements shall apply in addition to any other requirements of this act:

1. Any person convicted of a sexual offense against a victim who is a minor pursuant to this act must register with this state as

a sex offender. Registration shall include the following information:

- a. name,
- b. social security number,
- c. race,
- d. sex,
- e. date of birth,
- f. height,
- g. weight,
- h. hair and eye color,
- i. address of any permanent residence and address of any current temporary residence within this state or out of state, including a rural route address and a post office box, except a post office box shall not be provided in lieu of a physical residential address,
- j. description of crime,
- k. date and place of employment,
- l. tattoos or identification marks,
- m. vehicle make, model, color, and license tag number,
- n. fingerprints, and
- o. photograph,

2. Whenever a sexual offender is required to provide registration information, the appropriate law enforcement agency with responsibility for supervising the sexual offender's compliance must provide the information to appropriate entities within the sexual offender's community including:

- a. schools,
- b. public housing, and
- c. at least two media outlets such as newspapers, television stations or radio stations covering the community.

3. Sexual offenders are required to update information as follows:

- a. sexual offenders are required to report in person to the appropriate law enforcement authority within seven (7) days of a change in the registration information,
- b. sexual offenders are required to re-register annually in person with the appropriate law enforcement authority during the month of the sexual offender's birthday to update the information regardless of whether there has been any change in information, and
- c. the appropriate law enforcement authority with responsibility for monitoring a sexual offender shall send a non-forwardable verification form to the last known address of the person to be returned by the person within seven (7) days after receiving the form. The date on which the authority mails the form shall be determined through a process that includes an element of randomness, except that the state shall mail the form at least twice in each calendar year. A failure to return the form within the period allowed shall be punishable in the same manner as a failure to register.

4. Failure to comply with a requirement of paragraph 3 of this section commits a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than two (2) years, or by a fine in an amount not exceeding One Hundred Thousand Dollars (\$100,000.00), or by both such fine and imprisonment.

5. Failure to comply with the provisions of paragraph 3 of this section shall be deemed a violation of any parole, probation or supervised release and the sexual offender shall, in addition to any sentence imposed by paragraph 4 of this section, be required to be revoked from parole, probation or supervised release and be

incarcerated for the remaining time from the original sentence without the possibility of early release.

6. In addition to any other consequence that may be imposed by law, a sexual offender who fails to register or fails to keep such registration information current on two or more occasions shall, upon release from incarceration, be required to have electronic monitoring for a period of not less than ten (10) years.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.4 of Title 57, unless there is created a duplication in numbering, reads as follows:

Law enforcement authorities with responsibilities for monitoring sexual offenders pursuant to this act shall:

1. Provide public notification on state maintained registries for all sexual offenders required to register pursuant to this act or in compliance with the Federal Jacob Wetterling Act:

2. Implement safeguards and conditions to ensure that sexual offenders are properly monitored including, but not limited to, procedures and protocols for verifying information and manageable officer to sexual offender workloads; and

3. Take effective actions to locate and apprehend a registered sexual offender if his or her address cannot be verified or the offender cannot be immediately located.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.5 of Title 57, unless there is created a duplication in numbering, reads as follows:

A person who has been convicted of a sexual offense against a victim who is a minor pursuant to this act shall maintain registration with the appropriate authority for the duration of his or her life, unless the sexual offender has received a pardon on the ground of innocence or has had every conviction for which registration is required set aside in a post-conviction proceeding. Except for sexual offenders for whom lifetime registration is

required under the standards for the Federal Jacob Wetterling Act, 42 U.S.C. Section 14071, a sexual offender who has been released from imprisonment, supervision or sanction, whichever is later, for at least twenty (20) years may petition the court for release from registration. To be eligible for release from registration, the sexual offender cannot have had any felony or misdemeanor arrests since being released from imprisonment, supervision or sanction, whichever is later.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.6 of Title 57, unless there is created a duplication in numbering, reads as follows:

The registration and other requirements imposed pursuant to this act shall apply to those sexual offenders previously adjudicated guilty for a crime described in Section 2 of this act, but which was adjudicated prior to this law taking effect.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 630.7 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. In addition to any victim protections and rights afforded by law, victims in cases involving sexual offenses committed against victims who are minors shall, at a minimum, have the following rights:

1. The right to be reasonably protected from the accused;
2. The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused;
3. The right not to be excluded from any public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at the proceeding:

4. The right to be reasonably heard at any public proceeding in the trial court involving release, plea, sentencing, or any probation or release proceeding;

5. The reasonable right to confer with the prosecuting attorney in the case;

6. The right to full and timely restitution as provided by law;

7. The right to proceedings free from unreasonable delay; and

8. The right to be treated with fairness and with respect for the victim's dignity and privacy.

B. In any court proceeding involving an offense described pursuant to this act, the court shall ensure that the crime victim is afforded the rights described in subsection A of this section. Before making a determination to exclude the victim from any proceeding the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this section shall be clearly stated on the record.

C. The term "victim" or "victim who is a minor" for purposes of this act shall mean the person against whom the crime was committed, or the parent or legal guardian of the minor, and any legal counsel for the minor.

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

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