

1 ENGROSSED HOUSE AMENDMENT
TO
2 ENGROSSED SENATE BILL NO. 1601

By: Aldridge, Leftwich, Gumm,
Jolley and Garrison of
the Senate

4 and
5 Peters of the House

6
7
8 (child abuse - registered sex offenders - requiring
9 report - Mary Rippy Violent Crime Offenders
10 Registration Act - codification - noncodification -
11 effective date -
12 emergency)

13
14 AUTHORS: Add the following House Coauthors: Kern, Pittman, Coody,
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15 Martin (Steve), McDaniel (Jeannie), McNiell, Rousselot,
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16
17 AUTHOR: Add the following Senate Coauthor: Paddack

18 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

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20
21 "An Act relating to child abuse; stating legislative
intent; amending 57 O.S. 2001, Section 589, as last
22 amended by Section 10, Chapter 358, O.S.L. 2004 (57
O.S. Supp. 2007, Section 589), which relates to
23 prohibition of registered sex offenders from certain
employment; requiring annual name search of certain
24 employees; mandating certain persons to sign certain

1 declaration; granting certain immunity from
2 liability; providing certain compliance for school
3 contracts; criminalizing failure to conduct certain
4 name search and refusal to sign certain declaration;
5 setting misdemeanor penalties; mandating certain
6 termination of employment; requiring report of
7 certain violations to district attorney; amending
8 Section 3, Chapter 358, O.S.L. 2004 (57 O.S. Supp.
9 2007, Section 593), which relates to applicability
10 of Mary Rippy Violent Crime Offenders Registration
11 Act; adding certain abuse to crimes for mandatory
12 registration; providing procedure for registration
13 for crimes of abuse; construing certain provision;
14 limiting certain offenses for consideration;
15 prohibiting duplicate registration for certain
16 offenses; requiring compliance for registration;
17 amending 70 O.S. 2001, Section 6-101.48, as amended
18 by Section 2, Chapter 205, O.S.L. 2005 (70 O.S.
19 Supp. 2007, Section 6-101.48), which relates to sex
20 offenders under school contracts; including
21 requirement to register under Mary Rippy Violent
22 Crime Offenders Registration Act; providing public
23 access to certain offender registries for certain
24 purpose; providing methods to access certain
offender registries; directing certain state and
local agencies to provide fee-based name search of
certain registries to public; providing public
computer-Internet link access to certain offender
registries; directing the Department of Corrections
to develop certain policies, procedures and forms
for certain purpose; authorizing publication and
dissemination of certain information to the public
and from certain offender registries; granting
immunity from liability to governmental agencies for
release of certain information; providing for
codification; providing for noncodification;
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 not to be
codified in the Oklahoma Statutes reads as follows:

1 The Legislature recognizes the growing incidence of physical
2 violence, abuse and injury against children in this state and that
3 there is a need to better protect all children from such harmful and
4 offensive conduct. The Legislature further recognizes that child
5 care involves an extensive use of child caregivers while parents and
6 guardians attend to the legitimate demands of employment and daily
7 responsibilities including, but not limited to, the use of
8 unlicensed child care and babysitting assistance where children are
9 watched in individual private homes; licensed child care facilities
10 regulated by the state where children are cared for during business
11 hours and after school in commercial facilities; various not-for-
12 profit and other organizational programs which provide temporary
13 child care a few hours a day several times per week or month in a
14 facility staffed by child care volunteers or organizational
15 employees; and various other child care arrangements where reliance
16 is mainly upon family members, relatives, friends, neighbors, and
17 acquaintances who keep children at different times and in varying
18 environments. The Legislature recognizes that there is currently no
19 reliable method for an individual parent or guardian to screen a
20 potential child caregiver for prior acts of violence or child abuse,
21 and as a result there is a potential risk of harm each time a parent
22 or guardian selects a new individual to care for the child.
23 Therefore, it should be required for the protection of all children
24 in this state that every person convicted of or receiving a deferred

1 or suspended sentence for an act of violence or child abuse be
2 registered as a violent offender and be prohibited from caring for
3 another person's child. The Legislature finds that licensed child
4 care facilities and other organizations serving children, together
5 with all parents and guardians, should be able to easily search for
6 criminal conduct of potential employees, workers, volunteers, and
7 babysitters, and readily identify if a person has been convicted of
8 or committed prior acts of violence or child abuse, for the
9 protection of children who may be entrusted to such person's care;
10 and that no person should be permitted to work with, serve or care
11 for another person's child when the caregiver has a prior conviction
12 for an act of violence or child abuse. Therefore, the Legislature
13 hereby designates the crime of child abuse as a violent offense for
14 purposes of the Mary Rippe Violent Crime Offenders Registration Act
15 and hereby establishes a procedure for the parents, guardians,
16 businesses and organizations of this state to search and identify
17 persons at risk of potential harm to a child based upon prior
18 criminal conduct or conviction for an act of violence or child
19 abuse.

20 SECTION 2. AMENDATORY 57 O.S. 2001, Section 589, as last
21 amended by Section 10, Chapter 358, O.S.L. 2004 (57 O.S. Supp. 2007,
22 Section 589), is amended to read as follows:

23 Section 589. A. It is unlawful for any person registered
24 pursuant to the Oklahoma Sex Offenders Registration Act or the Mary

1 Rippy Violent Crime Offenders Registration Act to work with or
2 provide services to children or to work on school premises, or for
3 any person or business which contracts for work to be performed on
4 school premises to knowingly and willfully allow any employee to
5 work with children or to work on school premises who is registered
6 pursuant to the Oklahoma Sex Offenders Registration Act or the Mary
7 Rippy Violent Crime Offenders Registration Act. Upon conviction for
8 any violation of the provisions of this subsection, the violator
9 shall be guilty of a misdemeanor punishable by a fine not to exceed
10 One Thousand Dollars (\$1,000.00). In addition, the violator may be
11 liable for civil damages.

12 B. 1. A person or business who offers or provides services to
13 children shall ensure compliance with subsection A of this section
14 by conducting a name search of employees at least annually against
15 the registries maintained pursuant to the Oklahoma Sex Offenders
16 Registration Act and the Mary Rippy Violent Crime Offenders
17 Registration Act while such person is working with or serving
18 children. All persons working with or providing services to
19 children shall be required to sign a statement declaring that he or
20 she is not currently required to register under the provisions of
21 the Oklahoma Sex Offenders Registration Act or the Mary Rippy
22 Violent Crime Offenders Registration Act. Compliance with the
23 signed statement shall be mandatory for all persons working with or
24 providing services to children, and there shall be no liability or

1 obligation placed upon any person or business to ascertain the
2 truthfulness of the affidavit. Any person or business having a
3 contract with a school shall ensure compliance as provided by
4 Section 6-101.48 of Title 70 of the Oklahoma Statutes.

5 2. Failure of any person or business who works with or provides
6 services to children to conduct the annual name search of each
7 person employed shall be a misdemeanor. Upon conviction for failure
8 to conduct a name search, the violator shall be guilty of a
9 misdemeanor punishable by a fine not to exceed One Thousand Dollars
10 (\$1,000.00). Refusal of any person who is employed to work with or
11 provide services to children to sign a statement declaring they have
12 no requirement to register as provided in this section shall be a
13 misdemeanor, upon conviction, punishable by a fine not to exceed One
14 Thousand Dollars (\$1,000.00), and the person shall be immediately
15 terminated from employment. Any person discovering an employment or
16 registration violation as required by any provision of law for any
17 person currently employed to work with or provide services to
18 children has a duty to and shall immediately report such findings to
19 the district attorney.

20 C. It is unlawful for any law enforcement agency to employ any
21 person as a peace officer or criminal investigator who has received
22 a verdict of guilty or pled guilty or nolo contendere to any offense
23 required to register pursuant to the Sex Offenders Registration Act
24 or the Mary Rippe Violent Crime Offenders Registration Act,

1 including those receiving a verdict of guilt, pleading guilty or
2 nolo contendere as part of a deferred judgment or other provision of
3 law authorizing a delayed or suspended judgment or sentence. Every
4 person receiving a verdict of guilty or pleading guilty or nolo
5 contendere to any offense required to register pursuant to the Sex
6 Offenders Registration Act or the Mary Rippy Violent Crime Offenders
7 Registration Act shall be prohibited from being certified by the
8 Council on Law Enforcement Education and Training (CLEET) as a peace
9 officer, private investigator, or security guard, and if at the time
10 of the verdict or plea such person has been previously CLEET
11 certified such certification shall be revoked. Any violator shall
12 be guilty of a misdemeanor upon conviction of noncompliance with the
13 provisions of this subsection.

14 SECTION 3. AMENDATORY Section 3, Chapter 358, O.S.L.
15 2004 (57 O.S. Supp. 2007, Section 593), is amended to read as
16 follows:

17 Section 593. A. On and after November 1, 2004, the provisions
18 of the Mary Rippy Violent Crime Offenders Registration Act shall
19 apply to:

20 1. Any person residing, working or attending school in this
21 state who is subsequently convicted of, or who receives a deferred
22 judgment or suspended sentence for, any crime or attempted crime
23 enumerated in subsection B of this section by any court in this
24

1 state, another state, the United States, a tribal court, or a
2 military court; or

3 2. Any person who subsequently enters this state for purposes
4 of residence, work or to attend school and who has been previously
5 convicted of or is subject to a deferred judgment, suspended
6 sentence, probation or parole from any court of another state, the
7 United States, a tribal court, or a military court for any crime or
8 attempted crime which, if committed or attempted in this state,
9 would be a crime substantially similar to any crime enumerated in
10 subsection B of this section.

11 For purposes of this act, "convicted of" means an adjudication
12 of guilt by a court of competent jurisdiction whether upon a verdict
13 or plea of guilty or nolo contendere.

14 B. The following crimes and attempts to commit such crimes
15 shall be registered under the Mary Rippe Violent Crime Offenders
16 Registration Act:

17 1. First degree murder as provided for in Section 701.7 of
18 Title 21 of the Oklahoma Statutes;

19 2. Second degree murder as provided for in Section 701.8 of
20 Title 21 of the Oklahoma Statutes;

21 3. Manslaughter in the first degree as defined by Section 711
22 of Title 21 of the Oklahoma Statutes;

23 4. Shooting or discharging a firearm with intent to kill, use
24 of a vehicle to facilitate the intentional discharge of a firearm,

1 crossbow or other weapon, assault, battery, or assault and battery
2 with a deadly weapon or by other means likely to produce death or
3 great bodily harm, as provided for in Section 652 of Title 21 of the
4 Oklahoma Statutes;

5 5. Assault with intent to kill as provided for in Section 653
6 of Title 21 of the Oklahoma Statutes;

7 6. Bombing as provided for in Section 1767.1 of Title 21 of the
8 Oklahoma Statutes; ~~and~~

9 7. Abuse as specifically provided in subsection D of this
10 section; and

11 8. Any crime or attempt to commit a crime constituting a
12 substantially similar offense as stated in paragraphs 1 through ~~6~~ 7
13 of this subsection adjudicated by any court of another state, the
14 United States, a tribal court, or a military court.

15 C. The registration requirements of the Mary Rippy Violent
16 Crime Offenders Registration Act shall not apply to any person while
17 the person is incarcerated in a maximum or medium correctional
18 institution of the Department of Corrections, a private correctional
19 institution, or another state, federal, tribal or military facility,
20 but shall apply to deferred, suspended, probation, parole and
21 discharges.

22 D. 1. For purposes of the Mary Rippy Violent Crime Offenders
23 Registration Act, the requirement to register for a crime of abuse
24 shall be determined by the judge at the time of sentencing or upon

1 granting the defendant a deferred judgment. The judge shall
2 determine whether the crime for which the defendant is convicted or
3 pleads guilty or nolo contendere under any provision of Section 7115
4 of Title 10 of the Oklahoma Statutes or Section 843.1, 843.2, 852 or
5 852.1 of Title 21 of the Oklahoma Statutes resulted in:

6 a. physical pain, injury, sexual abuse, sexual
7 exploitation, unreasonable restraint or confinement,
8 or mental anguish to the victim, or

9 b. deprivation of nutrition, clothing, shelter, health
10 care, or other care or services which caused serious
11 physical or mental injury to the victim,

12 and whether the facts or nature of the offense warrant registration
13 for public disclosure and protection of victims.

14 2. Not every offense enumerated in paragraph 1 of this
15 subsection shall require automatic registration under the Mary Rippy
16 Violent Crime Offenders Registration Act, and no other offenses
17 shall be authorized for consideration for registration as a crime of
18 abuse. The judge shall not order any defendant to register under
19 the Mary Rippy Violent Crime Offenders Registration Act if the
20 defendant is required to register pursuant to any provision of the
21 Oklahoma Sex Offenders Registration Act for the same offense.

22 3. Upon the judge determining the defendant should register
23 pursuant to the Mary Rippy Violent Crime Offenders Registration Act
24 for a crime of abuse as authorized in this subsection, the defendant

1 shall be ordered to register and to comply with all provisions of
2 the Mary Rippy Violent Crime Offenders Registration Act, including,
3 but not limited to, the statutory term of registration.

4 SECTION 4. AMENDATORY 70 O.S. 2001, Section 6-101.48, as
5 amended by Section 2, Chapter 205, O.S.L. 2005 (70 O.S. Supp. 2007,
6 Section 6-101.48), is amended to read as follows:

7 Section 6-101.48 A. No person or business having a contract
8 with a school or school district to perform work on a full-time or
9 part-time basis that would otherwise be performed by school district
10 employees shall allow any employee to work on school premises if
11 such employee is convicted in this state, the United States or
12 another state of any felony offense unless ten (10) years has
13 elapsed since the date of the criminal conviction or the employee
14 has received a presidential or gubernatorial pardon for the criminal
15 offense.

16 B. Every person or business performing services not subject to
17 subsection A of this section on the property of a school or school
18 district shall at the time of contracting be required to sign a
19 statement declaring that no employee working on school premises
20 under the authority of such business is currently registered or
21 required to register under the provisions of the Oklahoma Sex
22 Offenders Registration Act or the Mary Rippy Violent Crime Offenders
23 Registration Act and that the business is not in violation of the
24 provisions of this section. Compliance with this statute shall be

1 required of the person or private business, and there shall be no
2 obligation placed upon a school district to ascertain the
3 truthfulness of the affidavit.

4 C. A person or business having a written contract with a school
5 or school district to perform work on a full-time or part-time basis
6 that would otherwise be performed by school district employees may
7 conduct a felony search of the employees of the person or entity who
8 would be assigned that work through a request to the State Board of
9 Education in the same manner as a felony search is afforded school
10 districts by Section 5-142 of this title.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 599.1 of Title 57, unless there
13 is created a duplication in numbering, reads as follows:

14 A. All persons, businesses and organizations in this state
15 shall have access to search and identify individual names contained
16 in the Oklahoma Sex Offender Registry and the Mary Rippy Violent
17 Crime Offenders Registry for purposes of verifying a person's
18 suitability for employment, volunteering, and for screening persons
19 at risk of potential harm to children who may work with or provide
20 services to children by utilizing one or more of the following
21 methods:

22 1. A person may contact the Oklahoma State Bureau of
23 Investigation, complete a form and pay the required fees for a name
24 search of both the Oklahoma Sex Offender Registry and the Mary Rippy

1 Violent Crime Offenders Registry and, if desired, search other
2 criminal history records pertaining to the person upon payment of
3 the required fees;

4 2. A person may conduct a free self-initiated search of both
5 the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime
6 Offenders Registry using a computer-Internet link to connect to a
7 state-agency-controlled database containing the names of all persons
8 currently registered on the Oklahoma Sex Offender Registry and the
9 Mary Rippy Violent Crime Offenders Registry; or

10 3. A person may contact either their local law enforcement
11 agency or the Department of Corrections, complete the form and pay
12 the required fees for a name search of both the Oklahoma Sex
13 Offender Registry and the Mary Rippy Violent Crime Offenders
14 Registry.

15 B. The Department of Corrections shall develop the necessary
16 policies, procedures, forms and data access to make the provisions
17 of this section effective statewide and may publish web sites or
18 other information to assist the public in learning where and how to
19 conduct a name search of the two registries authorized in this
20 section. The information provided in a name search shall include
21 the searched person's full name, any alias names, the crime which
22 requires registration, and whether the person is deemed a habitual
23 or aggravated offender. In addition, information may be provided in
24 the name search concerning the date and place of the offense, the

1 sentence disposition, a photograph of the registered person, and
2 other pertinent information including the current residence
3 location. There shall be no liability to any governmental agency
4 for the release or publication of any information maintained on the
5 Oklahoma Sex Offender Registry or the Mary Rippy Violent Crime
6 Offenders Registry under this section authorizing public access to a
7 name search for purposes of risk of potential harm to a child by a
8 caregiver or for suitability for employment.

9 SECTION 6. This act shall become effective July 1, 2008.

10 SECTION 7. It being immediately necessary for the preservation
11 of the public peace, health and safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval."

14 Passed the House of Representatives the 21st day of April, 2008.

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Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2008.

Presiding Officer of the Senate