

ENROLLED SENATE  
BILL NO. 1601

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

and

Peters, Kern, Pittman,  
Coody, Cooksey, Dank,  
Derby, Faught, Johnson  
(Dennis), Joyner, Martin  
(Steve), McDaniel  
(Jeannie), McNiel,  
Rousselot, Sears, Shannon  
and Tibbs of the House

An Act relating to child abuse; stating legislative intent; amending 57 O.S. 2001, Section 589, as last amended by Section 10, Chapter 358, O.S.L. 2004 (57 O.S. Supp. 2007, Section 589), which relates to prohibition of registered sex offenders from certain employment; requiring annual name search of certain employees; mandating certain persons to sign certain declaration; granting certain immunity from liability; providing certain compliance for school contracts; criminalizing failure to conduct certain name search and refusal to sign certain declaration; setting misdemeanor penalties; mandating certain termination of employment; requiring report of certain violations to district attorney; amending Section 3, Chapter 358, O.S.L. 2004 (57 O.S. Supp. 2007, Section 593), which relates to applicability of Mary Rippy Violent Crime Offenders Registration Act; adding certain abuse to crimes for mandatory registration; providing procedure for registration for crimes of abuse; construing certain provision; limiting certain offenses for consideration; prohibiting duplicate registration for certain

offenses; requiring compliance for registration; amending 70 O.S. 2001, Section 6-101.48, as amended by Section 2, Chapter 205, O.S.L. 2005 (70 O.S. Supp. 2007, Section 6-101.48), which relates to sex offenders under school contracts; including requirement to register under Mary Rippey Violent Crime Offenders Registration Act; providing public access to certain offender registries for certain 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:

The Legislature recognizes the growing incidence of physical violence, abuse and injury against children in this state and that there is a need to better protect all children from such harmful and offensive conduct. The Legislature further recognizes that child care involves an extensive use of child caregivers while parents and guardians attend to the legitimate demands of employment and daily responsibilities including, but not limited to, the use of unlicensed child care and babysitting assistance where children are watched in individual private homes; licensed child care facilities regulated by the state where children are cared for during business

hours and after school in commercial facilities; various not-for-profit and other organizational programs which provide temporary child care a few hours a day several times per week or month in a facility staffed by child care volunteers or organizational employees; and various other child care arrangements where reliance is mainly upon family members, relatives, friends, neighbors, and acquaintances who keep children at different times and in varying environments. The Legislature recognizes that there is currently no reliable method for an individual parent or guardian to screen a potential child caregiver for prior acts of violence or child abuse, and as a result there is a potential risk of harm each time a parent or guardian selects a new individual to care for the child. Therefore, it should be required for the protection of all children in this state that every person convicted of or receiving a deferred or suspended sentence for an act of violence or child abuse be registered as a violent offender and be prohibited from caring for another person's child. The Legislature finds that licensed child care facilities and other organizations serving children, together with all parents and guardians, should be able to easily search for criminal conduct of potential employees, workers, volunteers, and babysitters, and readily identify if a person has been convicted of or committed prior acts of violence or child abuse, for the protection of children who may be entrusted to such person's care; and that no person should be permitted to work with, serve or care for another person's child when the caregiver has a prior conviction for an act of violence or child abuse. Therefore, the Legislature hereby designates the crime of child abuse as a violent offense for purposes of the Mary Rippey Violent Crime Offenders Registration Act and hereby establishes a procedure for the parents, guardians, businesses and organizations of this state to search and identify persons at risk of potential harm to a child based upon prior criminal conduct or conviction for an act of violence or child abuse.

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

Section 589. A. It is unlawful for any person registered pursuant to the Oklahoma Sex Offenders Registration Act or the Mary Rippey Violent Crime Offenders Registration Act to work with or provide services to children or to work on school premises, or for

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

B. 1. A person or business who offers or provides services to children shall ensure compliance with subsection A of this section by conducting a name search of employees at least annually against the registries maintained pursuant to the Oklahoma Sex Offenders Registration Act and the Mary Rippy Violent Crime Offenders Registration Act while such person is working with or serving children. All persons working with or providing services to children shall be required to sign a statement declaring that he or she is not currently required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act. Compliance with the signed statement shall be mandatory for all persons working with or providing services to children, and there shall be no liability or obligation placed upon any person or business to ascertain the truthfulness of the affidavit. Any person or business having a contract with a school shall ensure compliance as provided by Section 6-101.48 of Title 70 of the Oklahoma Statutes.

2. Failure of any person or business who works with or provides services to children to conduct the annual name search of each person employed shall be a misdemeanor. Upon conviction for failure to conduct a name search, the violator shall be guilty of a misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00). Refusal of any person who is employed to work with or provide services to children to sign a statement declaring they have no requirement to register as provided in this section shall be a misdemeanor, upon conviction, punishable by a fine not to exceed One Thousand Dollars (\$1,000.00), and the person shall be immediately terminated from employment. Any person discovering an employment or registration violation as required by any provision of law for any person currently employed to work with or provide services to

children has a duty to and shall immediately report such findings to the district attorney.

C. It is unlawful for any law enforcement agency to employ any person as a peace officer or criminal investigator who has received a verdict of guilty or pled guilty or nolo contendere to any offense required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act, including those receiving a verdict of guilt, pleading guilty or nolo contendere as part of a deferred judgment or other provision of law authorizing a delayed or suspended judgment or sentence. Every person receiving a verdict of guilty or pleading guilty or nolo contendere to any offense required to register pursuant to the Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act shall be prohibited from being certified by the Council on Law Enforcement Education and Training (CLEET) as a peace officer, private investigator, or security guard, and if at the time of the verdict or plea such person has been previously CLEET certified such certification shall be revoked. Any violator shall be guilty of a misdemeanor upon conviction of noncompliance with the provisions of this subsection.

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

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

1. Any person residing, working or attending school in this state who is subsequently convicted of, or who receives a deferred judgment or suspended sentence for, any crime or attempted crime enumerated in subsection B of this section by any court in this state, another state, the United States, a tribal court, or a military court; or

2. Any person who subsequently enters this state for purposes of residence, work or to attend school and who has been previously convicted of or is subject to a deferred judgment, suspended sentence, probation or parole from any court of another state, the United States, a tribal court, or a military court for any crime or

attempted crime which, if committed or attempted in this state, would be a crime substantially similar to any crime enumerated in subsection B of this section.

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

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

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

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

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

4. Shooting or discharging a firearm with intent to kill, use of a vehicle to facilitate the intentional discharge of a firearm, crossbow or other weapon, assault, battery, or assault and battery with a deadly weapon or by other means likely to produce death or great bodily harm, as provided for in Section 652 of Title 21 of the Oklahoma Statutes;

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

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

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

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

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

D. 1. For purposes of the Mary Rippy Violent Crime Offenders Registration Act, the requirement to register for a crime of abuse shall be determined by the judge at the time of sentencing or upon granting the defendant a deferred judgment. The judge shall determine whether the crime for which the defendant is convicted or pleads guilty or nolo contendere under any provision of Section 7115 of Title 10 of the Oklahoma Statutes or Section 843.1, 843.2, 852 or 852.1 of Title 21 of the Oklahoma Statutes resulted in:

- a. physical pain, injury, sexual abuse, sexual exploitation, unreasonable restraint or confinement, or mental anguish to the victim, or
- b. deprivation of nutrition, clothing, shelter, health care, or other care or services which caused serious physical or mental injury to the victim,

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

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

3. Upon the judge determining the defendant should register pursuant to the Mary Rippy Violent Crime Offenders Registration Act for a crime of abuse as authorized in this subsection, the defendant shall be ordered to register and to comply with all provisions of

the Mary Rippy Violent Crime Offenders Registration Act, including, but not limited to, the statutory term of registration.

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

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

B. Every person or business performing services not subject to subsection A of this section on the property of a school or school district shall at the time of contracting be required to sign a statement declaring that no employee working on school premises under the authority of such business is currently registered or required to register under the provisions of the Oklahoma Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration Act and that the business is not in violation of the provisions of this section. Compliance with this statute shall be required of the person or private business, and there shall be no obligation placed upon a school district to ascertain the truthfulness of the affidavit.

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

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

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

1. A person may contact the Oklahoma State Bureau of Investigation, complete a form and pay the required fees for a name search of both the Oklahoma Sex Offender Registry and the Mary Rippy Violent Crime Offenders Registry and, if desired, search other criminal history records pertaining to the person upon payment of the required fees;

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

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

B. The Department of Corrections shall develop the necessary policies, procedures, forms and data access to make the provisions of this section effective statewide and may publish web sites or other information to assist the public in learning where and how to conduct a name search of the two registries authorized in this section. The information provided in a name search shall include the searched person's full name, any alias names, the crime which requires registration, and whether the person is deemed a habitual or aggravated offender. In addition, information may be provided in the name search concerning the date and place of the offense, the sentence disposition, a photograph of the registered person, and other pertinent information including the current residence location. There shall be no liability to any governmental agency

for the release or publication of any information maintained on the Oklahoma Sex Offender Registry or the Mary Rippy Violent Crime Offenders Registry under this section authorizing public access to a name search for purposes of risk of potential harm to a child by a caregiver or for suitability for employment.

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

SECTION 7. 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.

Passed the Senate the 7th day of May, 2008.

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Presiding Officer of the Senate

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

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Presiding Officer of the House  
of Representatives