ENROLLED SENATE
BILL NO. 763

By: Anderson of the Senate

and

Duncan, Sherrer, Brannon, Smithson, Tibbs, Kiesel, Luttrell and McMullen of the House

An Act relating to sex offenders; amending Section 2, Chapter 76, O.S.L. 2007 (12 O.S. Supp. 2007, Section 2414), which relates to child molestation offense; expanding certain definition; amending Section 1, Chapter 223, O.S.L. 2003, as last amended by Section 29, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2007, Section 590), which relates to residency restriction; clarifying certain restriction; 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 employees of business having contract with school; modifying certain declaration; and providing an effective date.

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

SECTION 1. AMENDATORY Section 2, Chapter 76, O.S.L. 2007 (12 O.S. Supp. 2007, Section 2414), is amended to read as follows:

Section 2414. A. In a criminal case in which the defendant is accused of an offense of child molestation, evidence of the defendant's commission of another offense or offenses of child molestation is admissible, and may be considered for its bearing on any matter to which it is relevant.

B. In a case in which the state intends to offer evidence under this rule, the attorney for the state shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, at least fifteen (15) days before the scheduled date of trial or at such later time as the court may allow for good cause.

C. This rule shall not be construed to limit the admission or consideration of evidence under any other rule.

D. For purposes of this rule, "child" means a person below the age of sixteen (16), and "offense of child molestation" means a crime under federal law or the laws of this state that involve:

1. Any conduct proscribed by Sections 1111 ~~and~~ through 1125 of Title 21 of the Oklahoma Statutes, that was committed in relation to a child;

2. Contact between any part of the defendant's body or an object and the genitals or anus of a child;

3. Contact between the genitals or anus of the defendant and any part of the body of a child;

4. Deriving sexual pleasure or gratification from the infliction of death, bodily injury, emotional distress, or physical pain on a child; or

5. An attempt or conspiracy to engage in conduct described in paragraphs 1 through 4 of this subsection.

SECTION 2. AMENDATORY Section 1, Chapter 223, O.S.L. 2003, as last amended by Section 29, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2007, Section 590), is amended to read as follows:

Section 590. A. It is unlawful for any person registered pursuant to the Sex Offenders Registration Act to reside, either temporarily or permanently, within a two-thousand-foot radius of any public or private school site, educational institution, a playground or park that is ~~zoned~~ established, operated or supported in whole or in part by city, county, state, federal or tribal government, or

licensed child care center as defined by the Department of Human Services. Establishment of a day care center or park in the vicinity of the residence of a registered sex offender will not require the relocation of the sex offender or the sale of the property. On the effective date of this act, the distance indicated in this section shall be measured from the nearest property line of the residence of the person to the nearest property line of the public or private school site, educational institution, playground, park, or licensed child care facility; provided, any nonprofit organization established and housing sex offenders prior to the effective date of this provision shall be allowed to continue its operation.

B. 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.

C. The provisions of this section shall not apply to any registered sex offender residing in a hospital or other facility certified or licensed by the State of Oklahoma to provide medical services.

D. 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 felony punishable by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than one (1) year nor more than three (3) years, or by both such fine and imprisonment. Any person convicted of a second or subsequent violation of this section shall be punished by a fine not to exceed Three Thousand Dollars ($3,000.00), or by imprisonment in the custody of the Department of Corrections for a term of not less than three (3) years, or by both such fine and imprisonment.

SECTION 3. 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 Employees of business having contract with school - Conviction of sex offense or felony.

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~~ the 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~~ the business is currently registered under the provisions of the Oklahoma Sex 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 4. This act shall become effective November 1, 2008.

Passed the Senate the 21st day of May, 2008.

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Presiding Officer of the Senate

Passed the House of Representatives the 22nd day of May, 2008.

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Presiding Officer of the House
of Representatives