

THE HOUSE OF REPRESENTATIVES
Tuesday, April 8, 2008

**Committee Substitute for
ENGROSSED
Senate Bill No. 1601**

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 1601 - By:
ALDRIDGE, LEFTWICH, GUMM, JOLLEY AND GARRISON of the Senate and
PETERS, KERN AND PITTMAN 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 Rippy 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:

1 SECTION 1. NEW LAW A new section of law not to be codified in the
2 Oklahoma Statutes reads as follows:

3 The Legislature recognizes the growing incidence of physical violence, abuse and
4 injury against children in this state and that there is a need to better protect all children
5 from such harmful and offensive conduct. The Legislature further recognizes that child
6 care involves an extensive use of child caregivers while parents and guardians attend to
7 the legitimate demands of employment and daily responsibilities including, but not
8 limited to, the use of unlicensed child care and babysitting assistance where children are
9 watched in individual private homes; licensed child care facilities regulated by the state
10 where children are cared for during business hours and after school in commercial
11 facilities; various not-for-profit and other organizational programs which provide
12 temporary child care a few hours a day several times per week or month in a facility
13 staffed by child care volunteers or organizational employees; and various other child care
14 arrangements where reliance is mainly upon family members, relatives, friends,
15 neighbors, and acquaintances who keep children at different times and in varying
16 environments. The Legislature recognizes that there is currently no reliable method for

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

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

1 Section 589. A. It is unlawful for any person registered pursuant to the Oklahoma
2 Sex Offenders Registration Act or the Mary Rippy Violent Crime Offenders Registration
3 Act to work with or provide services to children or to work on school premises, or for any
4 person or business which contracts for work to be performed on school premises to
5 knowingly and willfully allow any employee to work with children or to work on school
6 premises who is registered pursuant to the Oklahoma Sex Offenders Registration Act or
7 the Mary Rippy Violent Crime Offenders Registration Act. Upon conviction for any
8 violation of the provisions of this subsection, the violator shall be guilty of a
9 misdemeanor punishable by a fine not to exceed One Thousand Dollars (\$1,000.00). In
10 addition, the violator may be liable for civil damages.

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

1 business having a contract with a school shall ensure compliance as provided by Section
2 6-101.48 of Title 70 of the Oklahoma Statutes.

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

15 C. It is unlawful for any law enforcement agency to employ any person as a peace
16 officer or criminal investigator who has received a verdict of guilty or pled guilty or nolo
17 contendere to any offense required to register pursuant to the Sex Offenders Registration
18 Act or the Mary Rippy Violent Crime Offenders Registration Act, including those
19 receiving a verdict of guilt, pleading guilty or nolo contendere as part of a deferred
20 judgment or other provision of law authorizing a delayed or suspended judgment or
21 sentence. Every person receiving a verdict of guilty or pleading guilty or nolo contendere
22 to any offense required to register pursuant to the Sex Offenders Registration Act or the

1 Mary Rippy Violent Crime Offenders Registration Act shall be prohibited from being
2 certified by the Council on Law Enforcement Education and Training (CLEET) as a
3 peace officer, private investigator, or security guard, and if at the time of the verdict or
4 plea such person has been previously CLEET certified such certification shall be revoked.
5 Any violator shall be guilty of a misdemeanor upon conviction of noncompliance with the
6 provisions of this subsection.

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

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

- 11 1. Any person residing, working or attending school in this state who is
12 subsequently convicted of, or who receives a deferred judgment or suspended sentence
13 for, any crime or attempted crime enumerated in subsection B of this section by any
14 court in this state, another state, the United States, a tribal court, or a military court; or
- 15 2. Any person who subsequently enters this state for purposes of residence, work or
16 to attend school and who has been previously convicted of or is subject to a deferred
17 judgment, suspended sentence, probation or parole from any court of another state, the
18 United States, a tribal court, or a military court for any crime or attempted crime which,
19 if committed or attempted in this state, would be a crime substantially similar to any
20 crime enumerated in subsection B of this section.

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

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

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

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

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

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

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

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

16 and

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

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

21 C. The registration requirements of the Mary Rippy Violent Crime Offenders
22 Registration Act shall not apply to any person while the person is incarcerated in a

1 maximum or medium correctional institution of the Department of Corrections, a private
2 correctional institution, or another state, federal, tribal or military facility, but shall
3 apply to deferred, suspended, probation, parole and discharges.

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

10 a. physical pain, injury, sexual abuse, sexual exploitation, unreasonable
11 restraint or confinement, or mental anguish to the victim, or

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

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

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

1 3. Upon the judge determining the defendant should register pursuant to the Mary
2 Rippy Violent Crime Offenders Registration Act for a crime of abuse as authorized in this
3 subsection, the defendant shall be ordered to register and to comply with all provisions of
4 the Mary Rippy Violent Crime Offenders Registration Act, including, but not limited to,
5 the statutory term of registration.

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

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

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

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

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

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

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

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

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

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

10 B. The Department of Corrections shall develop the necessary policies, procedures,
11 forms and data access to make the provisions of this section effective statewide and may
12 publish websites or other information to assist the public in learning where and how to
13 conduct a name search of the two registries authorized in this section. The information
14 provided in a name search shall include the searched person's full name, any alias
15 names, the crime which requires registration, and whether the person is deemed a
16 habitual or aggravated offender. In addition, information may be provided in the name
17 search concerning the date and place of the offense, the sentence disposition, a
18 photograph of the registered person, and other pertinent information including the
19 current residence location. There shall be no liability to any governmental agency for the
20 release or publication of any information maintained on the Oklahoma Sex Offender
21 Registry or the Mary Rippy Violent Crime Offenders Registry under this section

1 authorizing public access to a name search for purposes of risk of potential harm to a
2 child by a caregiver or for suitability for employment.

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

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

7 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 04-07-08 -
8 DO PASS, As Amended and Coauthored.