

THE HOUSE OF REPRESENTATIVES
Tuesday, February 19, 2008

Committee Substitute for
House Bill No. 3159

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 3159 - By: BLACKWELL, INMAN, KIESEL, MCCULLOUGH, SULLIVAN AND TIBBS of the House.

An Act relating to sex offenders; amending Section 1, Chapter 209, O.S.L. 2003, as last amended by Section 20, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1125), which relates to zone of safety; expanding scope of certain prohibited act; clarifying language; amending Section 26, Chapter 261, O.S.L. 2007 and 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, Sections 582.5 and 590), which relate to the Sex Offenders Registration Act; modifying procedures for numeric risk level assessments; providing crimes for numeric risk levels; prohibiting increase in numeric risk level assignment except under certain circumstances; clarifying provisions of certain prohibited act; and providing an effective date.

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

1 SECTION 1. AMENDATORY Section 1, Chapter 209, O.S.L. 2003, as last
2 amended by Section 20, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1125), is
3 amended to read as follows:

4 Section 1125. A. A zone of safety is hereby created around elementary, junior high,
5 and high schools, licensed child care centers as defined by the Department of Human
6 Services, playgrounds, and parks. A person is prohibited from loitering within three

1 hundred (300) feet of any elementary, junior high, or high school, licensed child care
2 ~~facility center~~, playground, or park if the person has been convicted of a crime that
3 requires the person to register pursuant to the Sex Offenders Registration Act, the
4 person is a registered sex offender from another state, or the person has been convicted of
5 an offense in another jurisdiction, which offense if committed or attempted in this state,
6 would have been punishable as one or more of the offenses listed in Section 582 of Title
7 57 of the Oklahoma Statutes and the victim was a child under the age of thirteen (13)
8 years.

9 B. A person convicted of a violation of subsection A of this section shall be guilty of
10 a felony punishable by a fine not exceeding Two Thousand Five Hundred Dollars
11 (\$2,500.00), or by imprisonment in the county jail for a term of not more than one (1)
12 year, or by both such fine and imprisonment. Any person convicted of a second or
13 subsequent violation of subsection A of this section shall be punished by a fine not
14 exceeding Two Thousand Five Hundred Dollars (\$2,500.00), or by imprisonment in the
15 custody of the Department of Corrections for a term of not less than three (3) years, or by
16 both such fine and imprisonment. This proscription of conduct shall not modify or
17 remove any restrictions currently applicable to the person by court order, conditions of
18 probation or as provided by other provision of law.

19 C. 1. A person shall be exempt from the prohibition of this section regarding a
20 school or a licensed child care ~~facility center~~ only under the following circumstances:

21 a. the person is the custodial parent or legal guardian of a child who is an
22 enrolled student at the school or licensed child care ~~facility center~~, and

1 whose service on the review committee is in addition to the regular duties of the
2 employee. The review committee, to the extent feasible, should include the following:

- 3 1. One member having experience in law enforcement;
- 4 2. One member having experience as a sex offender treatment provider;
- 5 3. One member having experience working with victims of sex offenses; and
- 6 4. One member who is a social worker with a graduate degree in social work.

7 B. The risk assessment review committee functions in an oversight capacity. ~~The~~
8 ~~committee shall:~~

- 9 ~~1. Develop or select from among existing tools, a sex offender screening tool to be~~
10 ~~used in determining the level of risk of a person subject to registration pursuant to the~~
11 ~~provisions of the Sex Offenders Registration Act;~~
- 12 ~~2. Ensure that staff is trained on the use of the screening tool;~~
- 13 ~~3. Monitor the use of the screening tool in the state; and~~
- 14 ~~4. Analyze other screening tools as they become available and revise or replace the~~
15 ~~existing screening tool, if warranted.~~

16 C. ~~The sex offender screening tool must~~ committee shall use an objective point a
17 system under which a person is assigned a designated number of points for each of the
18 ~~various factors. The~~ the offense for which the person is was convicted shall ~~serve as the~~
19 ~~basis for~~ determine the ~~minimum~~ numeric risk level assigned to the person. ~~In~~
20 ~~developing or selecting the sex offender screening tool, the~~ The risk assessment review
21 committee shall ~~use or shall select a screening tool that may be adapted to use the~~
22 ~~following general guidelines~~ assign persons a numeric risk level as follows::

1 1. Level one (low): ~~a designated range of points on the sex offender screening tool~~
2 ~~indicating that~~ the person poses a low danger to the community and will not likely
3 engage in criminal sexual conduct. The following offenses shall receive a level one
4 assignment:

5 a. assault with intent to commit a felony if the offense involved sexual
6 assault, as provided in Section 681 of Title 21 of the Oklahoma
7 Statutes.

8 b. abuse or neglect by a caretaker if the offense involved sexual abuse or
9 sexual exploitation, as provided in Section 843.1 of Title 21 of the
10 Oklahoma Statutes.

11 c. crime against nature, as provided in Section 886 of Title 21 of the
12 Oklahoma Statutes, and

13 d. indecent exposure, as provided in Section 1021 of Title 21 of the
14 Oklahoma Statutes;

15 2. Level two (moderate): ~~a designated range of points on the sex offender screening~~
16 ~~tool indicating that~~ the person poses a moderate danger to the community and may
17 continue to engage in criminal sexual conduct. The following offenses shall receive a
18 level two assignment:

19 a. solicitation of a minor for any obscene material or child pornography,
20 as provided in Section 1021 of Title 21 of the Oklahoma Statutes.

21 b. procuring or causing the participation of a minor in pornography or
22 possessing, procuring, manufacturing, selling or distributing child

- 1 pornography, as provided in Section 1021.2 of Title 21 of the Oklahoma
2 Statutes.
- 3 c. permitting or consenting to the participation of a minor in child
4 pornography, as provided in Section 1021.3 of Title 21 of the Oklahoma
5 Statutes.
- 6 d. facilitating, encouraging, offering or soliciting sexual conduct or
7 engaging in sexual communication with a minor, as provided in
8 Section 1040.13a of Title 21 of the Oklahoma Statutes.
- 9 e. procuring a minor for prostitution, lewdness or other indecent act, as
10 provided in Section 1087 of Title 21 of the Oklahoma Statutes, and
- 11 f. inducing, keeping, detaining or restraining a minor for prostitution, as
12 provided in Section 1088 of Title 21 of the Oklahoma Statutes; and

13 3. Level three (high): ~~a designated range of points on the sex offender screening tool~~
14 ~~indicating that~~ the person poses a serious danger to the community and will continue to
15 engage in criminal sexual conduct. The following offenses shall receive a level three
16 assignment:

- 17 a. child sexual abuse or child sexual exploitation, as provided in Section
18 7115 of Title 10 of the Oklahoma Statutes.
- 19 b. kidnapping, if the offense involved sexual abuse or sexual exploitation,
20 as provided in Section 741 of Title 21 of the Oklahoma Statutes.

- 1 c. trafficking in children, if the offense involved sexual abuse or sexual
2 exploitation, as provided in Sections 865 through 867 of Title 21 of the
3 Oklahoma Statutes,
- 4 d. incest, as provided in Section 885 of Title 21 of the Oklahoma Statutes,
- 5 e. forcible sodomy, as provided in Section 888 of Title 21 of the Oklahoma
6 Statutes,
- 7 f. child stealing, if the offense involved in sexual abuse or sexual
8 exploitation, as provided in Section 891 of Title 21 of the Oklahoma
9 Statutes,
- 10 g. rape by instrumentation, as provided in Section 1111.1 of Title 21 of
11 the Oklahoma Statutes,
- 12 h. rape, as provided in Section 1114 of Title 21 of the Oklahoma Statutes,
13 and
- 14 i. lewd or indecent acts to a child under sixteen years of age or sexual
15 battery, as provided in Section 1123 of Title 21 of the Oklahoma
16 Statutes.

17 D. The risk assessment review committee, the Department of Corrections, or a
18 court may override a risk level only if the entity:

- 19 1. Believes that the risk level assessed assignment is not an accurate prediction of
20 the risk the offender poses to the community; and
- 21 2. Documents the reason for the override in the case file of the offender.

1 E. When a person is initially assigned a numeric risk level of two, based upon the
2 offense for which the person was convicted, the risk assessment review committee shall
3 be prohibited from overriding and increasing the assignment to level three. However,
4 the district attorney of the county in which the person was convicted may request that
5 the case be reviewed and the person be considered for assignment to a numeric risk level
6 of three. The district attorney shall provide information to the risk assessment review
7 committee regarding any aggravating circumstances that may be considered by the
8 committee when making the assignment.

9 F. All records and files relating to a person for whom a court, or the Department of
10 Corrections is required under this act to determine a level of risk, shall be released to the
11 court or the Department of Corrections as appropriate, for the purpose of determining
12 the risk level of the person.

13 F. G. The provisions of the Oklahoma Open Meeting Act do not apply to a meeting
14 of the risk assessment review committee.

15 SECTION 3. AMENDATORY Section 1, Chapter 223, O.S.L. 2003, as last
16 amended by Section 29, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2007, Section 590), is
17 amended to read as follows:

18 Section 590. A. It is unlawful for any person registered pursuant to the Sex
19 Offenders Registration Act to reside, either temporarily or permanently, within a two-
20 thousand-foot radius of any public or private school site, educational institution, a
21 playground or park that is ~~zoned~~ dedicated or designated for public use by city, county,
22 state, federal or tribal government, or licensed child care center as defined by the

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

9 B. Nothing in this provision shall require any person to sell or otherwise dispose of
10 any real estate or home acquired or owned prior to the conviction of the person as a sex
11 offender.

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

15 D. Any person willfully violating the provisions of this section by intentionally
16 moving into any neighborhood or to any real estate or home within the prohibited
17 distance shall, upon conviction, be guilty of a felony punishable by a fine not to exceed
18 Three Thousand Dollars (\$3,000.00), or by imprisonment in the custody of the
19 Department of Corrections for a term of not less than one (1) year nor more than three
20 (3) years, or by both such fine and imprisonment. Any person convicted of a second or
21 subsequent violation of this section shall be punished by a fine not to exceed Three
22 Thousand Dollars (\$3,000.00), or by imprisonment in the custody of the Department of

1 Corrections for a term of not less than three (3) years, or by both such fine and
2 imprisonment.

3 SECTION 4. This act shall become effective November 1, 2008.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND PUBLIC SAFETY,
5 dated 02-18-08 - DO PASS, As Amended and Coauthored.