

SB 1601

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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1601
As Amended

SENATE BILL NO. 1601 - By: ALDRIDGE and LEFTWICH of the Senate and PETERS of the House.

[child abuse - registered sex offenders - requiring report
- Mary Rippy Violent Crime Offenders Registration Act -
codification - noncodification - effective date -
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 who provide temporary child

1 care a few hours a day several times per week or month in a facility
2 staffed by child care volunteers or organizational employees; and
3 various other child care arrangements where reliance is mainly upon
4 family members, relatives, friends, neighbors, and acquaintances who
5 keep children at different times and in varying environments. The
6 Legislature recognizes that there is currently no reliable method
7 for an individual parent or guardian to screen a potential child
8 caregiver for prior acts of violence or child abuse, and as a result
9 there is a potential risk of harm each time a parent or guardian
10 selects a new individual to care for the child. Therefore, it
11 should be required for the protection of all children in this state
12 that every person convicted of or receiving a deferred or suspended
13 sentence for an act of violence or child abuse be registered as a
14 violent offender and be prohibited from caring for another person's
15 child. The Legislature finds that licensed child care facilities
16 and other organizations serving children, together with all parents
17 and guardians, should be able to easily search for criminal conduct
18 of potential employees, workers, volunteers, and babysitters, and
19 readily identify if a person has been convicted of or committed
20 prior acts of violence or child abuse, for the protection of
21 children who may be entrusted to such person's care; and that no
22 person should be permitted to work with, serve or care for another
23 person's child when the caregiver has a prior conviction or act of

1 violence or child abuse. Therefore, the Legislature hereby
2 designates the crime of child abuse as a violent offense for
3 purposes of the Mary Rippy Violent Crime Offenders Registration Act
4 and hereby establishes a procedure for the parents, guardians,
5 businesses and organizations of this state to search and identify
6 persons at risk of potential harm to a child based upon prior
7 criminal conduct or conviction for an act of violence or child
8 abuse.

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

12 Section 589. A. It is unlawful for any person registered
13 pursuant to the Oklahoma Sex Offenders Registration Act or the Mary
14 Rippy Violent Crime Offenders Registration Act to work with or
15 provide services to children or to work on school premises, or for
16 any person or business which contracts for work to be performed on
17 school premises to knowingly and willfully allow any employee to
18 work with children or to work on school premises who is registered
19 pursuant to the Oklahoma Sex Offenders Registration Act or the Mary
20 Rippy Violent Crime Offenders Registration Act. Upon conviction for
21 any violation of the provisions of this subsection, the violator
22 shall be guilty of a misdemeanor punishable by a fine not to exceed

1 One Thousand Dollars (\$1,000.00). In addition, the violator may be
2 liable for civil damages.

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

20 2. Failure of any person or business who works with or provides
21 services to children to conduct the annual name search of each
22 person employed shall be a misdemeanor. Upon conviction for failure
23 to conduct a name search, the violator shall be guilty of a

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

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

1 Council on Law Enforcement Education and Training (CLEET) as a peace
2 officer, private investigator, or security guard, and if at the time
3 of the verdict or plea such person has been previously CLEET
4 certified such certification shall be revoked. Any violator shall
5 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.
8 2004 (57 O.S. Supp. 2007, Section 593), is amended to read as
9 follows:

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

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

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

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

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

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

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

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

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

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

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

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

3 7. Child Abuse as defined in subsection D of this section; and

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

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

15 D. For purposes of the Mary Rippy Violent Crime Offenders
16 Registration Act, the crime of "child abuse" means the person causes
17 or permits:

18 1. The infliction of physical pain, injury, sexual abuse,
19 sexual exploitation, unreasonable restraint or confinement, or
20 mental anguish to a victim twelve (12) years of age or younger; or

21 2. The deprivation of nutrition, clothing, shelter, health
22 care, or other care or services, without which serious physical or

1 mental injury is likely to occur to a victim twelve (12) years of
2 age or younger.

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

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

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

1 search of both the Oklahoma Sex Offender Registry and the Mary Rippy
2 Violent Crime Offenders Registry and, if desired, search other
3 criminal history records pertaining to the person upon payment of
4 the required fees;

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

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

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

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

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

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

16 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-20-08 - DO
17 PASS, As Amended and Coauthored.