

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 3159

By: Blackwell

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5
6 AS INTRODUCED

7 An Act relating to sex offenders; amending Section 1,
8 Chapter 209, O.S.L. 2003, as last amended by Section
9 20, Chapter 261, O.S.L. 2007 (21 O.S. Supp. 2007,
10 Section 1125), which relates to zone of safety;
11 expanding scope of certain prohibited act; clarifying
12 language; amending Section 26, Chapter 261, O.S.L.
13 2007 and Section 1, Chapter 223, O.S.L. 2003, as last
14 amended by Section 29, Chapter 261, O.S.L. 2007 (57
15 O.S. Supp. 2007, Sections 582.5 and 590), which
16 relate to the Sex Offenders Registration Act;
17 modifying procedures for numeric risk level
18 assessments; providing crimes for numeric risk
19 levels; prohibiting increase in numeric risk level
20 assignment except under certain circumstances;
21 clarifying certain prohibited act; and providing an
22 effective date.

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

24 SECTION 1. AMENDATORY 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), is amended to read as follows:

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

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

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

24

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

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

7 b. the person is enrolling, delivering or retrieving such
8 child at the school or licensed child care ~~facility~~
9 center during regular school or ~~facility~~ child care
10 center hours or for school-sanctioned or ~~child-care-~~
11 ~~facility-sanctioned~~ child-care-center-sanctioned
12 extracurricular activities.

13 2. This exception shall not be construed to modify or remove
14 any restrictions applicable to the person by court order, conditions
15 of probation, or as provided by other provision of law.

16 D. The provisions of subsection A of this section shall not
17 apply to any person receiving treatment at a hospital or other
18 facility certified or licensed by the State of Oklahoma to provide
19 medical services.

20 E. Nothing in this section shall prohibit a person, who is
21 registered as a sex offender pursuant to the Sex Offenders
22 Registration Act, from attending a recognized church or religious
23 denomination for worship; provided, the person has notified the
24 religious leader of ~~his or her~~ the status of the person as a

1 registered sex offender and the person has been granted written
2 permission by the religious leader.

3 F. For purpose of prosecution of any violation of this section,
4 the provisions of Section 51.1 of this title shall not apply.

5 SECTION 2. AMENDATORY Section 26, Chapter 261, O.S.L.
6 2007 (57 O.S. Supp. 2007, Section 582.5), is amended to read as
7 follows:

8 Section 582.5 A. The Department of Corrections shall establish
9 a risk assessment review committee composed of at least five
10 members, each of whom is a state employee whose service on the
11 review committee is in addition to the regular duties of the
12 employee. The review committee, to the extent feasible, should
13 include the following:

- 14 1. One member having experience in law enforcement;
- 15 2. One member having experience as a sex offender treatment
16 provider;
- 17 3. One member having experience working with victims of sex
18 offenses; and
- 19 4. One member who is a social worker with a graduate degree in
20 social work.

21 B. The risk assessment review committee functions in an
22 oversight capacity. ~~The committee shall:~~

- 23 ~~1. Develop or select from among existing tools, a sex offender
24 screening tool to be used in determining the level of risk of a~~

1 ~~person subject to registration pursuant to the provisions of the Sex~~
2 ~~Offenders Registration Act;~~

3 ~~2. Ensure that staff is trained on the use of the screening~~
4 ~~tool;~~

5 ~~3. Monitor the use of the screening tool in the state; and~~

6 ~~4. Analyze other screening tools as they become available and~~
7 ~~revise or replace the existing screening tool, if warranted.~~

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

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

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

- 1 b. abuse or neglect by a caretaker if the offense
2 involved sexual abuse or sexual exploitation, as
3 provided in Section 843.1 of Title 21 of the Oklahoma
4 Statutes,
- 5 c. crime against nature, as provided in Section 886 of
6 Title 21 of the Oklahoma Statutes, and
- 7 d. indecent exposure, as provided in Section 1021 of
8 Title 21 of the Oklahoma Statutes;

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

- 14 a. procuring or causing the participation of a minor in
15 pornography or possessing, procuring, manufacturing,
16 selling or distributing child pornography, as provided
17 in Section 1021.2 of Title 21 of the Oklahoma
18 Statutes,
- 19 b. permitting or consenting to the participation of a
20 minor in child pornography, as provided in Section
21 1021.3 of Title 21 of the Oklahoma Statutes,
- 22 c. facilitating, encouraging, offering or soliciting
23 sexual conduct or engaging in sexual communication
24

1 with a minor, as provided in Section 1040.13a of Title
2 21 of the Oklahoma Statutes,

3 d. procuring a minor for prostitution, lewdness or other
4 indecent act, as provided in Section 1087 of Title 21
5 of the Oklahoma Statutes, and

6 e. inducing, keeping, detaining or restraining a minor
7 for prostitution, as provided in Section 1088 of Title
8 21 of the Oklahoma Statutes; and

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

14 a. child sexual abuse or child sexual exploitation, as
15 provided in Section 7115 of Title 10 of the Oklahoma
16 Statutes,

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

20 c. trafficking in children, if the offense involved
21 sexual abuse or sexual exploitation, as provided in
22 Sections 865 through 867 of Title 21 of the Oklahoma
23 Statutes,

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

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

18 1. Believes that the risk level ~~assessed~~ assignment is not an
19 accurate prediction of the risk the offender poses to the community;
20 and

21 2. Documents the reason for the override in the case file of
22 the offender.

23 E. When a person is initially assigned a numeric risk level of
24 two, based upon the offense for which the person was convicted, the

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

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

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

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

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

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

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

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

19 D. Any person willfully violating the provisions of this
20 section by intentionally moving into any neighborhood or to any real
21 estate or home within the prohibited distance shall, upon
22 conviction, be guilty of a felony punishable by a fine not to exceed
23 Three Thousand Dollars (\$3,000.00), or by imprisonment in the
24 custody of the Department of Corrections for a term of not less than

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

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

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