

ENROLLED HOUSE
BILL NO. 1509

By: Blackwell, Osborn, Reynolds
and Tibbs of the House

and

Bass, Ballenger and Branan
of the Senate

An Act relating to sex offenders; amending 21 O.S. 2001, Section 440, which relates to harboring criminals and fugitives; making certain acts unlawful; providing penalties; updating language; amending 57 O.S. 2001, Sections 582, as last amended by Section 22, Chapter 261, O.S.L. 2007, Section 24, Chapter 261, O.S.L. 2007, Section 26, Chapter 261, O.S.L. 2007, as amended by Section 1, Chapter 94, O.S.L. 2008, 583, as last amended by Section 2, Chapter 94, O.S.L. 2008, 584, as last amended by Section 28, Chapter 261, O.S.L. 2007 and Section 12, Chapter 284, O.S.L. 2006, as amended by Section 30, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Sections 582, 582.2, 582.5, 583, 584 and 590.1), which relate to the Sex Offenders Registration Act; updating language; adding certain crimes to list of offenses that require registration; providing exception to registration requirements under certain circumstances; modifying statutory references; modifying sex offender assignment duties of the court; changing name of sex offender risk assessment review committee; modifying and deleting certain functions of committee; deleting point system screening tool; modifying level assignment guidelines; clarifying override authority of certain entities; clarifying registration requirements; requiring certain entities to inform registering offenders of certain requirements; modifying notification requirements; requiring transient sex offenders to report to local law enforcement authorities; modifying housing location and operating

requirements; authorizing persons to seek removal from sex offender registration requirements under certain circumstances; providing procedures for requesting registration removal; requiring Department of Corrections to remove persons from registration requirements upon presentment of certified court order; prohibiting removal or denial of access to certain public records; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2001, Section 440, is amended to read as follows:

Section 440. A. Any person who shall knowingly feed, lodge, clothe, arm, equip in whole or in part, harbor, aid, assist or conceal in any manner any person guilty of any felony, or outlaw, or fugitive from justice, or any person seeking to escape arrest for any felony committed within this state or any other state or territory, shall be guilty of a felony punishable by imprisonment at ~~hard labor~~ in the ~~State Penitentiary~~ custody of the Department of Corrections for a period not exceeding ten (10) years.

B. It shall be unlawful for any person who has reason to believe that a sex offender is in violation of the registration requirements of the Sex Offenders Registration Act and who has the intent to assist the sex offender in eluding arrest, to do any of the following:

1. Withhold information from, or fail to notify, a law enforcement agency about the noncompliance of the sex offender with the registration requirements of the Sex Offenders Registration Act, and, if known, the whereabouts of the offender;

2. Harbor, attempt to harbor, or assist another person in harboring or attempting to harbor, the sex offender;

3. Conceal, or attempt to conceal, or assist another person in concealing or attempting to conceal, the sex offender; or

4. Provide information to a law enforcement agency regarding the sex offender that the person knows to be false information.

C. Any person convicted of violating the provisions of subsection B of this section shall be guilty of a misdemeanor punishable by a fine of not less than Five Hundred Dollars (\$500.00), or by imprisonment in the county jail for a term not to exceed one (1) year, or by both such fine and imprisonment.

SECTION 2. AMENDATORY 57 O.S. 2001, Section 582, as last amended by Section 22, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 582), is amended to read as follows:

Section 582. A. The provisions of the Sex Offenders Registration Act, ~~Section 581 et seq. of this title,~~ shall apply to any person residing, working or attending school within the State of Oklahoma who, after November 1, 1989, has been convicted, whether upon a verdict or plea of guilty or upon a plea of nolo contendere, or received a suspended sentence or any probationary term, or is currently serving a sentence or any form of probation or parole for a crime or an attempt to commit a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, Section 852.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, ~~1040.51,~~ 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes.

B. The provisions of the Sex Offenders Registration Act shall apply to any person who after November 1, 1989, resides, works or attends school within the State of Oklahoma and who has been convicted or received a suspended sentence at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court ~~or,~~ a military court, or a court of a foreign country for a crime ~~or,~~ attempted crime or a conspiracy to commit a crime which, if committed or attempted in this state, would be a crime ~~or,~~ an attempt to commit a crime or a conspiracy to commit a crime provided for in any of said laws listed in subsection A of this section.

C. The provisions of the Sex Offenders Registration Act shall apply to any person who resides, works or attends school within the State of Oklahoma and who has received a deferred judgment at any time in any court of another state, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands and the United States Virgin Islands, a federal court, an Indian tribal court ~~or,~~ a military court, or a court of a foreign country for a crime ~~or,~~ attempted crime or a conspiracy to commit a crime which, if committed or attempted or conspired to be committed in this state, would be a crime ~~or,~~ an attempt to commit a crime or a conspiracy to commit a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 681, if the offense involved sexual assault, 741, if the offense involved sexual abuse or sexual exploitation, Section 843.1, if the offense involved sexual abuse or sexual exploitation, Section 852.1, if the offense involved sexual abuse of a child, 865 et seq., 885, 886, 888, 891, if the offense involved sexual abuse or sexual exploitation, 1021, 1021.2, 1021.3, 1024.2, 1040.12a, 1040.13, 1040.13a, 1040.51, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes. The provisions of the Sex Offenders Registration Act shall not apply to any such person while the person is incarcerated in a maximum or medium correctional institution of the Department of Corrections.

D. On the effective date of this act, any person registered as a sex offender pursuant to Section 741 of Title 21 of the Oklahoma Statutes shall be summarily removed from the Sex Offender Registry by the Department of Corrections and all law enforcement agencies of any political subdivision of this state, unless the offense involved sexual abuse or sexual exploitation.

E. The provisions of the Sex Offenders Registration Act shall not apply to any such person who has received a criminal history records expungement for a conviction in another state for a crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in any said laws listed in subsection A of this section.

SECTION 3. AMENDATORY Section 24, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 582.2), is amended to read as follows:

Section 582.2 A. No less than seven (7) days prior to the date on which a person, who will be subject to the provisions of the Sex

Offenders Registration Act, is to be released from a correctional institution, the person in charge of the correctional institution shall forward the registration information, as provided in subsection A of Section 585 of ~~Title 57 of the Oklahoma Statutes~~ this title, and ~~numeric risk level assignment~~ to the Department of Corrections and to:

1. The local law enforcement authority in the municipality or county in which the person expects to reside, if the person expects to reside within this state; or

2. The local law enforcement authority that is identified by the correctional institution as the agency designated by another state to receive registration information, if the person expects to reside in that other state and that other state has a registration requirement for sex offenders.

B. If a person, who will be subject to the provisions of the Sex Offenders Registration Act, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section ~~991a~~ 991c of Title 22 of the Oklahoma Statutes, the court shall, on the day of pronouncing the judgment and sentence:

1. Make a determination of the ~~numeric risk level assignment~~ of the person using the ~~sex offender screening tool developed or selected pursuant to Section 26 of this act~~ guidelines provided for in Section 582.5 of this title;

2. Assign to the person a ~~numeric risk level~~ of one, two, or three; and

3. Notify the person of the obligation to register as a sex offender as provided for in Section 585 of ~~Title 57 of the Oklahoma Statutes~~ this title.

SECTION 4. AMENDATORY Section 26, Chapter 261, O.S.L. 2007, as amended by Section 1, Chapter 94, O.S.L. 2008 (57 O.S. Supp. 2008, Section 582.5), is amended to read as follows:

Section 582.5 A. The Department of Corrections shall establish a ~~risk assessment review~~ sex offender level assignment committee composed of at least five members, each of whom is a state employee whose service on the ~~review~~ committee is in addition to the regular

duties of the employee. The ~~review~~ committee, to the extent feasible, should include the following:

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

B. The ~~risk assessment review~~ sex offender level assignment committee functions in an oversight capacity. The committee shall+

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

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

1. Level one (low): a ~~designated range of points on the sex offender screening tool indicating~~ designation that the person poses a low danger to the community and will not likely engage in criminal sexual conduct;

2. Level two (moderate): a ~~designated range of points on the sex offender screening tool indicating~~ designation that the person poses a moderate danger to the community and may continue to engage in criminal sexual conduct; and

3. Level three (high): a ~~designated range of points on the sex offender screening tool indicating~~ designation that the person poses a serious danger to the community and will continue to engage in criminal sexual conduct.

D. The ~~risk assessment review~~ sex offender level assignment committee, the Department of Corrections, or a court may override a risk and increase the level assignment only if the entity:

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

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

Provided, in no event shall the sex offender level assignment committee, the Department of Corrections, or a court override and reduce a level assigned to an offender as provided in subsection C of this section.

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

F. Upon receiving registration information from a local law enforcement agency of a person who has entered this state and who has registered as a sex offender, as required in Section 583 of this title, the ~~risk assessment review~~ sex offender level assignment committee shall review the registration information and make a determination of the ~~numeric risk~~ level assignment of the person ~~using the sex offender screening tool~~. The ~~risk assessment review committee~~ Department of Corrections Sex Offender Registry Unit shall provide written notification to the person and the local law enforcement agency of the ~~numeric risk~~ level assignment that has been assigned to the person.

G. The provisions of the Oklahoma Open Meeting Act do not apply to a meeting of the ~~risk assessment review~~ sex offender level assignment committee.

SECTION 5. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 2, Chapter 94, O.S.L. 2008 (57 O.S. Supp. 2008, Section 583), is amended to read as follows:

Section 583. A. Any person who becomes subject to the provisions of the Sex Offenders Registration Act on or after November 1, 1989, shall register, in person, as follows:

1. With the Department of Corrections within three (3) business days of being convicted or receiving a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, if the person is not incarcerated, or not less than three (3) business days prior to the release of the person from a correctional institution, except as provided in subsection B of this section;

2. With the local law enforcement authority having jurisdiction in the area where the person resides or intends to reside for seven (7) consecutive days or longer, calculated beginning with the first day. The registration is required within three (3) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration, or within three (3) business days of changing or terminating employment, or changing enrollment status as a student.

For purposes of this section, "local law enforcement authority" means:

- a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or
- b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and

c. the police or security department of any institution of higher learning within this state if the person:

- (1) enrolls as a full-time or part-time student,
- (2) is a full-time or part-time employee at an institution of higher learning, or
- (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

B. Any person who has been convicted of an offense or received a deferred judgment for an offense in another jurisdiction, which offense if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title and who enters this state on or after November 1, 1989, shall register, in person, as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) consecutive days or longer, calculated beginning with the first day, has any type of full-time or part-time employment, with or without compensation for more than five (5) cumulative days in any sixty-day period, or is enrolled as a full-time or part-time student within this state. Such registration is required within two (2) days after entering the state;

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay for five (5) consecutive days or longer, calculated beginning with the first day, has any type of full-time or part-time employment, with or without compensation for more than five (5) cumulative days in any sixty-day period, or is enrolled as a full-time or part-time student within this state. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority; and

3. With the Department of Corrections and the local law enforcement authority no less than three (3) business days prior to abandoning or moving from the address of the previous registration, or within three (3) business days of changing or terminating employment, or changing enrollment status as a student.

Upon registering a person who has been convicted of an offense or received a deferred judgment for an offense in another jurisdiction, which offense, if committed or attempted in this state, would have been punishable as one or more of the offenses listed in Section 582 of this title, the local law enforcement authority shall forward the registration information to the ~~risk assessment review~~ sex offender level assignment committee of the Department of Corrections.

C. When a person has been convicted or received probation within the State of Oklahoma, the person shall be required to register with the Department of Corrections as follows:

1. For a period of fifteen (15) years, if the ~~numeric risk~~ level assignment of the person is one;

2. For a period of twenty-five (25) years, if the ~~numeric risk~~ level assignment of the person is two; and

3. For life, if the ~~numeric risk~~ level assignment of the person is three or the person is classified as a habitual or aggravated sex offender.

The registration period shall begin from the date of the completion of the sentence. The information received pursuant to the registration with the Department of Corrections required by this section shall be maintained by the Department of Corrections for at least ten (10) years from the date of the last registration.

D. When a person has been convicted or received probation within the State of Oklahoma, the person shall be required to register with the local law enforcement authority as follows:

1. For a period of fifteen (15) years, if the ~~numeric risk~~ level of the person is one;

2. For a period of twenty-five (25) years, if the ~~numeric risk~~ level of the person is two; and

3. For life, if the ~~numeric risk~~ level of the person is three or the person has been classified as a habitual or aggravated sex offender.

The registration period shall begin from the date of completion of the sentence and the information received pursuant to the

registration with the local law enforcement authority required by this section shall be maintained by such authority for at least ten (10) years from the date of the last registration.

E. Any person assigned a ~~numeric risk~~ level of one who has been registered for a period of ten (10) years and who has not been arrested or convicted for any felony or misdemeanor offense since being released from confinement, may petition the district court in the jurisdiction where the person resides for the purpose of removing the ~~numeric risk~~ level designation and allowing the person to no longer be subject to the registration requirements of the Sex Offenders Registration Act.

F. When registering an offender as provided in this section the Department of Corrections or the local law enforcement agency having jurisdiction shall:

1. Inform the offender of the duty to register and obtain the information required for registration as described in this section;

2. Inform the offender that if the offender changes address, the offender shall appear in person and give notice of the move and the new address to the Department of Corrections and to the local law enforcement authority in the location in which the offender previously resided ~~in writing~~ no later than three (3) days before the offender establishes residence or is temporarily domiciled at the new address;

3. Inform the offender that if the offender changes address to another state, the offender shall appear in person and give notice of the move and shall register the new address with the Department of Corrections and with a designated law enforcement agency in the new state not later than ten (10) days before the offender establishes residency or is temporarily domiciled in the new state, if the new state has a registration requirement;

4. Inform the offender that if the offender participates in any full-time employment, with or without compensation, and changes or terminates such employment, the offender shall appear in person and give notice of the change or termination of employment to the Department of Corrections and to the local law enforcement authority in the location where the offender was employed within three (3) days of such change or termination of employment;

5. Inform the offender that if the offender participates in any full-time or part-time employment, in another state, with or without compensation for more than fourteen (14) cumulative days in any sixty-day period or an aggregate period exceeding thirty (30) days in a calendar year, then the offender has a duty to register as a sex offender in that state;

~~5.~~ 6. Inform the offender that if the offender enrolls in any type of school in another state as a full-time or part-time student then the offender has a duty to register as a sex offender in that state;

~~6.~~ 7. Inform the offender that if the offender enrolls in any school within this state as a full-time or part-time student, then the offender has a duty to register as a sex offender with the Department of Corrections and the local law enforcement authority;

~~7.~~ 8. Inform the offender that if the offender participates in any full-time or part-time employment at any school, with or without compensation, or participates in any vocational course or occupation at any school in this state, then the offender has a duty to appear in person and notify the Department of Corrections and the local law enforcement authority ~~in writing~~ of such employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

~~8.~~ 9. Inform the offender that if the offender graduates, transfers, drops, terminates or otherwise changes enrollment or employment at any school in this state, then the offender shall appear in person and notify the Department of Corrections and the local law enforcement authority ~~in writing~~ of such change in enrollment or employment within three (3) days of the change; and

~~9.~~ 10. Require the offender to read and sign a form stating that the duty of the person to register under the Sex Offenders Registration Act has been explained.

G. For the purpose of this section, the "date of the completion of the sentence" means the day an offender completes all incarceration, probation and parole pertaining to the sentence.

H. Any person who resides in another state and who has been convicted of an offense or received a deferred judgment for an offense in this state, or in another jurisdiction, which offense if committed or attempted in this state would have been punishable as

one or more of the offenses listed in Section 582 of this title, and who is the spouse of a person living in this state shall be registered as follows:

1. With the Department of Corrections when the person enters and intends to be in the state for any purpose for five (5) consecutive days or longer, calculated beginning with the first day or an aggregate period of five (5) days or longer in a calendar year. Such registration is required within two (2) days after entering the state; and

2. With the local law enforcement authority having jurisdiction in the area where the person intends to reside or to stay within this state for two (2) consecutive days or longer, calculated beginning with the first day. The registration is required with local law enforcement within two (2) days after entering the jurisdiction of the law enforcement authority.

I. The duty to register as a sex offender in this state shall not be prevented if, at the time of registration, it is determined that the person owns or leases a residence that is located within a restricted area provided for in Section 590 of this title.

SECTION 6. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 28, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 584), is amended to read as follows:

Section 584. A. Any registration with the Department of Corrections required by the Sex Offenders Registration Act shall be in a form approved by the Department and shall include the following information about the person registering:

1. The name of the person and all aliases used or under which the person has been known;

2. A complete description of the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to testing for individuals registering shall be within thirty (30) days of registration. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate samples for testing;

3. The offenses listed in Section 582 of this title for which the person has been convicted or the person received a suspended sentence or any form of probation, where the offense was committed, where the person was convicted or received the suspended sentence or any form of probation, and the name under which the person was convicted or received the suspended sentence or probation;

4. The name and location of each hospital or penal institution to which the person was committed for each offense listed in Section 582 of this title;

5. Where the person previously resided, where the person currently resides, how long the person has resided there, how long the person expects to reside there, and how long the person expects to remain in the county and in this state. The Department of Corrections shall conduct address verification of each registered sex offender as follows:

- a. on an annual basis, if the numeric risk level of the person is one, or
- b. on a semiannual basis, if the numeric risk level of the person is two.

The Department of Corrections shall mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority of that jurisdiction within ten (10) days after receipt of the form and may be photographed by the local law enforcement authority at that time. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address. Upon confirming the information contained within the verification form, the local law enforcement authority shall forward the form to the Department of Corrections within three (3) days after receipt of the form. The verification form shall be signed by the person and state the current address of the person. Failure to return the verification form shall be a violation of the Sex Offenders Registration Act. If the offender has been determined to be a habitual or aggravated sex offender by the Department of Corrections or has been assigned a ~~numeric risk level~~ assignment of three, the address verification shall be conducted every ninety (90) days. The Department of Corrections shall notify the office of the district attorney and local law enforcement authority of the appropriate county, within forty-five (45) days if unable to verify the address of a sex offender. A

local law enforcement authority may notify the office of the district attorney whenever it comes to the attention of the local law enforcement authority that a sex offender is not in compliance with any provisions of this act. A local law enforcement authority designated as the primary registration authority of the person may, at any time, mail a nonforwardable verification form to the last-reported address of the person. The person shall return the verification form in person to the local law enforcement authority that mailed the form within ten (10) days after receipt of the form. The local law enforcement authority shall require the person to produce proof of the identity of the person and current address;

6. The name and address of any school where the person expects to become or is enrolled or employed for any length of time;

7. A description of all occupants residing with the person registering, including, but not limited to, name, date of birth, gender, relation to the person registering, and how long the occupant has resided there; and

8. The ~~numeric risk~~ level assignment of the person.

B. Conviction data and fingerprints shall be promptly transmitted at the time of registration to the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI) if the state has not previously sent the information at the time of conviction.

C. The registration with the local law enforcement authority required by the Sex Offenders Registration Act shall be in a form approved by the local law enforcement authority and shall include the following information about the person registering:

1. The full name of the person, alias, date of birth, sex, race, height, weight, eye color, social security number, driver license number, and home address;

2. A description of the offense for which the offender was convicted, the date of the conviction, and the sentence imposed, if applicable;

3. A photocopy of the driver license of the person; and

4. The ~~numeric risk~~ level assignment of the person.

For purposes of this section, "local law enforcement authority" means:

- a. the municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of this state, or
- b. the county sheriff, if the person resides or intends to reside or stay at any place outside the jurisdiction of any municipality within this state, and
- c. the police or security department of any institution of higher learning within this state if the person:
 - (1) enrolls as a full-time or part-time student,
 - (2) is a full-time or part-time employee at an institution of higher learning, or
 - (3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning.

D. Any person subject to the provisions of the Sex Offenders Registration Act who changes ~~an~~ address, employment or student enrollment status shall appear in person and give written notification to the Department of Corrections and the local law enforcement authority of the change of address and the new address, the change of employment or the change of student enrollment status no later than three (3) business days prior to the abandonment of or move from the current address or, in the case of change of employment or student enrollment, within three (3) business days of such change. If the new address, employment or student enrollment is under the jurisdiction of a different local law enforcement authority:

1. The Department of Corrections and the local law enforcement authority shall notify the new local law enforcement authority by teletype, or electronic transmission, ~~or letter~~ of the change of address, employment or student enrollment status;

2. The offender shall notify the new local law enforcement authority of any previous registration; and

3. The new local law enforcement authority shall notify the most recent registering agency by teletype or ~~letter~~ electronic transmission of the change in address, employment or student enrollment status of the offender. If the new address is in another state the Department of Corrections shall promptly notify the agency responsible for registration in that state of the new address of the offender.

E. Any person subject to the provisions of the Sex Offenders Registration Act who is unable to provide an address to the Department of Corrections or local law enforcement authority as required in subsections A and C of this section and registers as a transient shall report in person to the nearest local law enforcement authority every seven (7) days and provide to the local law enforcement authority the approximate location of where the person is staying and where the person plans to stay.

F. The Department of Corrections shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall promptly be available to state, county and municipal law enforcement agencies, the State Superintendent of Public Instruction, the Commissioner of Health, and the National Sex Offender Registry maintained by the Federal Bureau of Investigation. The file shall promptly be made available for public inspection or copying pursuant to rules promulgated by the Department of Corrections and may be made available through Internet access. The Department of Corrections shall promptly provide all municipal police departments, all county sheriff departments and all campus police departments a list of those sex offenders registered and living in their county.

~~F.~~ G. The Superintendent of Public Instruction is authorized to copy and shall distribute information from the sex offender registry to school districts and individual public and private schools within the state with a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

~~G.~~ H. The State Commissioner of Health is authorized to distribute information from the sex offender registry to any nursing home or long-term care facility. Nothing in this subsection shall be deemed to impose any liability upon or give rise to a cause of

action against any person, agency, organization, or company for failing to release information in accordance with the Sex Offenders Registration Act.

~~H.~~ I. Each local law enforcement authority shall make its sex offender registry available upon request, without restriction, at a cost that is no more than what is charged for other records provided by the local law enforcement authority pursuant to the Oklahoma Open Records Act.

When a local law enforcement authority sends a copy of or otherwise makes the sex offender registry available to any public or private school offering any combination of prekindergarten through twelfth grade classes or child care facility licensed by the state, the agency shall provide a notice using the following or similar language: "A person whose name appears on this registry has been convicted of a sex offense. Continuing to employ a person whose name appears on this registry may result in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma Statutes."

~~I.~~ J. Samples of blood or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department of Corrections a fee of Fifteen Dollars (\$15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

~~J.~~ K. 1. Any person who has been convicted of or received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime listed in Section 582 of this title and:

- a. who is subsequently convicted of a crime or an attempt to commit a crime listed in subsection A of Section 582 of this title, or
- b. who enters this state after November 1, 1997, and who has been convicted of an additional crime or attempted crime which, if committed or attempted in this state, would be a crime or an attempt to commit a crime provided for in subsection A of Section 582 of this title,

shall be subject to all of the registration requirements of this act and shall be designated by the Department of Corrections as a habitual sex offender. A habitual sex offender shall be required to register for the lifetime of the habitual sex offender.

2. On or after November 1, 1999, any person who has been convicted of a crime or an attempt to commit a crime, received a suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in Section 7115 of Title 10 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the registration requirements of this act and shall be designated by the Department of Corrections as an aggravated sex offender. An aggravated sex offender shall be required to register for the lifetime of the aggravated sex offender.

3. Upon registration of any person designated as a habitual or aggravated sex offender, pursuant to this subsection, a local law enforcement authority shall notify, by any method of communication it deems appropriate, anyone that the local law enforcement authority determines appropriate, including, but not limited to:

- a. the family of the habitual or aggravated sex offender,
- b. any prior victim of the habitual or aggravated sex offender,
- c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other

places that children or other potential victims may frequent, and

- d. a nursing facility, a specialized facility, a residential care home, a continuum-of-care facility, an assisted living center, and an adult day care facility.

4. The notification may include, but is not limited to, the following information:

- a. the name and physical address of the habitual or aggravated sex offender,
- b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,
- c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,
- d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,
- e. a description of the primary and secondary targets of the habitual or aggravated sex offender,
- f. a description of the method of offense of the habitual or aggravated sex offender,
- g. a current photograph of the habitual or aggravated sex offender,
- h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender⁺, and
- i. the ~~numeric risk~~ level assignment of the person.

5. The local law enforcement authority shall make the notification provided for in this subsection regarding a habitual or aggravated sex offender available to any person upon request.

~~K.~~ L. If the probation and parole officer supervising a person subject to registration receives information to the effect that the status of the person has changed in any manner that affects proper supervision of the person including, but not limited to, a change in the physical health of the person, address, employment, or educational status, higher educational status, incarceration, or terms of release, the supervising officer or administrator shall notify the appropriate local law enforcement authority or authorities of that change.

~~H.~~ M. Public officials, public employees, and public agencies are immune from civil liability for good faith conduct under any provision of the Sex Offenders Registration Act.

1. Nothing in the Sex Offenders Registration Act shall be deemed to impose any liability upon or to give rise to a cause of action against any public official, public employee, or public agency for releasing information to the public or for failing to release information in accordance with the Sex Offenders Registration Act.

2. Nothing in this section shall be construed to prevent law enforcement officers from notifying members of the public of any persons that pose a danger under circumstances that are not enumerated in the Sex Offenders Registration Act.

SECTION 7. AMENDATORY Section 12, Chapter 284, O.S.L. 2006, as amended by Section 30, Chapter 261, O.S.L. 2007 (57 O.S. Supp. 2008, Section 590.1), is amended to read as follows:

Section 590.1 A. 1. It is unlawful for two or more persons required to register as sex offenders to reside together in any individual dwelling during the term of registration as a sex offender. Every person violating this provision shall be guilty, upon conviction, of a misdemeanor punishable by imprisonment in the county jail for a term not more than one (1) year and a fine in an amount not to exceed One Thousand Dollars (\$1,000.00). Every person convicted of a second or subsequent violation of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term not more than five (5) years and a fine in an amount not to exceed Two Thousand Dollars (\$2,000.00).

2. The provisions of paragraph 1 of this subsection shall not be construed to prohibit a registered sex offender from residing in

any properly zoned and established boarding house, apartment building or other multi-unit structure; provided the individual dwellings are separate for each registered person. Nothing in this subsection shall prohibit the sharing of living quarters, jail or prison space, or any multi-person or dormitory-style housing of sex offenders in the custody of any jail or correctional facility or any properly zoned facility under contract with a jail or correctional agency for the purpose of housing prisoners, or any properly established treatment or nonprofit facility located in a ~~commercial~~ properly zoned area determined by the local governing authority and housing persons for purposes of sex offender services and treatment. Nothing in this subsection shall prohibit married persons, both of whom are required to register as sex offenders, or two or more blood relatives who are required to register as sex offenders, from residing in any individual dwelling during the term of registration as a sex offender.

3. For purposes of this subsection, "individual dwelling" means:

- a. a private residential property, whether owned, leased or rented, including all real property zoned as single-family residential property or zoned as multi-family residential property due to any adjacent, detached or separate living quarters of any kind on such property,
- b. any room available within any boarding house or group home as such term is defined by subsection D of this section,
- c. any single apartment for rent or lease within an apartment building, or
- d. any separate residential unit made available for sale, rent or lease within a multi-unit structure, including a condominium, duplex, triplex, quadriplex or any unit that is constructed together with other separate units into one structure.

B. The Department of Corrections is prohibited from contracting for the housing of any person required to register as a sex offender in any individual dwelling, as defined by paragraph 3 of subsection A of this section, where another person required to register as a sex offender also resides.

C. No halfway house, nonprofit organization, or private entity shall contract with the Department of Corrections or any jail to house any person required to register as a sex offender or offer housing independently to any person required to register as a sex offender if such housing facility is located within a single-family zoned residential neighborhood or is not properly zoned as a multi-unit housing structure, jail or correctional facility.

D. No person or entity shall knowingly establish or operate a boarding house or group home, or otherwise knowingly rent or lease rooms, for the residency of persons required to register pursuant to the Sex Offenders Registration Act ~~in any single family zoned residential area or its equivalent, or without being~~ unless treatment services are provided. Said facility must also be in a properly zoned or licensed as a multi family, multi unit, or correctional housing structure area determined by the local governing authority. For purposes of this subsection, "boarding house or group home" means a dwelling that is used for the residency of two or more unrelated persons.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 590.2 of Title 57, unless there is created a duplication in numbering, reads as follows:

A. For purposes of this section, a person shall be considered for removal of the requirement to register as a sex offender if the person:

1. Was convicted of a violation of Section 1111.1 or 1114 of Title 21 of the Oklahoma Statutes and the person does not have any other conviction for a violation of Section 1111.1 or 1114 of Title 21 of the Oklahoma Statutes;

2. Is required to register as a sex offender solely on the basis of a violation of Section 1111.1 or 1114 of Title 21 of the Oklahoma Statutes; and

3. Was not more than four (4) years older than the victim of the violation who was fourteen (14) years of age or older but not more than seventeen (17) years of age at the time the person committed the violation.

B. If a person meets the criteria provided for in subsection A of this section, the person may petition the court in which the

sentence for the conviction occurred for removal of the requirement to register as a sex offender. The person shall allege in the petition that the person meets the criteria provided for in subsection A of this section and that removal of the registration requirement will not conflict with federal law. The district attorney shall be given notice of the petition at least twenty-one (21) days before the hearing on the petition. The district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate why the petition should be denied. The court shall rule on the petition and, if the court determines that the person meets the criteria provided for in subsection A of this section and removal of the registration requirement will not conflict with federal law, may grant the petition and order the removal of the registration requirement. If the court denies the petition, the person shall not be authorized to file any further petition for removal of the registration requirement pursuant to this section.

C. If a person, who has yet to be sentenced for a conviction for a violation of Section 1111.1 or 1114 of Title 21 of the Oklahoma Statutes, meets the criteria provided for in subsection A of this section, the person may move the sentencing court for removal of the requirement to register as a sex offender. The person shall allege in the motion that the person meets the criteria provided for in subsection A of this section and that removal of the requirement to register as a sex offender will not conflict with federal law. The district attorney shall be given notice of the motion at least twenty-one (21) days prior to the hearing on the motion. The district attorney may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. The court shall rule on the motion and, if the court determines that the person meets the criteria provided for in subsection A of this section and that removal of the requirement to register will not conflict with federal law, may grant the motion and order the removal of the registration requirement. If the court denies the motion, the person shall not be authorized to file any further motions or petitions for removal of the registration requirement pursuant to this section.

D. If a person provides to the Department of Corrections a certified copy of the order of the court removing the requirement that the person register as a sex offender, the registration requirement shall not apply to the person and the Department shall remove all information about the person from the public registry of sex offenders maintained by the Department. However, the removal of

information about the person from the public registry shall not mean that the public is denied access to information about the criminal history or record of the person that is otherwise available as a public record.

SECTION 9. This act shall become effective November 1, 2009.

Passed the House of Representatives the 21st day of May, 2009.

Presiding Officer of the House of
Representatives

Passed the Senate the 22nd day of May, 2009.

Presiding Officer of the Senate