

THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 2010

House Bill No. 2630

HOUSE BILL NO. 2630 - By: TIBBS of the House and NEWBERRY of the Senate.

An Act relating to prisons and reformatories; amending 57 O.S. 2001, Section 584, as last amended by Section 6, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2009, Section 584), which relates to the Sex Offenders Registration Act; prohibiting use of homelessness defense in certain prosecutions; assigning certain persons to active electronic monitoring upon release from custody; providing for the promulgation of rules and procedures; providing for codification; and declaring an emergency.

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

- 1 SECTION 1. AMENDATORY 57 O.S. 2001, Section 584, as last amended by
2 Section 6, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2009, Section 584), is amended to
3 read as follows:
- 4 Section 584. A. Any registration with the Department of Corrections required by
5 the Sex Offenders Registration Act shall be in a form approved by the Department and
6 shall include the following information about the person registering:
- 7 1. The name of the person and all aliases used or under which the person has been
8 known;
- 9 2. A complete description of the person, including a photograph and fingerprints,
10 and when requested by the Department of Corrections, such registrant shall submit to a
11 blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission to

1 testing for individuals registering shall be within thirty (30) days of registration.
2 Registrants who already have valid samples on file in the Oklahoma State Bureau of
3 Investigation (OSBI) DNA Offender Database shall not be required to submit duplicate
4 samples for testing;

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

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

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

16 a. on an annual basis, if the numeric risk level of the person is one, or

17 b. on a semiannual basis, if the numeric risk level of the person is two.

18 The Department of Corrections shall mail a nonforwardable verification form to the last-
19 reported address of the person. The person shall return the verification form in person to
20 the local law enforcement authority of that jurisdiction within ten (10) days after receipt
21 of the form and may be photographed by the local law enforcement authority at that
22 time. The local law enforcement authority shall require the person to produce proof of

1 the identity of the person and current address. Upon confirming the information
2 contained within the verification form, the local law enforcement authority shall forward
3 the form to the Department of Corrections within three (3) days after receipt of the form.
4 The verification form shall be signed by the person and state the current address of the
5 person. Failure to return the verification form shall be a violation of the Sex Offenders
6 Registration Act. If the offender has been determined to be a habitual or aggravated sex
7 offender by the Department of Corrections or has been assigned a level assignment of
8 three, the address verification shall be conducted every ninety (90) days. The
9 Department of Corrections shall notify the office of the district attorney and local law
10 enforcement authority of the appropriate county, within forty-five (45) days if unable to
11 verify the address of a sex offender. A local law enforcement authority may notify the
12 office of the district attorney whenever it comes to the attention of the local law
13 enforcement authority that a sex offender is not in compliance with any provisions of this
14 act. A local law enforcement authority designated as the primary registration authority
15 of the person may, at any time, mail a nonforwardable verification form to the last-
16 reported address of the person. The person shall return the verification form in person to
17 the local law enforcement authority that mailed the form within ten (10) days after
18 receipt of the form. The local law enforcement authority shall require the person to
19 produce proof of the identity of the person and current address;

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

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

4 8. The level assignment of the person.

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

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

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

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

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

17 4. The level assignment of the person.

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

- 19 a. the municipal police department, if the person resides or intends to
20 reside or stay within the jurisdiction of any municipality of this state,
21 or

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

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

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

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

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

8 E. Any person subject to the provisions of the Sex Offenders Registration Act who is
9 ~~unable to provide an address to the Department of Corrections or local law enforcement~~
10 ~~authority as required in subsections A and C of this section and registers as a transient~~
11 ~~shall report in person to the nearest local law enforcement authority every seven (7) days~~
12 ~~and provide to the local law enforcement authority the approximate location of where the~~
13 ~~person is staying and where the person plans to stay~~ declares himself or herself to be
14 homeless shall be prohibited from using such homelessness as a defense to any
15 prosecution under the registration requirements of the Sex Offenders Registration Act.

16 F. The Department of Corrections shall maintain a file of all sex offender
17 registrations. A copy of the information contained in the registration shall promptly be
18 available to state, county and municipal law enforcement agencies, the State
19 Superintendent of Public Instruction, the Commissioner of Health, and the National Sex
20 Offender Registry maintained by the Federal Bureau of Investigation. The file shall
21 promptly be made available for public inspection or copying pursuant to rules
22 promulgated by the Department of Corrections and may be made available through

1 Internet access. The Department of Corrections shall promptly provide all municipal
2 police departments, all county sheriff departments and all campus police departments a
3 list of those sex offenders registered and living in their county.

4 G. The Superintendent of Public Instruction is authorized to copy and shall
5 distribute information from the sex offender registry to school districts and individual
6 public and private schools within the state with a notice using the following or similar
7 language: “A person whose name appears on this registry has been convicted of a sex
8 offense. Continuing to employ a person whose name appears on this registry may result
9 in civil liability for the employer or criminal prosecution pursuant to Section 589 of Title
10 57 of the Oklahoma Statutes.”

11 H. The State Commissioner of Health is authorized to distribute information from
12 the sex offender registry to any nursing home or long-term care facility. Nothing in this
13 subsection shall be deemed to impose any liability upon or give rise to a cause of action
14 against any person, agency, organization, or company for failing to release information in
15 accordance with the Sex Offenders Registration Act.

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

20 When a local law enforcement authority sends a copy of or otherwise makes the sex
21 offender registry available to any public or private school offering any combination of
22 prekindergarten through twelfth grade classes or child care facility licensed by the state,

1 the agency shall provide a notice using the following or similar language: “A person
2 whose name appears on this registry has been convicted of a sex offense. Continuing to
3 employ a person whose name appears on this registry may result in civil liability for the
4 employer or criminal prosecution pursuant to Section 589 of Title 57 of the Oklahoma
5 Statutes.”

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

17 K. 1. Any person who has been convicted of or received a suspended sentence or
18 any probationary term, including a deferred sentence imposed in violation of subsection
19 G of Section 991c of Title 22 of the Oklahoma Statutes, for any crime listed in Section
20 582 of this title and:

21 a. who is subsequently convicted of a crime or an attempt to commit a
22 crime listed in subsection A of Section 582 of this title, or

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

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

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

9 2. On or after November 1, 1999, any person who has been convicted of a crime or
10 an attempt to commit a crime, received a suspended sentence or any probationary term,
11 including a deferred sentence imposed in violation of subsection G of Section 991c of Title
12 22 of the Oklahoma Statutes, for a crime provided for in Section 7115 of Title 10 of the
13 Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these
14 terms are defined in Section 7102 of Title 10 of the Oklahoma Statutes, Section 885, 888,
15 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes shall be subject to all the
16 registration requirements of this act and shall be designated by the Department of
17 Corrections as an aggravated sex offender. An aggravated sex offender shall be required
18 to register for the lifetime of the aggravated sex offender.

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

- 1 a. the family of the habitual or aggravated sex offender,
2 b. any prior victim of the habitual or aggravated sex offender,
3 c. residential neighbors and churches, community parks, schools,
4 convenience stores, businesses and other places that children or other
5 potential victims may frequent, and
6 d. a nursing facility, a specialized facility, a residential care home, a
7 continuum-of-care facility, an assisted living center, and an adult day
8 care facility.
- 9 4. The notification may include, but is not limited to, the following information:
- 10 a. the name and physical address of the habitual or aggravated sex
11 offender,
12 b. a physical description of the habitual or aggravated sex offender,
13 including, but not limited to, age, height, weight and eye and hair
14 color,
15 c. a description of the vehicle that the habitual or aggravated sex
16 offender is known to drive,
17 d. any conditions or restrictions upon the probation, parole or conditional
18 release of the habitual or aggravated sex offender,
19 e. a description of the primary and secondary targets of the habitual or
20 aggravated sex offender,
21 f. a description of the method of offense of the habitual or aggravated sex
22 offender,

- 1 g. a current photograph of the habitual or aggravated sex offender,
- 2 h. the name and telephone number of the probation or parole officer of
- 3 the habitual or aggravated sex offender, and
- 4 i. the level assignment of the person.

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

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

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

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

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

4 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
5 Statutes as Section 590.3 of Title 57, unless there is created a duplication in numbering,
6 reads as follows:

7 A. Before a person who will be subject to the provisions of the Sex Offenders
8 Registration Act is due to be released from the custody of the Department of Corrections,
9 the Department shall place the offender under a system of active electronic monitoring.
10 The active electronic monitoring device shall be worn from the time the person is
11 discharged from custody until the person registers as a sex offender pursuant to the
12 provisions of Section 583 of Title 57 of the Oklahoma Statutes.

13 B. The person assigned to electronic monitoring shall be required to pay the
14 Department of Corrections for use of the electronic monitoring device, supervision cost,
15 and any other costs while assigned to electronic monitoring.

16 C. The Department of Corrections shall be authorized to promulgate and adopt
17 rules and procedures necessary to implement the provisions of this section.

18 SECTION 3. It being immediately necessary for the preservation of the public
19 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
20 this act shall take effect and be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-23-10 - DO PASS,
22 As Coauthored.