

EHB 2968

THE STATE SENATE
Monday, April 5, 2010

ENGROSSED

House Bill No. 2968

ENGROSSED HOUSE BILL NO. 2968 - By: Sanders, Ritze, Reynolds,
Luttrell, Wright (John), Walker and Kern of the House and Jolley of
the Senate.

An Act relating to sex offenders; amending 57 O.S. 2001,
Section 584, as last amended by Section 27 of Enrolled
Senate Bill No. 2113 of the 2nd Session of the 52nd Oklahoma
Legislature and Section 1, Chapter 223, O.S.L. 2003, as last
amended by Section 2, Chapter 347, O.S.L. 2008 (57 O.S.
Supp. 2009, Section 590), which relate to the Sex Offenders
Registration Act; modifying address registration
requirement; modifying residency restriction; and providing
an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2001, Section 584, as last
amended by Section 27 of Enrolled Senate Bill No. 2113 of the 2nd
Session of the 52nd Oklahoma Legislature, 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;

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

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

16 4. The name and location of each hospital or penal institution
17 to which the person was committed for each offense listed in Section
18 582 of this title;

19 5. Where the person previously resided, where the person
20 currently resides including a mappable address and a zip code, how
21 long the person has resided there, how long the person expects to
22 reside there, and how long the person expects to remain in the
23 county and in this state. The Department of Corrections shall

1 conduct address verification of each registered sex offender as
2 follows:

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

7 The Department of Corrections shall mail a nonforwardable
8 verification form to the last-reported address of the person. The
9 person shall return the verification form in person to the local law
10 enforcement authority of that jurisdiction within ten (10) days
11 after receipt of the form and may be photographed by the local law
12 enforcement authority at that time. The local law enforcement
13 authority shall require the person to produce proof of the identity
14 of the person and a current mappable address with a zip code. Upon
15 confirming the information contained within the verification form,
16 the local law enforcement authority shall forward the form to the
17 Department of Corrections within three (3) days after receipt of the
18 form. The verification form shall be signed by the person and state
19 the current address of the person. Failure to return the
20 verification form shall be a violation of the Sex Offenders
21 Registration Act. If the offender has been determined to be a
22 habitual or aggravated sex offender by the Department of Corrections
23 or has been assigned a level assignment of three, the address

1 verification shall be conducted every ninety (90) days. The
2 Department of Corrections shall notify the office of the district
3 attorney and local law enforcement authority of the appropriate
4 county, within forty-five (45) days if unable to verify the address
5 of a sex offender. A local law enforcement authority may notify the
6 office of the district attorney whenever it comes to the attention
7 of the local law enforcement authority that a sex offender is not in
8 compliance with any provisions of this act. A local law enforcement
9 authority designated as the primary registration authority of the
10 person may, at any time, mail a nonforwardable verification form to
11 the last-reported address of the person. The person shall return
12 the verification form in person to the local law enforcement
13 authority that mailed the form within ten (10) days after receipt of
14 the form. The local law enforcement authority shall require the
15 person to produce proof of the identity of the person and a current
16 mappable address with a zip code;

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

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

23 8. The level assignment of the person.

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

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

10 1. The full name of the person, alias, date of birth, sex,
11 race, height, weight, eye color, social security number, driver
12 license number, and a mappable home address with a zip code;

13 2. A description of the offense for which the offender was
14 convicted, the date of the conviction, and the sentence imposed, if
15 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"
19 means:

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

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

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

1 student enrollment is under the jurisdiction of a different local
2 law enforcement authority:

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

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

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

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

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

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

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

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

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

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

16 K. 1. Any person who has been convicted of or received a
17 suspended sentence or any probationary term, including a deferred
18 sentence imposed in violation of subsection G of Section 991c of
19 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
22 to commit a crime listed in subsection A of Section
23 582 of this title, or

1 b. who enters this state after November 1, 1997, and who
2 has been convicted of an additional crime or attempted
3 crime which, if committed or attempted in this state,
4 would be a crime or an attempt to commit a crime
5 provided for in subsection A of Section 582 of this
6 title,
7 shall be subject to all of the registration requirements of this act
8 and shall be designated by the Department of Corrections as a
9 habitual sex offender. A habitual sex offender shall be required to
10 register for the lifetime of the habitual sex offender.

11 2. On or after November 1, 1999, any person who has been
12 convicted of a crime or an attempt to commit a crime, received a
13 suspended sentence or any probationary term, including a deferred
14 sentence imposed in violation of subsection G of Section 991c of
15 Title 22 of the Oklahoma Statutes, for a crime provided for in
16 Section 843.5 of Title 21 of the Oklahoma Statutes, if the offense
17 involved sexual abuse or sexual exploitation as these terms are
18 defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes,
19 Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
20 Statutes shall be subject to all the registration requirements of
21 this act and shall be designated by the Department of Corrections as
22 an aggravated sex offender. An aggravated sex offender shall be

1 required to register for the lifetime of the aggravated sex
2 offender.

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

- 8 a. the family of the habitual or aggravated sex offender,
- 9 b. any prior victim of the habitual or aggravated sex
10 offender,
- 11 c. residential neighbors and churches, community parks,
12 schools, convenience stores, businesses and other
13 places that children or other potential victims may
14 frequent, and
- 15 d. a nursing facility, a specialized facility, a
16 residential care home, a continuum-of-care facility,
17 an assisted living center, and an adult day care
18 facility.

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

- 21 a. the name and physical address of the habitual or
22 aggravated sex offender,

- 1 b. a physical description of the habitual or aggravated
- 2 sex offender, including, but not limited to, age,
- 3 height, weight and eye and hair color,
- 4 c. a description of the vehicle that the habitual or
- 5 aggravated sex offender is known to drive,
- 6 d. any conditions or restrictions upon the probation,
- 7 parole or conditional release of the habitual or
- 8 aggravated sex offender,
- 9 e. a description of the primary and secondary targets of
- 10 the habitual or aggravated sex offender,
- 11 f. a description of the method of offense of the habitual
- 12 or aggravated sex offender,
- 13 g. a current photograph of the habitual or aggravated sex
- 14 offender,
- 15 h. the name and telephone number of the probation or
- 16 parole officer of the habitual or aggravated sex
- 17 offender, and
- 18 i. the level assignment of the person.

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

22 L. If the probation and parole officer supervising a person
23 subject to registration receives information to the effect that the

1 status of the person has changed in any manner that affects proper
2 supervision of the person including, but not limited to, a change in
3 the physical health of the person, address, employment, or
4 educational status, higher educational status, incarceration, or
5 terms of release, the supervising officer or administrator shall
6 notify the appropriate local law enforcement authority or
7 authorities of that change.

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

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

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

21 SECTION 2. AMENDATORY Section 1, Chapter 223, O.S.L.
22 2003, as last amended by Section 2, Chapter 347, O.S.L. 2008 (57
23 O.S. Supp. 2009, Section 590), is amended to read as follows:

1 Section 590. A. It is unlawful for any person registered
2 pursuant to the Sex Offenders Registration Act to reside, either
3 temporarily or permanently, within a two-thousand-foot radius of any
4 public or private school site, educational institution, property or
5 campsite used by an organization whose primary purpose is working
6 with children, a playground or park that is established, operated or
7 supported in whole or in part by city, county, state, federal or
8 tribal government, or licensed child care center as defined by the
9 Department of Human Services. Establishment of a day care center or
10 park in the vicinity of the residence of a registered sex offender
11 will not require the relocation of the sex offender or the sale of
12 the property. On the effective date of this act, the distance
13 indicated in this section shall be measured from the nearest
14 property line of the residence of the person to the nearest property
15 line of the public or private school site, educational institution,
16 property or campsite used by an organization whose primary purpose
17 is working with children, playground, park, or licensed child care
18 facility; provided, any nonprofit organization established and
19 housing sex offenders prior to the effective date of this provision
20 shall be allowed to continue its operation.

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

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

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

17 SECTION 3. This act shall become effective November 1, 2010.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-30-10 - DO
19 PASS, As Coauthored.