HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

HOUSE BILL 1350 By: Blackwell

AS INTRODUCED

An Act relating to sex offenders; amending 10 O.S. 2001, Sections 7308-1.2, as amended by Section 1, Chapter 164, O.S.L. 2002, 7308-1.3, as last amended by Section 103, Chapter 234, O.S.L. 2009, 7308-1.5, as last amended by Section 105, Chapter 234, O.S.L. 2009, 7308-1.8 and 7308-1.9, as amended by Section 5, Chapter 164, O.S.L. 2002, and as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Sections 2-8-102, 2-8-103, 2-8-105, 2-8-107 and 2-8-108), which relate to the Juvenile Sex Offenders Registration Act; modifying definition; directing Office of Juvenile Affairs to register juvenile sex offenders pursuant to the Sex Offenders Registration Act; deleting juvenile sex offender registry procedures; providing procedures for registering juvenile sex offenders; modifying notice provisions; deleting certain unlawful act; reducing certain age limitation; modifying transfer procedures for adult registration requirements; amending 57 O.S. 2001, Sections 582, as last amended by Section 25, Chapter 2, O.S.L. 2010, 583, as last amended by Section 5, Chapter 404, O.S.L. 2009, 584, as last amended by Section 1, Chapter 407, O.S.L. 2010 and Section 8, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2010, Sections 582, 583, 584 and 590.2), which relate to the Sex Offenders Registration Act; deleting applicable date for registration requirements; exempting persons from registration requirements under certain circumstances; making registration requirements applicable to certain juvenile offenders; modifying certain definition; requiring collection and transmission of palm prints; modifying criteria for petitioning removal from registration

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requirements; repealing 10 O.S. 2001, Sections 7308-1.4, as last amended by Section 104, Chapter 234, O.S.L. 2009, as renumbered by Section 191, Chapter 234, O.S.L. 2009, 7308-1.7, 7308-1.10, 7308-1.11 and 7308-1.13, as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Sections 2-8-104, 2-8-106, 2-8-109, 2-8-110 and 2-8-112), which relate to the Juvenile Sex Offender Registration Act; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 10 O.S. 2001, Section 7308-1.2, as amended by Section 1, Chapter 164, O.S.L. 2002, and as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-8-102), is amended to read as follows:

Section 2-8-102. ~~As used in this act, "juvenile~~ "Juvenile sex offender" means a person who was not less than fourteen (14) years of age but who was less than eighteen (18) years of age at the time the ~~qualifying~~ sex offense was committed and who:

1. ~~On or after July 1, 2001, was~~ Was adjudicated delinquent or a youthful offender for an action that would be an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes~~,~~ if committed by an adult;

2. ~~As of July 1, 2001, is~~ Is serving formal probation or commitment to the custody of the Office of Juvenile Affairs as the result of adjudication for an action that would be an offense

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provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes~~,~~ if committed by an adult;

3. Was adjudicated delinquent in another state or jurisdiction for an action that is substantially equivalent to an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes, and is subject ~~on or after July 1, 2001,~~ to court jurisdiction in this state pursuant to the Interstate Compact on Juveniles; or

4. Is required to register as a ~~juvenile~~ sex offender in another state or jurisdiction for having committed a sex offense in that state regardless of the date of the offense or its adjudication.

SECTION 2. AMENDATORY 10 O.S. 2001, Section 7308-1.3, as last amended by Section 103, Chapter 234, O.S.L. 2009, and as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-8-103), is amended to read as follows:

Section 2-8-103. The Office of Juvenile Affairs shall ~~establish and maintain a registry for~~ register juvenile sex offenders ~~required by the court to register. The registry shall include fingerprints, photographs, and information collected from forms submitted and other communications relating to notice of duty to register, sex offender registration, and notice of change of name or address. Information in the juvenile sex offender registry is subject to~~

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~~release to law enforcement agencies and may be released to the public pursuant to court order as provided in Section 2-8-104 of this title~~ pursuant to the provisions of the Sex Offenders Registration Act. The Office of Juvenile Affairs shall maintain a file of all juvenile sex offender registrations. A copy of the information contained in those files shall promptly be transferred to the Department of Corrections for inclusion in the Oklahoma sex offender registry.

SECTION 3. AMENDATORY 10 O.S. 2001, Section 7308-1.5, as last amended by Section 105, Chapter 234, O.S.L. 2009, and as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-8-105), is amended to read as follows:

Section 2-8-105. ~~On or after July 1, 2001, when the~~ When a court ~~orders a juvenile sex offender to register on the juvenile sex offender registry as provided in Section 2-8-104 of this title, the court shall provide at the time of the order~~ adjudicates an offender for an offense requiring registration pursuant to the Sex Offenders Registration Act, the court shall provide written notification to the juvenile sex offender of the duty to register. The written notification shall be a form provided by the Office of Juvenile Affairs and shall be signed by the juvenile and a parent or guardian who has custody and control of the juvenile. One copy shall be retained by the court, one copy shall be provided to the juvenile

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offender, and one copy shall be submitted within three (3) working days to the ~~juvenile sex offender registry~~ Office of Juvenile Affairs.

SECTION 4. AMENDATORY 10 O.S. 2001, Section 7308-1.8, as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-8-107), is amended to read as follows:

Section 2-8-107. ~~A. A juvenile sex offender who fails to register or provide notification of a change of name or address is guilty of a misdemeanor.~~

~~B.~~ A parent or guardian who has custody and control of a juvenile sex offender commits a misdemeanor offense of failure to supervise a child if the juvenile offender fails to register or provide notification of a change of name or address as required by ~~this act~~ the Sex Offenders Registration Act. A person convicted of this offense is punishable by a fine of not more than One Thousand Dollars ($1,000.00).

SECTION 5. AMENDATORY 10 O.S. 2001, Section 7308-1.9, as amended by Section 5, Chapter 164, O.S.L. 2002, and as renumbered by Section 191, Chapter 234, O.S.L. 2009 (10A O.S. Supp. 2010, Section 2-8-108), is amended to read as follows:

Section 2-8-108. When a registered juvenile sex offender reaches ~~twenty one (21)~~ eighteen (18) years of age ~~or is otherwise released from the custody of the Office of Juvenile Affairs, the~~

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~~district attorney may petition the court to transfer the person's registration to the adult sex offender registry maintained by the Department of Corrections, subject to the provisions of Section 581 et seq. of Title 57 of the Oklahoma Statutes. After notice, if the court determines at a hearing that the person who is registered on the juvenile sex offender registry is likely to or does pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age~~, the court shall order that the delinquent act requiring the offender to register pursuant to the provisions of the Sex Offenders Registration Act be deemed an adult criminal conviction for the purpose of registration, notification, and public information access pursuant to ~~Section 581 et seq. of Title 57 of the Oklahoma Statutes. If no petition is filed within ninety (90) days following the twenty first birthday of the person or the date of release from custody, or if the court determines the person is not likely to or does not pose an ongoing serious or aggressive threat to the public or children under sixteen (16) years of age, the juvenile's name and information shall be deleted from the juvenile sex offender registry, and the person may not be included in the adult sex offender registry~~ the Sex Offenders Registration Act.

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SECTION 6. AMENDATORY 57 O.S. 2001, Section 582, as last amended by Section 25, Chapter 2, O.S.L. 2010 (57 O.S. Supp. 2010, Section 582), is amended to read as follows:

Section 582. A. The provisions of the Sex Offenders Registration Act 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 or a conspiracy to commit a crime provided for in Section 843.5 of Title 21 of the Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A 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, 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

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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, a military court, or a court of a foreign country for a crime, attempted crime or a conspiracy to commit a crime which, if committed or attempted in this state, would be a crime, 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 <u>or for a crime that requires the offender to register as a sex offender in the offending state or jurisdiction</u>.

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, a military court, or a court of a foreign country for a crime, 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, an attempt to commit a crime or a conspiracy to commit a crime provided for in Section 843.5 of Title 21 of the

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Oklahoma Statutes if the offense involved sexual abuse or sexual exploitation as those terms are defined in Section 1-1-105 of Title 10A 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, 1087, 1088, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma Statutes <u>or for a crime that requires the offender to register as a sex offender in the offending state or jurisdiction</u>. 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

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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.

F. Any person who 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, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, or who served a sentence or any form of probation or parole for a crime or an attempt or conspiracy to commit a crime provided for in any of said laws listed in this section which, prior to November 1, 1989, did not require registration pursuant to this section, or any person who has satisfied the registration requirements pursuant to this act, shall not be required to register pursuant to the provisions of the Sex Offenders Registration Act unless the person is subsequently convicted or receives 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 violation of law. Upon such conviction, the person shall be required to register pursuant to the provisions of the Sex Offenders Registration Act.

G. The provisions of the Sex Offenders Registration Act shall apply to any juvenile not less than fourteen (14) years of age who,

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after July 1, 2011, is adjudicated delinquent or a youthful offender for an act that would be an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes if committed by an adult, or adjudicated delinquent in another state for an act that is substantially equivalent to an offense provided in Section 888, 1111, 1111.1, 1114 or 1115 of Title 21 of the Oklahoma Statutes, and who is residing, working or attending school within the State of Oklahoma. Provided, residency and working restrictions provided in the Sex Offenders Registration Act and the restrictions provided for in Section 1125 of Title 21 of the Oklahoma Statutes shall not apply to juveniles required to register pursuant to this subsection until such juvenile offender becomes eighteen (18) years of age, is emancipated, or no longer resides with the parent or guardian of the juvenile offender.

SECTION 7. AMENDATORY 57 O.S. 2001, Section 583, as last amended by Section 5, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2010, 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

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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~~

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c. the tribal police, if the person resides or intends to reside or stay at any place within Indian Country, provided the tribe has a sex offender registry, and

d. 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

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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 sex

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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 level assignment of the person is one;

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

3. For life, if the 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 level of the person is one;

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

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3. For life, if the 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 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 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

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law enforcement authority in the location in which the offender previously resided 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

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in a calendar year, then the offender has a duty to register as a sex offender in that state;

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;

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;

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 of such employment or participation at least three (3) days before commencing or upon terminating such employment or participation;

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 of such change in enrollment or employment within three (3) days of the change; and

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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

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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 8. AMENDATORY 57 O.S. 2001, Section 584, as last amended by Section 1, Chapter 407, O.S.L. 2010 (57 O.S. Supp. 2010, 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 palm prints, 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

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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 including a mappable address and a zip code, 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 address of the residence shall be a physical address, not a post office box. 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.

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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 a current mappable address with a zip code. 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 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

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of the local law enforcement authority that a sex offender is not in compliance with any provisions of ~~Section 581 et seq. of this title~~ the Sex Offenders Registration 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 a current mappable address with a zip code;

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;

8. The level assignment of the person; and

9. Any electronic mail address information, instant message, chat or other Internet communication name or identity information that the person uses or intends to use while accessing the Internet or used for other purposes of social networking or other similar Internet communication.

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B. Conviction data ~~and~~, fingerprints and palm prints 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 a mappable home address with a zip code. The home address shall be a physical address, not a post office box;

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;

4. The 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~~

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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 tribal police, if the person resides or intends to reside or stay at any place within Indian Country, provided the tribe has a sex offender registry, or

d. 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; and

5. Any electronic mail address information, instant message, chat or other Internet communication name or identity information that the person uses or intends to use while accessing the Internet or used for other purposes of social networking or other similar Internet communication.

D. Any person subject to the provisions of the Sex Offenders Registration Act who changes address, employment or student enrollment status shall appear in person and give notification to

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the Department of Corrections and the local law enforcement authority of the change of address and the new mappable address with zip code, 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. The address given to the Department of Corrections and the local law enforcement authority shall be a physical address, not a post office box. 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 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 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

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responsible for registration in that state of the new address of the offender.

E. Any person registered as a sex offender, pursuant to the Sex Offenders Registration Act, who has provided a post office box as an address shall be contacted by local law enforcement and required to provide a physical address.

F. Any person subject to the provisions of the Sex Offenders Registration Act who is unable to provide a mappable address with a zip code 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.

G. 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 State 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

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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.

H. The Department of Corrections shall, upon the request of any Internet entity, release to such entity any information required pursuant to paragraph 9 of subsection A of this section or paragraph 5 of subsection C of this section that would enable the Internet entity to prescreen or remove sex offenders from its services or, in conformity with state and federal law, advise law enforcement or other governmental entities of potential violations of law or threats to public safety. Before releasing information to an Internet entity the Department shall require an Internet entity that requests information to submit to the Department the name, address and telephone number of such entity and the specific legal nature and corporate status of such entity. Except for the purposes specified in this subsection, an Internet entity shall not publish or in any way disclose or redisclose any information provided to it by the Department pursuant to this subsection. The Department shall update any information released pursuant to this subsection on a monthly basis to ensure that the information of every individual that has been removed from the sex offender registry in this state is no longer released pursuant to this subsection. The Department

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may charge the Internet entity a fee for access to information pursuant to this subsection. The Department shall promulgate any rules necessary to implement the provisions of this subsection. As used in this subsection "Internet entity" means any business, organization or other entity providing or offering a service over the Internet which permits persons under eighteen (18) years of age to access, meet, congregate or communicate with other users for the purpose of social networking. This definition shall not include general e-mail services.

I. 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."

J. 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

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release information in accordance with the Sex Offenders Registration Act.

K. 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."

L. 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.

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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~~ Bureau and procedures promulgated by the ~~OSBI~~ Bureau. 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.

M. 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 or conspiracy to commit a crime which, if committed or attempted in this state, would be a crime, an attempt to commit or conspiracy to commit a

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crime provided for in ~~subsection A of~~ Section 582 of this title,

shall be subject to all of the registration requirements of the Sex Offenders Registration 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~~ Any person who has been convicted of a crime ~~or~~, an attempt to commit a crime or conspiracy 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 843.5 of Title 21 of the Oklahoma Statutes, if the offense involved sexual abuse or sexual exploitation as these terms are defined in Section 1-1-105 of Title 10A 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 the Sex Offenders Registration 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.

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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,

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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 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.

N. 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

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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.

O. 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 9. AMENDATORY Section 8, Chapter 404, O.S.L. 2009 (57 O.S. Supp. 2010, Section 590.2), is amended to read as follows:

Section 590.2 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:

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1. Was convicted of ~~a violation of Section 1111.1 or 1114 of Title 21 of the Oklahoma Statutes~~ an offense set forth in subsection A of Section 582 of this title 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~~ an offense set forth in subsection A of Section 582 of this title;

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~~ pursuant to the provisions of the Sex Offenders Registration Act; 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

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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~~ <u>of an offense set forth in subsection A of Section 582 of this title</u>, 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

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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 10. REPEALER 10 O.S. 2001, Sections 7308-1.4, as last amended by Section 104, Chapter 234, O.S.L. 2009, as renumbered by Section 191, Chapter 234, O.S.L. 2009, 7308-1.7, 7308-1.10, 7308-1.11 and 7308-1.13, as renumbered by Section 191, Chapter 234,

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O.S.L. 2009 (10A O.S. Supp. 2010, Sections 2-8-104, 2-8-106, 2-8-109, 2-8-110 and 2-8-112), are hereby repealed.

SECTION 11. This act shall become effective July 1, 2011.

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

COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 02-17-2011 - DO PASS.

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