STATE OF OKLAHOMA

1st Session of the 54th Legislature (2013)

HOUSE BILL 1507 By: McDaniel (Curtis)

AS INTRODUCED

An Act relating to prisons and reformatories; amending 57 O.S. 2011, Section 584, which relates to the Sex Offenders Registration Act; requiring payment of fee under certain circumstances; directing use of collected fee; and providing an effective date.

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

SECTION 1. AMENDATORY 57 O.S. 2011, Section 584, is amended to read as follows:

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

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

2. A complete description of the person, including a photograph and fingerprints, and when requested by the Department of Corrections, such registrant shall submit to a blood or saliva test for purposes of a deoxyribonucleic acid (DNA) profile. Submission

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

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

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

5. Where the person previously resided, where the person currently resides 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.

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 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. 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.

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

C. Any person subject to the provisions of the Sex Offenders Registration Act or the Mary Rippy Act, who has an out-of-state conviction that requires registration, shall provide the local law enforcement authority where the offender intends to reside with a certified copy of the offender's judgment and sentencing report within sixty (60) days of the offender's initial registration with this state. If an offender moves to a different location in this state outside of the jurisdiction of the law enforcement authority that has a certified copy of the judgment and sentencing report, the offender shall provide the local law enforcement authority of the new location where the offender intends to reside with a certified copy of the judgment and sentencing report within sixty (60) days of establishing residency in the new location.

Upon the effective date of this act, the Department of Corrections shall notify by regular first-class mail to the registered addresses in the sex offender registry all offenders required to register in this state that have an out-of-state conviction to obtain a certified copy of the offender's judgment and sentencing report and file it with the local law enforcement

authority in which the offender resides within one hundred twenty (120) days of receipt of the mailed notice.

D. 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

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

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

(1) enrolls as a full-time or part-time student,

(2) is a full-time or part-time employee at an institution of higher learning, or

(3) resides or intends to reside or stay on any property owned or controlled by the institution of higher learning; 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.

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

Upon any change of address by the offender, the offender shall pay a fee of Twenty-five Dollars ($25.00) when providing such notice to the local law enforcement authority. Any fee collected shall be retained by the local law enforcement authority and shall be used exclusively to defray the costs associated with establishing and maintaining a sex offender management program.

F. 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.

G. 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, C and D 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.

H. 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 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.

I. 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 D 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 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.

J. 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."

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

L. 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."

M. Samples of blood or saliva for DNA testing required by subsection A of this section shall be taken by employees or contractors of the Department of Corrections. Said individuals shall be properly trained to collect blood or saliva samples. Persons collecting samples for DNA testing pursuant to this section shall be immune from civil liabilities arising from this activity. The Department of Corrections shall ensure the collection of samples is mailed to the Oklahoma State Bureau of Investigation (OSBI) within ten (10) days of the time the subject appears for testing. The Department shall use sample kits provided by the OSBI and procedures promulgated by the OSBI. Persons subject to DNA testing pursuant to this section shall be required to pay to the Department

of Corrections a fee of Fifteen Dollars ($15.00). Any fees collected pursuant to this subsection shall be deposited in the Department of Corrections revolving account.

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

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

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

shall be subject to all of the registration requirements of 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 person who has been convicted of a crime or an attempt to commit a crime, received a

suspended sentence or any probationary term, including a deferred sentence imposed in violation of subsection G of Section 991c of Title 22 of the Oklahoma Statutes, for a crime provided for in Section 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.

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

a. the family of the habitual or aggravated sex offender,

b. any prior victim of the habitual or aggravated sex offender,

c. residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent, and

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

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

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

b. a physical description of the habitual or aggravated sex offender, including, but not limited to, age, height, weight and eye and hair color,

c. a description of the vehicle that the habitual or aggravated sex offender is known to drive,

d. any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated sex offender,

e. a description of the primary and secondary targets of the habitual or aggravated sex offender,

f. a description of the method of offense of the habitual or aggravated sex offender,

g. a current photograph of the habitual or aggravated sex offender,

h. the name and telephone number of the probation or parole officer of the habitual or aggravated sex offender, and

i. the 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.

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

P. 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 2. This act shall become effective November 1, 2013.

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