

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 163

By: Pugh

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to the Sex Offender Registration Act;
9 amending 57 O.S. 2011, Section 584, as last amended
10 by Section 2, Chapter 224, O.S.L. 2017 (57 O.S. Supp.
11 2018, Section 584), which relates to registration;
12 modifying required notification; amending 57 O.S.
13 2011, Section 590, as last amended by Section 1,
14 Chapter 145, O.S.L. 2018 (57 O.S. Supp. 2018, Section
15 590), which relates to residency restrictions;
16 modifying required notification; and providing an
17 effective date.

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

19 SECTION 1. AMENDATORY 57 O.S. 2011, Section 584, as last
20 amended by Section 2, Chapter 224, O.S.L. 2017 (57 O.S. Supp. 2018,
21 Section 584), is amended to read as follows:

22 Section 584. A. Any registration with the Department of
23 Corrections required by the Sex Offenders Registration Act shall be
24 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 address of the residence shall be a
24 physical address, not a post office box. The Department of

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

- 3 a. on an annual basis, if the numeric risk level of the
4 person is one,
- 5 b. on a semiannual basis, if the numeric risk level of
6 the person is two, or
- 7 c. every ninety (90) days, if the offender has been
8 determined to be a habitual or aggravated sex offender
9 by the Department of Corrections or has been assigned
10 a level assignment of three.

11 The Department of Corrections shall mail a nonforwardable
12 verification form to the last-reported address of the person. The
13 person shall return the verification form in person to the local law
14 enforcement authority of that jurisdiction within ten (10) days
15 after receipt of the form and may be photographed by the local law
16 enforcement authority at that time; provided that the person shall
17 be photographed by the local law enforcement authority at that time
18 if the photograph in the Department of Corrections sex offender
19 registry is more than one year old, or if it cannot be determined
20 when the photograph in the registry was taken. The local law
21 enforcement authority shall require the person to produce proof of
22 the identity of the person and a current mappable address with a zip
23 code. Upon confirming the information contained within the
24 verification form, the local law enforcement authority shall forward

1 a copy of the form to the Department of Corrections, in a manner
2 approved by the Department of Corrections, within three (3) days
3 after receipt of the form. The verification form shall be signed by
4 the person and state the current address of the person. In the
5 absence of receipt of the mailed verification form by the offender,
6 the offender must continue to comply with the reporting requirements
7 as provided in this paragraph. The offender should report as
8 required to the local law enforcement agency for current address
9 verification. The Department of Corrections will provide an
10 alternative address verification form to local law enforcement for
11 conformity. Failure to return the verification form or report as
12 required shall be a violation of the Sex Offenders Registration Act.
13 The Department of Corrections shall notify the office of the
14 district attorney and local law enforcement authority of the
15 appropriate county, within forty-five (45) days if unable to verify
16 the address of a sex offender. A local law enforcement authority
17 may notify the office of the district attorney whenever it comes to
18 the attention of the local law enforcement authority that a sex
19 offender is not in compliance with any provisions of Section 581 et
20 seq. of this title. A local law enforcement authority designated as
21 the primary registration authority of the person may, at any time,
22 mail a nonforwardable verification form to the last-reported address
23 of the person. The person shall return the verification form in
24 person to the local law enforcement authority that mailed the form

1 within ten (10) days after receipt of the form. The local law
2 enforcement authority shall require the person to produce proof of
3 the identity of the person and a current mappable address with a zip
4 code;

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

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

11 8. The level assignment of the person; and

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

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

22 C. Any person subject to the provisions of the Sex Offenders
23 Registration Act or the Mary Rippy Violent Crime Offenders
24 Registration Act, who has an out-of-state conviction that requires

1 registration, shall provide the local law enforcement authority
2 where the offender intends to reside with a certified copy of the
3 offender's judgment and sentencing report within sixty (60) days of
4 the offender's initial registration with this state. If an offender
5 moves to a different location in this state outside of the
6 jurisdiction of the law enforcement authority that has a certified
7 copy of the judgment and sentencing report, the offender shall
8 provide the local law enforcement authority of the new location
9 where the offender intends to reside with a certified copy of the
10 judgment and sentencing report within sixty (60) days of
11 establishing residency in the new location.

12 On or after November 1, 2011, the Department of Corrections
13 shall notify by regular first-class mail to the registered addresses
14 in the sex offender registry all offenders required to register in
15 this state that have an out-of-state conviction to obtain a
16 certified copy of the offender's judgment and sentencing report and
17 file it with the local law enforcement authority in which the
18 offender resides within one hundred twenty (120) days of receipt of
19 the mailed notice.

20 D. The registration with the local law enforcement authority
21 required by the Sex Offenders Registration Act shall be in a form
22 approved by the local law enforcement authority and shall include
23 the following information about the person registering:
24

1 1. The full name of the person, alias, date of birth, sex,
2 race, height, weight, eye color, social security number, driver
3 license number, and a mappable home address with a zip code. The
4 home address shall be a physical address, not a post office box;

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

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

9 4. The level assignment of the person.

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

12 a. the municipal police department, if the person resides
13 or intends to reside or stay within the jurisdiction
14 of any municipality of this state, or

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

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

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

22 (2) is a full-time or part-time employee at an
23 institution of higher learning, or
24

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

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

9 E. Any person subject to the provisions of the Sex Offenders
10 Registration Act who changes address, employment or student
11 enrollment status shall appear in person and give notification to
12 the local law enforcement authority of the change of address and the
13 new mappable address with zip code, the change of employment or the
14 change of student enrollment status no later than three (3) business
15 days prior to the abandonment of or move from the current address
16 or, in the case of change of employment or student enrollment,
17 within three (3) business days of such change. The address given to
18 the local law enforcement authority shall be a physical address, not
19 a post office box. If the new address, employment or student
20 enrollment is under the jurisdiction of a different local law
21 enforcement authority:

22 1. The local law enforcement authority shall notify the
23 Department of Corrections and the new local law enforcement
24

1 authority by teletype or electronic transmission of the change of
2 address, employment or student enrollment status;

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

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

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

16 G. Any person subject to the provisions of the Sex Offenders
17 Registration Act who is unable to provide a mappable address with a
18 zip code to the Department of Corrections or local law enforcement
19 authority as required in subsections A, C and D 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.

24

1 H. Any person subject to the provisions of the Sex Offenders
2 Registration Act who resides with a minor child ~~as the parent,~~
3 ~~stepparent or grandparent of the minor child, provided the minor~~
4 ~~child was not the victim of the offense for which the person is~~
5 ~~required to register,~~ must report to the statewide centralized
6 hotline of the Department of Human Services the name and date of
7 birth of any and all minor children residing in the same household
8 and the offenses for which the person is required to register
9 pursuant to the Sex Offenders Registration Act within three (3) days
10 of intent to reside with a minor child.

11 I. The Department of Corrections shall maintain a file of all
12 sex offender registrations. A copy of the information contained in
13 the registration shall promptly be available to state, county and
14 municipal law enforcement agencies, the State Superintendent of
15 Public Instruction, the State Commissioner of Health, and the
16 National Sex Offender Registry maintained by the Federal Bureau of
17 Investigation, unless otherwise prohibited by law. The file shall
18 promptly be made available for public inspection or copying pursuant
19 to rules prescribed by the Department of Corrections and may be made
20 available through Internet access, unless otherwise prohibited by
21 law. The Department of Corrections shall promptly provide all
22 municipal police departments, all county sheriff departments and all
23 campus police departments a list of those sex offenders registered
24 and living in their county.

1 J. The Department of Corrections shall, upon the request of any
2 Internet entity, release to such entity any information required
3 pursuant to paragraph 9 of subsection A of this section or paragraph
4 5 of subsection D of this section that would enable the Internet
5 entity to prescreen or remove sex offenders from its services or, in
6 conformity with state and federal law, advise law enforcement or
7 other governmental entities of potential violations of law or
8 threats to public safety. Before releasing information to an
9 Internet entity the Department shall require an Internet entity that
10 requests information to submit to the Department the name, address
11 and telephone number of such entity and the specific legal nature
12 and corporate status of such entity. Except for the purposes
13 specified in this subsection, an Internet entity shall not publish
14 or in any way disclose or redisclose any information provided to it
15 by the Department pursuant to this subsection. The Department shall
16 update any information released pursuant to this subsection on a
17 monthly basis to ensure that the information of every individual
18 that has been removed from the sex offender registry in this state
19 is no longer released pursuant to this subsection. The Department
20 may charge the Internet entity a fee for access to information
21 pursuant to this subsection. The Department shall promulgate any
22 rules necessary to implement the provisions of this subsection. As
23 used in this subsection "Internet entity" means any business,
24 organization or other entity providing or offering a service over

1 the Internet which permits persons under eighteen (18) years of age
2 to access, meet, congregate or communicate with other users for the
3 purpose of social networking. This definition shall not include
4 general e-mail services.

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

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

21 M. Each local law enforcement authority shall make its sex
22 offender registry available upon request, without restriction, at a
23 cost that is no more than what is charged for other records provided
24

1 by the local law enforcement authority pursuant to the Oklahoma Open
2 Records Act.

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

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

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

4 O. 1. Any person who has been convicted of or received a
5 suspended sentence or any probationary term, including a deferred
6 sentence imposed in violation of subsection G of Section 991c of
7 Title 22 of the Oklahoma Statutes, for any crime listed in Section
8 582 of this title and:

9 a. who is subsequently convicted of a crime or an attempt
10 to commit a crime listed in subsection A of Section
11 582 of this title, or

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

18 shall be subject to all of the registration requirements of the Sex
19 Offenders Registration Act and shall be designated by the Department
20 of Corrections as a habitual sex offender. A habitual sex offender
21 shall be required to register for the lifetime of the habitual sex
22 offender.

23 2. On or after November 1, 1999, any person who has been
24 convicted of a crime or an attempt to commit a crime, received a

1 suspended sentence or any probationary term, including a deferred
2 sentence imposed in violation of subsection G of Section 991c of
3 Title 22 of the Oklahoma Statutes, for a crime provided for in
4 Section 843.5 of Title 21 of the Oklahoma Statutes, if the offense
5 involved sexual abuse or sexual exploitation as these terms are
6 defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes,
7 Section 885, 888, 1111.1, 1114 or 1123 of Title 21 of the Oklahoma
8 Statutes shall be subject to all the registration requirements of
9 the Sex Offenders Registration Act and shall be designated by the
10 Department of Corrections as an aggravated sex offender. An
11 aggravated sex offender shall be required to register for the
12 lifetime of the aggravated sex offender.

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

- 18 a. the family of the habitual or aggravated sex offender,
- 19 b. any prior victim of the habitual or aggravated sex
20 offender,
- 21 c. residential neighbors and churches, community parks,
22 schools, convenience stores, businesses and other
23 places that children or other potential victims may
24 frequent, and

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

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

- 7 a. the name and physical address of the habitual or
8 aggravated sex offender,
- 9 b. a physical description of the habitual or aggravated
10 sex offender, including, but not limited to, age,
11 height, weight and eye and hair color,
- 12 c. a description of the vehicle that the habitual or
13 aggravated sex offender is known to drive,
- 14 d. any conditions or restrictions upon the probation,
15 parole or conditional release of the habitual or
16 aggravated sex offender,
- 17 e. a description of the primary and secondary targets of
18 the habitual or aggravated sex offender,
- 19 f. a description of the method of offense of the habitual
20 or aggravated sex offender,
- 21 g. a current photograph of the habitual or aggravated sex
22 offender,
- 23
- 24

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

4 i. the level assignment of the person.

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

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

17 Q. Public officials, public employees, and public agencies are
18 immune from civil liability for good faith conduct under any
19 provision of the Sex Offenders Registration Act.

20 1. Nothing in the Sex Offenders Registration Act shall be
21 deemed to impose any liability upon or to give rise to a cause of
22 action against any public official, public employee, or public
23 agency for releasing information to the public or for failing to
24

1 release information in accordance with the Sex Offenders
2 Registration Act.

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

7 SECTION 2. AMENDATORY 57 O.S. 2011, Section 590, as last
8 amended by Section 1, Chapter 145, O.S.L. 2018 (57 O.S. Supp. 2018,
9 Section 590), is amended to read as follows:

10 Section 590. A. It is unlawful for any person registered
11 pursuant to the Sex Offenders Registration Act to reside, either
12 temporarily or permanently, within a two-thousand-foot radius of any
13 public or private school site, educational institution, property or
14 campsite used by an organization whose primary purpose is working
15 with children, a playground or park that is established, operated or
16 supported in whole or in part by a homeowners' association or a
17 city, town, county, state, federal or tribal government, a licensed
18 child care center or family child care home as defined in the
19 Oklahoma Child Care Facilities Licensing Act or the residence of his
20 or her victim. Establishment of a licensed child care center,
21 family child care home or park in the vicinity of the residence of a
22 registered sex offender will not require the relocation of the sex
23 offender or the sale of the property. On June 7, 2006, the distance
24 indicated in this section shall be measured from the nearest

1 property line of the residence of the person to the nearest property
2 line of the public or private school site, educational institution,
3 property or campsite used by an organization whose primary purpose
4 is working with children, playground, park, licensed child care
5 center, family child care home or residence of his or her victim;
6 provided, any nonprofit organization established and housing sex
7 offenders prior to the effective date of this provision shall be
8 allowed to continue its operation.

9 Nothing in this provision shall require any person to sell or
10 otherwise dispose of any real estate or home acquired or owned prior
11 to the conviction of the person as a sex offender.

12 B. It shall be unlawful for any person who is required to
13 register pursuant to the Sex Offenders Registration Act for any
14 offense in which a minor child was the victim to reside with a minor
15 child or establish any other living accommodation where a minor
16 child resides. Provided, however, the person may reside with a
17 minor child if the person is the parent, stepparent or grandparent
18 of the minor child and the minor child was not the victim of the
19 offense for which the person is required to register. Any person
20 subject to the provisions of the Sex Offenders Registration Act who
21 resides with a minor child ~~as the parent, stepparent or grandparent~~
22 ~~of the minor child, provided the minor child was not the victim of~~
23 ~~the offense for which the person is required to register,~~ must
24 report to the statewide centralized hotline of the Department of

1 Human Services the name and date of birth of any and all minor
2 children residing in the same household and the offenses for which
3 the person is required to register pursuant to the Sex Offenders
4 Registration Act within three (3) days of intent to reside with a
5 minor child.

6 Nothing in the provisions of this subsection shall prevent the
7 Department of Human Services from conducting and completing a safety
8 evaluation when a registered sex offender resides in the home of a
9 minor child.

10 C. The provisions of this section shall not apply to any
11 registered sex offender residing in a hospital or other facility
12 certified or licensed by the State of Oklahoma to provide medical
13 services.

14 D. Any person willfully violating the provisions of this
15 section by:

16 1. Intentionally moving into any neighborhood or to any real
17 estate or home within the prohibited distance; or

18 2. Intentionally moving into a residence with a minor child or
19 establishing any other living accommodation where a minor child
20 resides as specified in subsection B of this section,
21 shall, upon conviction, be guilty of a felony punishable by a fine
22 not to exceed Three Thousand Dollars (\$3,000.00), or by imprisonment
23 in the custody of the Department of Corrections for a term of not
24 less than one (1) year nor more than three (3) years, or by both

1 such fine and imprisonment. Any person convicted of a second or
2 subsequent violation of this section shall be punished by a fine not
3 to exceed Three Thousand Dollars (\$3,000.00), or by imprisonment in
4 the custody of the Department of Corrections for a term of not less
5 than three (3) years, or by both such fine and imprisonment.

6 SECTION 3. This act shall become effective November 1, 2019.
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