

# **THE STATE OF OKLAHOMA**

## **SEX OFFENDER REGISTRATION**

### **REQUIREMENTS AND RESTRICTIONS**

The following is a summary of the requirements and restrictions imposed upon adults living in the State of Oklahoma who are required to register per the Oklahoma Sex Offender Registration Act (OSORA) found in Title 57, Section 581 et seq. of the Oklahoma State Statutes. This document is aimed at providing all of the requirements and restrictions that an Oklahoma registrant needs to know in order to follow the law appropriately. The focus of this document is to put the OSORA and the other laws found outside of the act in an organized manner while eliminating most of the legalese and redundancy found in the statutes. All laws cited are from the Oklahoma State Statutes effective November 1, 2020 unless otherwise noted.

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The following are acronyms used throughout this document:

- ODOC-Oklahoma Department of Corrections
  - SCOSO-Supreme Court of the State of Oklahoma
  - OSORA-Oklahoma Sex Offenders Registry Act
  - SORLAT-The ODOC's Sex Offender Registration Level Assignment Tool (Found in the ODOC's Operating Procedure #020307e.)
  - LLEA-Local Law Enforcement Authority
  - For purposes of the OSORA, the LLEA is defined as:
    - a. The municipal police department, if the person resides or intends to reside or stay within the jurisdiction of any municipality of Oklahoma, 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 Oklahoma, and
    - c. The police or security department of any institution of higher learning within Oklahoma 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.
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## **THE FOLLOWING IS AN OUTLINE OF THIS DOCUMENT:**

### **A.) REQUIREMENTS AND RESTRICTIONS**

- 1.) **APPLICATION OF THE OSORA**
- 2.) **NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**
- 3.) **HABITUAL AND AGGRAVATED SEX OFFENDER DESIGNATION**
- 4.) **REGISTRATION PROCEDURES**
- 5.) **TRANSIENT REGISTRATION**
- 6.) **APPLICATION OF OSORA TO OUT OF STATE CONVICTIONS**
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    - DRIVER'S LICENSE/IDENTIFICATION CARD TIMELINE
  - d.) PUBLIC NOTIFICATION OF REGISTRY INFORMATION

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## **A.) REQUIREMENTS AND RESTRICTIONS (EFFECTIVE 11-01-2020)**

It is imperative to point out that the following requirements and restrictions are taken directly from the Oklahoma State statutes. For the most part, these are the requirements and restrictions that are currently being applied by the ODOC and the LLEA. Under **PART B** of this document, THE STARKEY DECISION, are listed some items that are being applied unconstitutionally to thousands of registrants in Oklahoma. There is also a timeline that displays the conviction dates of the requirements and restrictions that are supposed to be applied and could possibly be challenged in the court of law.

### **1.) APPLICATION OF THE OSORA**

*Per Title 57, Section 582, 582.1, 582.5, 583 & 584:*

The provisions of the OSORA applies to any person residing, working or attending school within the state of Oklahoma on or after 11-01-1989 and whom has been convicted, whether upon a plea of no contest, received a suspended sentence, or any probationary term in the State of Oklahoma after November 1, 1989, for any of the following offenses that are listed by their Numeric Risk Level per the ODOC's SORLAT.

The provisions of the OSORA shall apply to any person who, on or after 11-01-1989, has been convicted of, received a suspended sentence or any probationary term in any court of another state, a federal court, an Indian tribal court or a military court for any of the following offenses that are listed by their Numeric Risk Level per the ODOC's SORLAT. A deferred sentence for a registerable crime rendered in any court prior to November 1, 1999, does not require registration.

### **THE ODOC's SORLAT:**

#### **LEVEL 1**

Registrants convicted of the following crimes after November 1, 2007 will be designated as a Level 1 sex offender:

#### **STATUTE**

#### **CRIME**

Title 21, Section 681

Assault with Intent to Commit a Felony  
(If the offense involved sexual assault)

Title 21, Section 843.1

Abuse by Caretaker  
(If the offense involved touching, feeling, observation or indecent exposure for the purpose of sexual gratification)

Title 21, Section 852.1

Child Endangerment  
(If the offense involved touching, feeling, observation or indecent exposure for the purpose of sexual gratification)

Title 21, Section 886

Crime Against Nature/Sodomy

Title 21, Section 1021.A.1-2

Indecent Exposure/Indecent Exhibitions

Title 21, Section 1024.2

Purchase, Procurement or Possession of Child Pornography

Title 21, Section 1040.8

Distribution or Exhibition of Child Pornography

Title 21, Section 1040.12a

Aggravated Possession of Child Pornography  
(100 or more materials depicting child pornography)

Title 21, Section 1040.13

Importing Obscene Material or Child Pornography

#### **LEVEL 2**

Registrants convicted of the following crimes after November 1, 2007 will be designated as a Level 2 sex offender:

#### **STATUTE**

#### **CRIME**

Title 21, Section 748

Human Trafficking  
(If the offense involved human trafficking for commercial sex)

Title 21, Section 1021.A.3-4 and B.1-2

Obscene Writings or Pictures  
(Solicitation of minors in any crime under this section.)

Title 21, Section 1021.2

To Procure Participation of a Minor in Obscene Writings or Pictures

Title 21, Section 1021.3

Guardians-Parents-Custodians Consent to Participation of a Minor  
in Obscene Writings or Pictures

Title 21, Section 1029	Engaging in or Soliciting Child Prostitution
Title 21, Section 1040.8	To Procure, Produce or Publish Child Pornography
Title 21, Section 1040.13a	Soliciting Sexual Conduct with a Minor by Use of Technology
Title 21, Section 1040.13b	Nonconsensual Dissemination of Private Sexual Images (The second or subsequent violation of this his law will require the person to be placed on the registry)
Title 21, Section 1087	Procuring or Transporting a Child Under the Age of 18 for Prostitution
Title 21, Section 1088	Detainment of a Child Under the Age of 18 in a House of Prostitution

**LEVEL 3**

Registrants convicted of the following crimes after November 1, 2007 will be designated as a Level 3 sex offender:

Title 21, Section 741	Kidnapping (If the offense involved sexual abuse or exploitation)
Title 21, Section 843.1	Abuse by Caretaker (If the offense involved oral, anal or vaginal penetration)
Title 21, Section 843.5	Abuse or Neglect of a Child (If the offense involved sexual abuse or exploitation)
Title 21, Section 852.1	Child Endangerment (If the offense involved sexual abuse or exploitation)
Title 21, Section 856	Contributing to the Delinquency of a Minor, if the offense involved Child Prostitution or Human Trafficking for Commercial Sex
Title 21, Section 865	Trafficking in Children (If the offense involved sexual abuse or exploitation)
Title 21, Section 885	Incest
Title 21, Section 888	Forcible Sodomy
Title 21, Section 891	Enticing Away Children (If the offense involved sexual abuse or exploitation)
Title 21, Section 1111.1	Rape by Instrumentation
Title 21, Section 1114, 1115 or 1116	Rape in the 1st or 2nd Degree
Title 21, Section 1123	Lewd or Indecent Proposals or Acts
Second and subsequent registrable conviction.	

**2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

*Per Title 57, Section 582.1, 582.4, 582.5, 583, 584 and the ODOC OP-020307e,*

For purposes of the duration of registration, the date of completion of the sentence is defined as the day a person completes all terms of incarceration and all periods of probation and/or parole supervision of their sentence.

Only registrants with convictions on or after November 1, 2007 will be assigned a numeric risk level based upon their crime of conviction as per the SORLAT. Registrants designated as aggravated and/or habitual are overridden to Level 3 regardless of the crime(s).

For all the registrants that are assigned a risk level per the SORLAT, the following applies:

- Level 1 registrants are required to register for 15 years from the date of the completion of their sentence.
- Level 2 registrants are required to register for 25 years from the date of the completion of their sentence.
- Level 3 registrants and all registrants designated as habitual or aggravated are required to register for life.

The following timeline applies to those convicted prior to November 1, 2007:

<b>CONVICTION DATE</b>	<b>REGISTRATION TIME PERIOD REQUIREMENT</b>
<b>11-01-1989</b>	<b>ENACTMENT OF OSORA</b>
<b>11-01-1989 thru 10-31-1997</b>	<p>Persons who successfully complete the sex offender treatment program provided by the ODOC shall only be required to register for two years after their date of discharge.</p> <p>Registrants with two or more convictions on or in between these dates who successfully complete the sex offender treatment program provided by the ODOC shall be required to register for 10 years after their date of discharge.</p>
<b>11-01-1997 thru 10-31-1998</b>	<p>Registrants who, on or between 11-01-1989 and 10-30-1997, have been subject to OSORA registration and, on or between 11-01-1997 and 10-30-1998 are convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of Title 21 shall be required to register for a period of not less than 10 years.</p>
<b>11-01-1998 thru 10-31-1999</b>	<p>Any person who has been convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of title 21 on or in between 11-01-1989 and 10-30-1997 and then on or after 11-01-1997 is convicted of any of the said crimes shall be designated as a habitual sex offender and required to register for lifetime.</p>
<b>11-01-1999</b>	<p>Any person who has been convicted of a registerable OSORA crime on or in between 11-01-1989 and 10-30-1997 and then on or after 11-01-1997 is subsequently convicted of another registerable crime shall be designated as a habitual sex offender and required to register for lifetime.</p> <p>Any person who, on or after 11-01-1999, has been convicted of, received a suspended sentence or any probationary term for a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of Title 21 shall be designated as an aggravated sex offender and shall be required to register for lifetime.</p>
<b>11-01-1999 thru 04-25-2004</b>	<p>Registrants that received a deferred sentence on or between these dates are required to register for a period of 10 years from the original registration date.</p>

**11-01-1989 thru 04-25-2004**

All registrants convicted on or in between these dates shall be required to register for 10 years from the date of their original registration except for those designated as habitual (on or after 11-01-1998) and those designated as aggravated (on or after 11-01-1999), which shall be required to register for lifetime.

**04-26-2004 thru 10-31-2007**

Registrants convicted on or in between these dates are required to register for a period of 10 years from the date the person completes all incarceration, probation and parole pertaining to the conviction, except for those designated as habitual (after 11-01-1998) and those designated as aggravated (after 11-01-1999), which shall be required to register for lifetime.

**11-01-2007**

All registrants that are convicted on or after this date shall be assigned a risk level by the ODOC and shall be required to register, in person, for the time periods designated by the ODOC's SORLAT as shown above or in the table listed in this document under:

**A.) REQUIREMENTS AND RESTRICTIONS**

**1.) APPLICATION OF OSORA**

**2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

**11-01-2013**

The registration time period shall begin from the date of the completion of the sentence and shall not conclude until the registrant has been in compliance with the OSORA for the total amount of time required by the OSORA.

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**NOTE:** Although not in the state statutes, the ODOC's Operating Procedure #020307.I.C.b.(3) mandates that if a registrant fails to remain in Oklahoma for the duration of the registration time period, the registration time period will be recalculated when the registrant reenters Oklahoma.

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**3.) HABITUAL AND AGGRAVATED SEX OFFENDER DESIGNATION**

*Per Title 57, Section 584*

The following registrants will be designated as Habitual Sex Offenders:

- Any person who is required to register per the OSORA and is subsequently convicted of a registerable crime on or after 11-01-1997; or
- Any person who, on or after 11-01-1989, has been convicted of, received a suspended sentence, a deferred judgement or any probationary term in any court of another state, a federal court, an Indian tribal court or

a military court and enters Oklahoma on or after November 1, 1997 and is convicted of an additional registerable OSORA crime.

The ODOC's procedure in determining if a registrant is to be designated as habitual is as follows:

- Registrants can have multiple convictions prior to 11-01-1997 and not be designated as habitual. However, if they have one or more convictions prior to 11-01-1997 and then one after 11-01-1997, then they are designated as habitual.
- If a registrant has two or more convictions after 11-01-1997, then they are designated as habitual.

Registrants convicted of the following crimes after November 1, 1999 will be designated as aggravated sex offenders:

- Child Abuse (If the offense involved sexual abuse)-*Title 21, Section 843.5*
- Incest-*Title 21, Section 885*
- Forcible Sodomy-*Title 21, Section 888*
- Rape by Instrumentation-*Title 21, Section 1111.1*
- Rape-*Title 21, Section 1114, 1115 or 1116*
- Lewd Acts or Proposals to a Child-*Title 21, Section 1123*

Upon registration of any person designated as a habitual or aggravated sex offender, the LLEA shall notify, by any method of communication it deems appropriate, anyone that the LLEA determines appropriate, including, but not limited to:

- The family of the habitual or aggravated registrant;
- Any prior victim of the habitual or aggravated registrant;
- Any residential neighbors and churches, community parks, schools, convenience stores, businesses and other places that children or other potential victims may frequent;
- Any nursing facilities, specialized facilities, residential care homes, continuum-of-care facilities, assisted living facilities, and adult day care facilities; and
- Any person upon request.

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

- The name and physical address of the habitual or aggravated registrant;
- A physical description of the habitual or aggravated registrant, including, but not limited to, age, height, weight and eye color;
- A description of the vehicle that the habitual or aggravated registrant is known to drive;
- Any conditions or restrictions upon the probation, parole or conditional release of the habitual or aggravated registrant;
- A description of the primary and secondary targets of the habitual or aggravated registrant;
- A description of the method of offense of the habitual or aggravated registrant;
- A current photograph of the habitual or aggravated registrant;

- The name and telephone number of the probation or parole officer of the habitual or aggravated registrant; and
- The level assignment of the habitual or aggravated registrant.

#### **4.) REGISTRATION PROCEDURES**

*Per Title 57, Section 582.2, 583, 584 and Title 74, Section 150.27a*

Any person who becomes subject to the provisions of the OSORA on or after November 1, 1989, shall register, in person, as follows:

- With the ODOC within 3 business days of being convicted or receiving 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 if the person is not incarcerated. The person shall also report to the ODOC probation and parole office in the district they live in.
- Not less than 3 business days prior to the release of the person from a correctional institution;
- With the LLEA having jurisdiction in the area where the person resides or intends to reside for 7 consecutive days or 14 days in a 60 day period, or longer. The registration is required within 3 days after entering the jurisdiction of the LLEA;
- With the LLEA within 3 business days of changing or terminating employment;
- With the LLEA within 3 business days of changing enrollment status as a student.
- If a person that is required to register per the OSORA and participates in any full-time or part-time employment in another state for more than 14 days in any 60 day period or for more than 30 days in a calendar year, then the person is required to register as a sex offender in that state;
- If a person that is required to register per the OSORA and enrolls in any type of school in another state, then the person is required to register as a sex offender in that state;
- The 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 30 days of registration. Registrants who already have valid samples on file in the Oklahoma State Bureau of Investigation DNA Offender Database shall not be required to submit duplicate samples for testing; and
- The registrant shall be required to pay the ODOC a \$15.00 fee for the DNA profile.

Registrants appropriately living with minor children must report to the Department of Human Services statewide-centralized hotline (800-522-3511) within 3 days of intent to reside with a minor child the following information:

- The name and date of birth of any and all minor children residing in the same household as the registrant; and
- The offenses for which the person is required to register pursuant to the OSORA.

The Department of Human Services may conduct a safety evaluation of the home in which a registrant resides with a minor child.

#### **5.) TRANSIENT REGISTRATION**

*Per Title 57, Section 584*



Any registrant that is unable to provide a mappable address with a zip code shall be registered as transient. A transient registrant shall report, in person, to the nearest LLEA every 7 days and provide to the LLEA the approximate location of where the registrant is staying and where the registrant plans to stay.

## **6.) APPLICATION OF OSORA TO OUT OF STATE CONVICTIONS**

*Per Title 57, Section 582, 583 and 584*

The OSORA applies to any person whom, after November 1, 1989, resides, works or attends school in Oklahoma and has been convicted or received a suspended sentence or a deferred judgement 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 Oklahoma, would be a registerable crime under OSORA per the ODOC's SORLAT.

Any person moving into the State of Oklahoma with an out-of-state conviction that requires registration per the OSORA, shall provide the LLEA where the person intends to reside with a certified copy of the person's judgment and sentencing report within 60 days of the person's initial registration with Oklahoma. While living in Oklahoma, each time a registrant moves to an address under a different LLEA, the registrant is required to provide a certified copy of the person's judgement and sentencing within 60 days of the move.

## **7.) REGISTRATION PROCEDURES FOR OUT OF STATE CONVICTIONS**

*Per Title 57, Section 582, 583 and 584*

The Oklahoma Department of Public Safety (DPS) will screen all applicants entering the State of Oklahoma that make an initial application for an Oklahoma operator's or chauffeur's driving license or a state identification card. For those that are to be designated to register per the OSORA, the DPS will provide written notification of their registration requirements in the State of Oklahoma.

Any out-of-state convicted registrant who enters Oklahoma on or after November 1, 1989, shall register, in person, as follows:

- With the ODOC and the LLEA when the person enters and intends to be in the state for any purpose for 5 consecutive days or longer, has any type of full-time or part-time employment, with or without compensation for more than 5 cumulative days in any 60 day period, or is enrolled as a full-time or part-time student within this state. Such registration is required within 2 days after entering the state;
- With the ODOC and the LLEA no less than 3 business days prior to abandoning or moving from the address of the previous registration, or within 3 business days of changing or terminating employment, or changing enrollment status as a student.
- The 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; and
- The registrant shall be required to pay the ODOC a \$15.00 fee for the DNA profile.

The Oklahoma Department of Public Safety will conduct a background check for registerable crimes to any person who enters this state and makes an initial application for a driver license.

The OSORA shall not apply to any person who has received a criminal history records expungement for a conviction in another state for an offense, if committed in this state would be any of the registerable offenses.

## **8.) DURATION OF REGISTRATION FOR OUT OF STATE CONVICTIONS**

*Per Title 57, Section 582, 583 and 584*

All registrants that were convicted out of state will be required to follow the version of the OSORA that is in effect at the time that they enter the State of Oklahoma.

<b><u>CONVICTION DATE</u></b>	<b><u>REQUIREMENT/RESTRICTION</u></b>
<b>11-01-1989 thru 04-25-2004</b>	Out of state convictions shall be required to register for a period of 10 years from the date of their original registration in Oklahoma. Those designated as habitual (on or after 11-01-1998) and those designated as aggravated (on or after 11-01-1999) shall be required to register for lifetime.
<b>11-01-1997 thru 10-31-1998</b>	Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21, shall be required to register for a period of not less than 10 years from the date of their original registration in Oklahoma.
<b>11-01-1998 thru 10-31-1999</b>	Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21, shall be designated as a habitual sex offender and required to register for lifetime.
<b>11-01-1999</b>	Out of state convictions who enter Oklahoma on or after 11-01-1999 to reside, work or attend school and has been convicted of a crime, received a suspended sentence, or any probationary term for a crime equivalent to a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21 shall be designated by the ODOC as an aggravated sex offender and shall be required to register for lifetime.
<b>11-01-1999 thru 10-31-2000</b>	Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of, received a suspended sentence, or any probationary term for any registerable OSORA crime, shall be designated as a habitual sex offender and required to register for lifetime.
<b>11-01-2000</b>	Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of, received a suspended sentence, a deferred judgement or any probationary term for any registerable OSORA crime, shall be designated as a habitual sex offender and required to register for lifetime.

Out of state convictions who enter Oklahoma on or after 11-01-1999 to reside, work or attend school and has been convicted of a crime, received a suspended sentence, a deferred judgement or any probationary term for a crime equivalent to a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21 shall be designated by the ODOC as an aggravated sex offender and shall be required to register for lifetime.

**04-26-2004 thru 10-31-2007**

Out of state convictions who enter Oklahoma on or between these dates shall be required to register per the OSORA for a period of 10 years from the date that the registrant completes all incarceration, probation and parole pertaining to the conviction. If the registrant has completed all forms of their sentence in another state, then they shall be required to register for 10 years from the date that they entered Oklahoma, unless they are designated as habitual or aggravated, which are required to register for lifetime.

**11-01-2007**

Out of state convictions who enter Oklahoma on or after 11-01-2007 are required to register in person for the time periods designated by the ODOC's SORLAT as shown in the table listed in this document under:

**A.) REQUIREMENTS AND RESTRICTIONS**

**1.) APPLICATION OF OSORA**

**2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

**11-01-2009**

Out of state convictions that have received a criminal history records expungement for a conviction in another state for a registerable OSORA crime (or equivalent) shall not be required to register per the OSORA.

**11-01-2013**

The registration time period shall begin from the date of the completion of the sentence and shall not conclude until the registrant has been in compliance with the OSORA for the total amount of time required by the OSORA.

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**NOTE:** Although not in the state statutes, the ODOC's Operating Procedure #020307.I.C.b.(3) mandates that if a registrant fails to remain in Oklahoma for the duration of the registration time period, the registration time period will be recalculated when the registrant reenters Oklahoma.

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**9.) REGISTRANTS LIVING OUT OF STATE WITH A SPOUSE LIVING IN OKLAHOMA**

*Per Title 57, Section 583*

Any person who resides in another state and who has been convicted of or received a deferred judgment of a registerable crime in this state or in another jurisdiction and who is the spouse of a person living in Oklahoma shall register as follows:

- With the ODOC when the person enters and intends to be in the state for any purpose for 5 consecutive days or longer or for a total of 5 days or longer in a calendar year. Such registration is required within 2 days after entering Oklahoma; and
- With the LLEA having jurisdiction in the area where the registrant intends to reside or stay in Oklahoma for 2 consecutive days or longer. Such registration is required within 2 days after entering the jurisdiction of the LLEA.

## **10.) CHANGE OF ADDRESS, EMPLOYMENT OR STUDENT STATUS**

*Title 57, Section 583 and 584*

Any registrant who changes address, employment or student enrollment status shall appear in person and give notification to the current LLEA of the change of address and the new physical, mappable address (not a P.O. Box) with zip code, no later than 3 business days prior to the abandonment of or move from the current address. The registrant is also required to report this information to the new LLEA.

Any registrant that changes employment or student enrollment shall appear in person and give notification to the current LLEA of the change within 3 business days of such change. If the new employment or student status is located in another LLEA jurisdiction, then the registrant is also required to report this information to the new LLEA.

## **11.) OKLAHOMA REGISTRANTS MOVING OR WORKING/SCHOOL OUT OF OKLAHOMA**

*Title 57, Section 583*

Any Oklahoma registrant moving to another state is require to do the following:

- Register the new out of state address with the current LLEA;
- Register the new address with the designated LLEA in the new state; and
- These registrations are to be performed no later than 10 days before establishing residency in the new state.

Any Oklahoma registrant that participates in any full-time or part-time employment, in another state, with or without compensation for more than 14 days or an aggregate period exceeding 30 days in a calendar year or, if the Oklahoma registrant enrolls in any type of school in another state as a full-time or part-time student, then the Oklahoma registrant is required to register in that state.

## **12.) REGISTERED INFORMATION**

*Title 57, Section 584*

Registration with the ODOC and the LLEA shall include the following information:

- The full legal name of the registrant and all aliases used or which the registrant has been known;
- The registrant's date of birth;
- A physical description of the registrant, including, but not limited to, sex, race, age, height, weight and eye color;
- The registrant's social security number;
- The registrant's driver license number;
- A photocopy of the registrant's driver license;
- A photograph of the registrant (The LLEA may photograph the registrant at the initial registration and at any address verification meeting);
- Fingerprints of the registrant;
- The registerable crimes for which the registrant has been convicted or received a suspended sentence or any form of probation;
- A description of the crime(s) for which the registrant was convicted;
- The sentence imposed for all of the registerable crimes;
- Where the crime was committed;
- Where the registrant was convicted;
- The date of the conviction;
- The name and location of each hospital or penal institution to which the registrant was committed for each registerable crime;
- Where the registrant previously resided;
- Where the registrant currently resides including a physical, mappable address (not a P.O. Box) and zip code;
- How long the registrant has lived there;
- How long the registrant expects to reside there;
- How long the registrant expects to reside in the county;
- How long the registrant expects to reside in the state;
- The name and address of any school where the person expects to become or is enrolled or employed for any length of time;
- A description of all occupants residing with the registrant, including, but not limited to, name, date of birth, gender, relation to the registrant, and how long the occupants, have resided there;
- The numeric risk level of the registrant;
- 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.
- The registrant's DNA profile per the Oklahoma State Bureau of Investigation's DNA Offender Database mandating testing within 30 days of initial registration. (The ODOC may charge a \$15.00 fee for the test.)

### **13.) AVAILABILITY OF REGISTRATION INFORMATION**

*Per Title 57, Section 584*

The ODOC shall maintain a file of all sex offender registrations. A copy of the information contained in the registration shall be made promptly available to:

- State law enforcement officials;
- County law enforcement officials;
- Municipal law enforcement officials;
- The State Superintendent of Public Instruction (Who is authorized to distribute registration information to school districts and individual public and private schools within the state.);
- The State Commissioner of Health (Who is authorized to distribute registration information to any and all nursing homes or long term care facilities.);
- The National Sex Offender Registry maintained by the FBI;
- Public Inspection or copying and shall be made available through internet access.
- The ODOC shall update any information 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;

The ODOC shall provide all county sheriff's departments, all municipal police departments and all campus police departments a list of those registrants living in their jurisdiction. Each LLEA shall make its sex offender registry available to anyone upon request.

#### **14.) ADDRESS VERIFICATION**

*Per Title 57, Section 584*

The ODOC shall mail a nonforwardable verification form to the last-reported address of the registrant. The registrant shall return the verification form in person to the LLEA of that jurisdiction within 10 days after the receipt of the form and may be photographed by the LLEA at that time. The LLEA shall require the registrant to produce proof of the identity of the registrant and a current physical, mappable address with a zip code. The verification form shall be signed by the registrant and state the current address of the registrant. Failure to return the verification form shall be a violation of the OSORA.

If, for any reason, the verification form is not delivered and received by the registrant, the registrant is still responsible to comply with the reporting to the LLEA per the schedule listed below.

The ODOC shall conduct address verification of each registrant as follows:

- Level 1 registrants will be on an annual basis;
- Level 2 registrants will be on a semi-annual basis;
- Level 3 registrants and all registrants designated as Aggravated or Habitual will be every 90 days.

For those convicted prior to 11-01-2007, they are not subject to the numeric risk level system. However, their address verification times are determined the same as the ones subject to the numeric risk level system as shown in the table in this document under:

#### **A.) REQUIREMENTS AND RESTRICTIONS**

##### **1.) APPLICATION OF OSORA**

##### **2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

The name of the crime determines what level a registrant would be under the numeric risk level system if it applied to them and whatever level they would have been under determines the frequency of their address verification.

A local law enforcement authority designated as the primary registration authority of the registrant may, at any time, mail a nonforwardable verification form to the last-reported address of the registrant.

## **15.) DRIVER LICENSE AND IDENTIFICATION CARD REQUIREMENTS**

*Per Title 47, Sections 6-105.3, 6-111 and 6-115*

Driver's licenses or identification cards issued to registrants will be valid for a period of one year. The annual cost of these one-year cards will be the same as the cost of the regular four-year cards issued to the public.

Registrants designated as aggravated and/or habitual will be issued a driver's license or state identification card bearing the stamp, "SEX OFFENDER."

## **16.) CIVIL NAME CHANGE**

*Per Title 12, Section 1631*

Registrants are prohibited from petitioning a court in Oklahoma for a name change.

## **17.) RELIGIOUS SERVICES**

*Per Title 21, Sections 1125*

Prior to attending a recognized church or religious denomination for worship, a registrant shall be required to do the following:

- Notify the religious leader of his or her status as a registered sex offender; and
- Be granted written permission by the religious leader to attend services.

## **18.) RESIDENTIAL RESTRICTIONS**

*Per Title 10, Section 402, Title 10A, Section 1-4-709, Title 57, Section 584 and Section 590*

It is unlawful for any registrant to reside, either temporary or permanently, within a 2000 foot radius of the following places:

- Public or private school or educational institute containing grades Kindergarten through the 12<sup>th</sup> grade;
- Property or campsite used by an organization whose primary purpose is working with children;
- Playgrounds or parks that are established, operated or supported in whole or in part by a homeowners' association or a city, town, county, state, federal or tribal government;
- A licensed child care center or family child care home as defined in the Oklahoma Child Care Facilities Licensing Act. (This act defines a "family child care home" as a family home, which provides care and supervision for seven or less children. It does not include informal arrangements which parents make independently with neighbors, friends or with caretakers in the child's own home);

- The residence of his or her victim if the person has been convicted of a registerable sex crime against that victim.

The establishment of a park or day care center within the restricted area of a registrant shall not require the relocation of the registrant or the sale of the property.

Registrants can own property within any of the restricted areas but cannot live on the property. Registrants are not required to sell any property owned prior to their conviction date.

These residential restrictions shall not apply to any registrant residing in a hospital or other facility certified or licensed by the State of Oklahoma to provide medical services.

Registrants with child victims are restricted to reside with a minor child or establish any other living accommodation where a minor child resides unless the registrant is:

- The parent;
- Step-parent;
- Grandparent; and
- The child is not the victim of the registrant.

A permanent guardianship will not be permitted if the prospective guardian is subject to the OSORA or living with an individual subject to OSORA.

Two or more registrants are restricted from residing together in any individual dwelling during the term of registration as a sex offender.

Two or more registrants may reside in any properly zoned and established boarding house, apartment building or other multi-unit structure; provided the individual dwellings are separate for each registrant.

These restrictions shall not prohibit married persons, both of whom are required to register, or two or more blood relatives who are required to register, from residing in any individual dwelling during the term of registration.

## **19.) LOITERING RESTRICTIONS**

*Per Title 10, Section 402 and Title 21, Section 1125*

All registrants whose victims were a child under the age of 16 years old are prohibited from loitering within 500 feet of any elementary, junior high or high school, playground or park that is established, operated or supported in whole or in part by a homeowner's association or a city, town, county, state, federal or tribal government, a licensed child care center or family child care home as defined in the Oklahoma Child Care Facilities Licensing Act.. (This act defines a "family child care home" as a family home which provides care and supervision for seven or less children. It does not include informal arrangements which parents make independently with neighbors, friends or with caretakers in the child's own home.)

Registrants designated as Aggravated or Habitual are prohibited from entering any park.



Registrants are prohibited from loitering within 1,000 feet of the residence of his or her victim if the person has been convicted of a registerable sex crime against that victim.

## **20.) EMPLOYMENT RESTRICTIONS**

*For clarity, the citations are listed after each individual employment restriction.*

It is unlawful for any registrant to:

- Work with, provide services to children or work on school property that contain the grades kindergarten through the 12<sup>th</sup> grade (*Title 57, Section 589*);
- To own, establish or operate a child care facility (*Title 10, Section 404.1*);
- Engage in ice cream truck vending (*Title 21, Section 2100*);
- A school administrator, career teacher or a school support employee in Oklahoma shall be dismissed if they are convicted of any registerable crime in Oklahoma, any other state or becomes under the federal sex offender registration provisions (*Title 70, Section 6-101.15 and Section 6-101.22*);
- Work as a transportation digital network company driver (contacted via the internet such as Uber, Lyft, etc. This does not include taxicabs, limousines or other similar for-hire vehicles) *Title 47, Section 1011 and Section 1019*);
- Work for the State Long-Term Care Ombudsman in any state, area or local long-term care ombudsman, whether paid or unpaid (*Title 63, Section 1-1948*);
- Be certified by the Council on Law Enforcement Education and Training (CLEET). Any person that has been previously certified by CLEET and is convicted of a registerable crime shall have their CLEET certification revoked (*Title 57, Section 589*);
- Work as a peace officer, criminal investigator or security guard (*Title 57, Section 589*);
- The Oklahoma Board of dentistry is authorized to refuse to issue, suspend or revoke a license for a dentist, dental hygienist, dental assistant, oral maxillofacial surgery assistant, dental laboratory technician or a holder of a permit to operate a dental laboratory if the person is or becomes required to register per the OSORA (*Title 59, Section 328.32, Version #2 and Section 328.44a*);
- To work as a nurse's aide that provides nursing care or health related services to residents:
  - In a nursing facility,
  - A specialized facility,
  - A residential care home,
  - A continuum of care facility,
  - An assisted living center,
  - An adult day care center or
  - Providing such services to individuals in their own home.(*Title 63, Section 1950.1*)
- To work for the State Department of Health or the Department of Human Services (DHS) where the registrant's responsibilities include working inside long-term care facilities and has direct access to the patients (*Title 63, Section 1-1947*). In addition:
- The Director of the DHS shall have discretion on hiring or maintaining employment of any registrant working in any capacity within the DHS (*Title 56, Section 162*).

## **21.) OKLAHOMA JUVENILE REGISTRANTS REACHING THE AGE OF 21**

*Per Title 10A, Section 2-8-108*

- When a person that is registered per the Oklahoma Juvenile Sex Offender Registration Act reaches the age of 21, the district attorney may petition the court to transfer the person's registration to the adult OSORA.

## **22.) PROVISIONS FOR REMOVAL AND/OR EXCLUSION FROM OSORA**

*Per Title 57, Sections 582, 583 and 590.2*

- Any person convicted of any sex crime in Oklahoma prior to 11-01-1989 shall not be required to register per the OSORA.
- A deferred sentence for a registerable offense rendered in any court prior to November 1, 1999, does not require registration. (*Hendricks v. Jones ex rel. Oklahoma Dept. of Corrections*, 2013 OK 71, P.3d, 2013 WL 5201235 (Okla. 2013))
- The OSORA shall not apply to any person while that person is incarcerated in a maximum or medium institution of the Oklahoma Department of Corrections.
- As of November 1, 2002, anyone registered as a sex offender pursuant to Title 21, Section 741 of the Oklahoma Statutes (Kidnapping) if the offense did not involve sexual abuse or sexual exploitation will be removed from the Oklahoma registry.
- Any registrant assigned as a risk level one and has been registered for a period of ten years and who has not been arrested or convicted for any felony or misdemeanor offense since the completion of their sentence, 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 OSORA.
- Any registrant that is required to register based solely on a conviction of Rape in the Second Degree or Rape By Instrumentation (*O.S. Title 21, Section 1114 and 1111.1*) and the registrant was not more than four years older than the victim and the victim was 14 years of age or older but not more than 17 years of age at the time of the violation.  
If a registrant meets this criterion they may petition the court of conviction for removal from OSORA registration.

## **B.) STARKEY DECISION**

*Starkey vs. ODOC, Supreme Court of the State of Oklahoma #109,556, Decided on June 25, 2013*

### **1.) BACKGROUND**

James M. Starkey, Sr. plead nolo contendere and received a deferred sentence in the State of Texas on October 12, 1998, to a charge of sexual assault upon a minor child. Under Texas law, the act amounted to a second degree felony. The equivalent Oklahoma law was determined to be Lewd or Indecent Proposals or Acts to a Child Under 16 (*Title 21, Section 1123*). Mr. Starkey was sentenced to 60 days in the county jail, 10 years of supervision, a fine, community service and was placed on the Texas Sex Offender Registry.

Mr. Starkey moved to Oklahoma in 1998. Under OSORA at that time, he was required to register for a period of 10 years starting within two days of entering the state. On April 26, 2004, the Oklahoma legislature amended OSORA's registration time periods to end on the date of the registrant's completion of sentence. For Mr. Starkey, this doubled his registration time to 20 years.

Then on November 1, 2007, the Oklahoma Legislature again amended OSORA's registration time periods by creating the level system.

On April 29, 2008 they again amended OSORA to apply the level system to registrants convicted out of state. They designated Mr. Starkey as a Level 3 offender and therefore increased his registration time period to life without any legal trial or personal assessment. His lifetime registration was predicated solely on the name of the crime he committed.

In August of 2009, he filed a petition in the trial court requesting the court recognize that he had been registered for the required period of time and should be discharged from any further Oklahoma registration obligations. Starkey filed his Plaintiff's Motion for Summary Judgement in December of 2010 and then filed Plaintiff's Supplemental brief in February of 2010.

In May of 2011, the court issued its Order granting summary judgement in favor of Starkey. They found that Starkey should have been removed from the Oklahoma registry sometime in 2008. They ruled that OSORA could not be retroactively applied to Starkey.

## 2.) THE RULING

Starkey's case was appealed to the Supreme Court of the State of Oklahoma (SCOSO) where he asked the court to find that the retroactive application of OSORA's 2007 amendment that increased his registration period without a trial or any type of rebuttal process was a direct violation of the ex post facto of the Oklahoma Constitution.

To briefly summarize the *Starkey* decision in 2013, the SCOSO ruled that the retroactive application of any law that increased the registration time period was unconstitutional and could not be applied to Mr. Starkey based upon the ex post facto clause of the Oklahoma Constitution.

The court used the following factors to reach their conclusion:

- The SCOSO took into account whether the legislature intended the 2007 amendment that increased Mr. Starkey's registration time period was meant to be applied retroactively or prospectively. The court determined that the amendment, **"...was not intended to apply retroactively but is to be applied prospectively..." ¶28, Page 21**
- The SCOSO also questioned whether the 2007 amendment violated his constitutional rights by the prohibition against the ex post facto clause of the constitution. The SCOSO quotes the Supreme Court of the United States in their interpretation of the clause, **"...laws, whatever their form, which purport to**

*make innocent acts criminal after the event, or to aggravate an offense, are harsh and oppressive, and that the criminal quality attribute to an act, either by the legal definition of the offense or by the nature or amount of the punishment imposed for its commission, should not be altered by legislative enactment, after the fact, to the disadvantage of the accused.” ¶37, Page 28*

In a brief definition of the clause as applied to the OSORA, a violation of the ex post facto clause is any law that adds or increases punitive requirements to registrants after their date of conviction. To quote the SCOSO with a definition aimed directly at the *Starkey* case we have:

**“The State may impose registration duties and may publish registration information as part of its punishment of this category of defendants. The Oklahoma Constitution prohibits the addition of sanctions imposed on those who were already convicted before the legislation increasing sanctions and requirements of registration were enacted.” ¶78, Page 61**

- The SCOSO goes on to point out that *“The ex post facto prohibition only applies to penal laws and therefore, the question is whether the provisions of SORA are punitive or are they merely regulatory. ¶39, Page31*

The SCOSO used a test derived from *Kennedy v Mendoza-Martinez*, 372 U.S. 144, 83 S. Ct. 554, 9 L.Ed.2D 644 (1963) to determine whether the OSORA is punitive or regulatory. It has also been labeled the “intent-effects” test. This test uses seven factors that *“...are useful in determining whether the overall effects of a statute are so punitive as to negate any civil regulatory intent.” ¶46, P37*

After the *Mendoza-Martinez* test, SCOSO concluded that, **“...We find there is clear proof that the effect of the retroactive application of SORA’s registration is punitive and outweighs its non-punitive purpose. The retroactive extension of SORA’s registration is inconsistent with the ex post facto clause in the Oklahoma Constitution.” ¶77, Page 60-61**

In conclusion to the amendments applied to Mr. Starkey that increased his registration time period, the SCOSO ruled the following:

**“We find the legislature necessarily implied the provisions of 57 O.S., § 583 as amended in 2004 were to be applied retroactively...We also find the Department’s application of the level assignment provisions of 57 O.S. Supp. 2007, §§ 582.1-582.5, as amended, violates the ex post facto clause. These level assignments are only to be applied prospectively.” ¶81, Page 62**

Right after this ruling, the ODOC reviewed the entire registration list and corrected the registration time periods for everyone on the registry.

- One other major factor In Mr. Starkey’s case was the resolution of what version of the OSORA was to be applied to him when he entered the state. The original trial court found that the registration act applicable to Mr. Starkey was the act that was in effect when Mr. Starkey pled nolo contender in Calhoun County, Texas on October 12, 1998.
- The SCOSO disagree with this trial court decision. They ruled that, **“The correct date to apply is when Starkey become subject to SORA registration by entering and intending to be in Oklahoma after his conviction. “ ¶82, P63**

Therefore, the version of OSORA applicable to an out of state conviction is the version in effect at the time the out of state registrant enters the State of Oklahoma with intent to live Oklahoma.

Along with the level system, the SCOSO analyzed four other requirements of the OSORA and gave their opinion on these. However, as the court ruled that the registration time period is a punitive requirement that cannot be applied retroactively, it is compelling to point out three rare situations not mentioned in *Starkey* that are relevant to the registration time period for certain individuals:

- Any registrant convicted between **11-01-1989 and 10-30-1997** and has successfully completed the sex offender treatment program provided by the ODOC, shall be required to register for only two years after their date of discharge.
- Any registrant with two or more convictions between **11-01-1989 and 10-30-1997** and has successfully completed the sex offender treatment program provided by the ODOC, shall be required to register for 10 years after their date of discharge.
- Habitual registrants convicted between **11-01-1997 and 10-30-1998** shall be required to register for a period of not less than 10 years (in lieu of lifetime registration enacted on **11-01-1998**).

a.) **TIMELINE ON THE SCOSO RULING ON REGISTRATION TIME PERIODS**

<b>DATE</b>	<b>REQUIREMENT/RESTRICTION</b>
<b>Those registrants convicted on, after or in between the dates shown are required to follow the requirement/restriction as shown.</b>	

**Red is where certain requirements/restrictions have been amended from an earlier date.**

<b>11-01-1989</b>	<b>ENACTMENT OF OSORA</b> Any person convicted of any sex crime in Oklahoma prior to 11-01-1989 shall not be required to register per the OSORA.  <b>Except as amended below, the OSORA shall apply to any person who, after 11-01-1989, has been convicted or received a suspended sentence for a crime or attempted crime which, if committed or attempted in Oklahoma, would be a crime or an attempt to commit a crime that is a registerable OSORA crime at the time of their conviction.</b>
<b>11-01-1989 thru 10-31-1997</b>	Persons who successfully complete the sex offender treatment program provided by the ODOC shall only be required to register for two years after their date of discharge.  Registrants with two or more convictions on or in between these dates who successfully complete the sex offender treatment program provided by the ODOC shall be required to register for 10 years after their date of discharge.

**11-01-1997 thru 10-30-1998**

**Registrants who, on or between 11-01-1989 and 10-30-1997, have been subject to OSORA registration and, on or between 11-01-1997 and 10-30-1998 are convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of Title 21 shall be required to register for a period of not less than 10 years.**

**11-01-1998 thru 11-01-1999**

Any person who has been convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of title 21 on or in between 11-01-1989 and 10-30-1997 **and then on or after 11-01-1997 is convicted of any of the said crimes shall be designated as a habitual sex offender and required to register for lifetime.**

**11-01-1989 thru 04-25-2004**

All registrants convicted on or in between these dates shall be required to register for 10 years from the date of their original registration except for those designated as habitual (on or after 11-01-1998) **and those designated as aggravated (on or after 11-01-1999), which shall be required to register for lifetime.**

**11-01-1999**

The OSORA shall apply to any person residing, **working or attending school in Oklahoma** who, after 11-01-1989, has been convicted, received a suspended sentence, **a deferred judgement or any probationary term** for a crime that is a registerable OSORA crime at the time of their conviction.

**Any person who has been convicted of, received a suspended sentence, a deferred judgement or any probationary term for a registerable OSORA crime and is subsequently convicted of, received a suspended sentence, a deferred judgement or any probationary term for a registerable OSORA crime** shall be designated as a habitual sex offender and required to register for lifetime.

Any person who, on or after 11-01-1999, has been convicted of, received a suspended sentence or any probationary term for a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114, or 1123 of Title 21 shall be designated as an aggravated sex offender and shall be required to register for lifetime.

**11-01-1999 thru 06-06-2006**

Registrants that participate in any full-time or part-time employment, in another state, with or without compensation for more than 14 days or an aggregate period exceeding 30 days in a calendar year or, if the registrant enrolls in any type of school in another state as a full-time or part-time student, then the Oklahoma registrant is required to register in that state.

**04-14-2004**

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 for a registerable OSORA (or equivalent) crime and who is the spouse of a person living in Oklahoma shall be required to register per the OSORA when the person enters and intends to be in Oklahoma for any purpose for five consecutive days or longer, calculated beginning the first day or an aggregate period of five days or longer in a calendar year.

**04-26-2004 thru 10-30-2007**

**Registrants convicted on or in between these dates are required to register for a period of 10 years from the date the person completes all incarceration, probation and parole pertaining to the conviction,** except for those designated as habitual (after 11-01-1998) and those designated as aggravated (after 11-01-1999), which shall be required to register for lifetime.

**06-07-2006**

Registrants that participate in any full-time or part-time employment, in another state, with or without compensation for more than 14 **cumulative** days **in any 60 day period** or an aggregate period exceeding 30 days in a calendar year or, if the registrant enrolls in any type of school in another state as a full-time or part-time student, then the Oklahoma registrant is required to register in that state.

**11-01-2007**

**All registrants that are convicted on or after this date shall be assigned a risk level by the ODOC and shall be required to register, in person, for the time periods designated by the ODOC's SORLAT as shown in the table listed in this document under:**

**A.) REQUIREMENTS AND RESTRICTIONS**

**1.) APPLICATION OF OSORA**

**2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

**11-01-2007 thru 10-30-2009**

The risk assessment review committee, the ODOC or a court may override a risk level only if the entity believes the risk level assessed is not an accurate prediction of the risk the registrant poses to the community and documents the reason for the override.

**11-01-2009**

**A risk level assigned to a registrant cannot be reduced by the sex offender level assignment committee, the ODOC or a court.**

**11-01-2013**

The registration time period shall begin from the date of the completion of the sentence and shall not conclude until the registrant has been in compliance with the OSORA for the total amount of time required by the OSORA.

**b.) TIMELINE ON THE SCOSO RULING ON REGISTRATION TIME PERIODS FOR THOSE PERSONS CONVICTED OUT OF THE STATE OF OKLAHOMA**

**DATE**

**REQUIREMENT/RESTRICTION**

Those registrants convicted on, after or in between the dates shown are required to follow the requirement/restriction as shown.

**Red is where certain requirements/restrictions have been amended from an earlier date.**

**11-01-1989 thru 10-30-1999**

Except as amended below, an “out of state conviction” is any person who, after 11-01-1989, has been convicted or received a suspended sentence, in another jurisdiction, for a crime or attempted crime which, if committed or attempted in Oklahoma, would be a crime or an attempt to commit a crime if the crime was a registerable OSORA crime (or equivalent) at the time the person entered the State of Oklahoma with the intent to be in Oklahoma for any purpose for 30 days or longer.

**11-01-1989 thru 04-25-2004**

Out of state convictions shall be required to register for a period of 10 years from the date of their original registration in Oklahoma. Those designated as habitual (on or after 11-01-1998) and those designated as aggravated (on or after 11-01-1999) shall be required to register for lifetime.

**09-01-1993 thru 10-30-1999**

Out of state convictions who enter Oklahoma on or after 09-01-1993, **and have received a deferred judgement for a crime that is a registerable OSORA crime (or equivalent)** at the time the person enters Oklahoma, shall be required to register per the OSORA.

**11-01-1997 thru 10-30-1998**

Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21, shall be required to register for **a period of not less than 10 years** from the date of their original registration in Oklahoma.

**11-01-1998 thru 10-30-1999**

Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21, **shall be designated as a habitual sex offender and required to register for lifetime.**

**11-01-1999**

Out of state convictions who, on or after 11-01-1989, resides, **works or attends school within the State of Oklahoma** and who has been convicted, received a suspended sentence, or a deferred judgement **in any court of another state, a federal court, an Indian tribal court or a military court**



**for any registerable OSORA crime (or equivalent)** shall be required to register per the OSORA.

Out of state convictions who enter Oklahoma on or after 11-01-1999 to reside, work or attend school and has been convicted of a crime, received a suspended sentence, or any probationary term for a crime equivalent to a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21 shall be designated by the ODOC as an aggravated sex offender and shall be required to register for lifetime.

**11-01-1999 thru 10-30-2000**

Out of state convictions who enter Oklahoma **on or after 11-01-1997** and is subsequently convicted of, received a suspended sentence, or any probationary term for any registerable OSORA crime, shall be designated as a habitual sex offender and required to register for lifetime.

**11-01-1999 thru 04-13-2004**

Out of state convictions who, on or after 11-01-1999, resides, **has any type of full-time or part-time employment, with or without compensation for more than 14 days or an aggregate period exceeding 30 days within a calendar year, or is enrolled as a full-time or part-time student within Oklahoma, shall be required to register per the OSORA.**

**11-01-2000**

Out of state convictions who enter Oklahoma on or after 11-01-1997 and is subsequently convicted of, received a suspended sentence, **a deferred judgement** or any probationary term for any registerable OSORA crime, shall be designated as a habitual sex offender and required to register for lifetime.

Out of state convictions who enter Oklahoma on or after 11-01-1999 to reside, work or attend school and has been convicted of a crime, received a suspended sentence, **a deferred judgement** or any probationary term for a crime equivalent to a crime provided for in Section 7115 of Title 10, Sections 885, 888, 1111.1, 1114 or 1123 of Title 21 shall be designated by the ODOC as an aggravated sex offender and shall be required to register for lifetime.

**04-14-2004**

Any person who resides in another state and who has been convicted of an offense or received a deferred judgment for an offense in Oklahoma or in another jurisdiction for a registerable OSORA crime (or equivalent) and who is the spouse of a person living in Oklahoma shall be required to register per the OSORA when the person enters and intends to be in Oklahoma for any purpose for five days or longer or an aggregate period of five days or longer in a calendar year.

**04-14-2004 thru 06-06-2006**

Out of state convictions who, on or between these dates, enter Oklahoma with intent to be in Oklahoma, for any purpose, **for five days or longer**, has any full-time or part-time employment, with or without compensation for more than **five days** or is enrolled as a full-time or part-time student in Oklahoma shall be required to register pursuant to the OSORA.

**04-26-2004 thru 10-30-2007**

Out of state convictions who enter Oklahoma on or between these dates shall be required to register per the OSORA for a period of **10 years from the date that the registrant completes all incarceration, probation and parole pertaining to the conviction**. If the registrant has completed all forms of their sentence in another state, then they shall be required to register for 10 years from the date that they entered Oklahoma, unless they are designated as habitual or aggravated, which are required to register for lifetime.

**11-01-2005**

Out of state convictions who, on or after 11-01-1989, resides, works or attends school in Oklahoma and who has been convicted, received a suspended sentence, any probationary term or a deferred judgement **at any time** in any court of another state, a federal court, an Indian tribal court or a military court for a registerable OSORA crime (or equivalent) and, on or after 11-01-1999, and enters Oklahoma with the intent to be in Oklahoma for any purpose, for five days or longer, resides, has any type of full-time or part-time employment, with or without compensation for more than five days or is enrolled as a full-time or part-time student within Oklahoma.

**06-07-2006**

Out of state convictions who enter Oklahoma with intent to be in Oklahoma, for any purpose, for five **consecutive** days or longer, **calculated beginning with the first day**, has any full-time or part-time employment, with or without compensation for more than five **cumulative** days **in any 60 day period** or is enrolled as a full-time or part-time student in Oklahoma shall be required to register pursuant to the OSORA.

**11-01-2007**

Out of state convictions who enter Oklahoma on or after 11-01-2007 are required to register in person for the time periods designated by the ODOC's SORLAT as shown in the table listed in this document under:

**A.) REQUIREMENTS AND RESTRICTIONS**

**1.) APPLICATION OF OSORA**

**2.) NUMERIC RISK LEVEL AND DURATION OF REGISTRATION**

**11-01-2009**

Out of state convictions who, on or after 11-01-1989, resides, works or attends school in Oklahoma and who has been convicted, received a suspended sentence, any probationary term or a deferred judgement 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 registerable OSORA crime (or equivalent) shall be required to register, in person, per the OSORA.

Out of state convictions that have received a criminal history records expungement for a conviction in another state for a registerable OSORA crime (or equivalent) shall not be required to register per the OSORA.

**11-01-2013**

The registration time period shall begin from the date of the completion of the sentence and shall not conclude until the registrant has been in compliance with the OSORA for the total amount of time required by the OSORA.

### **3.) THE OPINIONS**

#### **a.) “IN PERSON” REGISTRATION**

The SCOSO’s opinion on this requirement is:

*“Although SORA poses no physical restraints on registrants the affirmative “in person” registration and verification requirements alone cannot be said to be “minor and indirect” especially when failure to comply is a felony subject to 5 years imprisonment and a fine not to exceed \$5,000.00. Other courts have found the “in person” requirements “place substantial restrictions of the movements of lifetime registrants” which can amount to an affirmative disability...These duties are significant and intrusive... these duties imposed on offenders are similar to the treatment received by probationers subject to continued supervision.” ¶49, Page 40-41*

In the **11-01-2007** amendment, this is the first time that the OSORA mandates, “...register in person...” (With respect to a person registering their information per the OSORA guidelines). However, the way the LLEA’s, the ODOC and the State of Oklahoma have created the registration system, it is all done “in person” by the registrant. Every time that the state statutes mandate a registrant to “register,” or “give the new address” to the ODOC or another jurisdiction, the system is set up where the registrant must appear “in person.” In the timeline below, we have inserted the phrase, (In person), where that requirement is not mandated in the statutes but is required to perform the task.

Considering the electronic age we are living in where registration could be done via the internet, telephones or even snail mail. This could possibly be a challengeable requirement for those convicted prior to their relevant date. This does not apply to just the initial registration but also the regulatory address verification.

Here is a timeline on the amendments to the registration and address verification requirements (For brevity, many of the procedures, such as the number of days to register upon entry of a new jurisdiction or the information to be registered, are omitted. This timeline is focused on enactment of amendments that change the amount of “in person” registration):

• **“IN PERSON” REGISTRATION TIMELINE**

**DATE**                      **REQUIREMENT**

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The dates shown are enactments of the requirements/restrictions and are being applied retroactively to all registrants. The SCOSO has given their opinion on the “in person” requirement (as shown above) but has not ruled that they cannot be applied retroactively. Their opinion would weigh heavily if challenged in court.

**Red is where certain requirements/restrictions have been amended from an earlier date.**

**11-01-1989**                      Prior to the release of an inmate from an Oklahoma correctional institution that will be subject to the OSORA, the warden shall explain to the person their duty to register, require the person to sign a statement that this duty has been explained, obtain the address at which the person is to reside upon release and forward this information to the ODOC.

Any registrant who changes their address within a county shall give written notification of the new address to the ODOC.

Any person convicted out of state of a registerable OSORA crime (or equivalent) and is required to register per the OSORA, shall register (in person) with the ODOC.

**05-02-1995**                      Registrants shall register, (in person), with the LLEA having jurisdiction in the area where the person intends to reside.

Any registrant who changes their address ~~within a county~~ shall give written notification of the new address to the ODOC. The registrant is required to register (in person) with the LLEA in the jurisdiction they intend to reside.

**11-01-1997**                      **The enactment of the mandatory in person address verification.** Details of these requirements can be found in this document under:

**A.) REQUIREMENTS AND RESTRICTIONS**

**14.) ADDRESS VERIFICATION**

These requirements mandate exactly when and how often a registrant is to go (in person) to perform the address verification.

The in person address verification is to be conducted on an annual basis except for predatory (habitual) registrants that are required to perform the (in person) address verification every 90 days.

Any registrant who changes their address to another state shall register the new address (in person) to the ODOC.

**11-01-1999**                      Registrants designated as aggravated sex offenders shall perform the address verification (in person) every 90 days.

Any person that has been convicted of a registerable OSORA crime (or equivalent) and lives in another state but works or attends school in Oklahoma, must register (in person) with the LLEA.

**04-10-2001**

**If a registrant is moving from one local jurisdiction to another, they are required to register, (in person), with both of the LLEA's.**

**04-29-2002**

Any registrant that enrolls in any school in Oklahoma as a full-time or part-time student is required to register, (in person), with the LLEA where the person resides and the police or security department of the school.

Any registrant that graduates, transfers, drops, terminates or otherwise changes enrollment at any school in Oklahoma shall notify the ODOC and the LLEA, in writing, of such change.

Any registrant that participates in any full-time or part-time employment at any school, participates in any vocational course or occupation at any school in Oklahoma is required to notify the ODOC and the LLEA in writing when commencing employment or terminating such employment.

**04-14-04**

Any person who resides in another state and who has been convicted of or received a deferred judgment in Oklahoma, or in another jurisdiction, of a registerable OSORA crime (or equivalent) and who is the spouse of a person living in Oklahoma shall be register (in person) as follows:

- With the ODOC (in person) when the person enters and intends to be in Oklahoma for any purpose for 5 days or longer or an aggregated period of 5 days or longer in a calendar year.
- With the appropriate LLEA (in person) having jurisdiction where the registrant intends to reside in Oklahoma for 2 days or longer.

**06-07-2006**

The (in person) address verification is to be conducted on **an annual a semi-annual** basis except for habitual registrants and aggravated registrants that are required to perform the (in person) address verification every 90 days.

**11-01-2007**

For all the registrants that are convicted after this date and assigned a risk level per the SORLAT, the following applies:

- Level 1 registrants are required to perform the in person address verification on **an annual** basis;
- Level 2 registrants are required to perform the in person address verification on **a semi-annual** basis;
- Level 3 registrants and all registrants designated as habitual or aggravated are required to perform the in person address verification **every 90 days.**

**11-01-2009**

Any registrant that changes address shall **appear in person** at the LLEA.

Any registrant that participates in any full-time or part-time employment at any school, participates in any vocational course or occupation at any school in Oklahoma is required to **appear in person and give notice of the change to the LLEA. ~~in writing when commencing employment or terminating such employment.~~**

Any registrant that graduates, transfers, drops, terminates or otherwise changes enrollment at any school in Oklahoma **shall appear in person** at the LLEA and give notice of such change.

Any registrant that registers as a transient shall report in person to the nearest LLEA every seven days and provide the approximate location of where the registrant is staying and planning to stay.

**11-01-2017**

If any registrant does not receive the ODOC's sex offender address verification form in the mail, the registrant is still responsible to appear in person at the LLEA office for current address verification at the appropriate time mandated by the OSORA.

## **b.) RESIDENCY RESTRICTIONS**

Noting that a violation of the residency restrictions is a felony crime punishable by incarceration, the SCOSO opined that:

*"...SORA's residency restrictions are similar to the traditional punishment of banishment...If a person owns a home within a prohibited area and becomes subject to SORA registration, they must vacate the property. The offender does not have to dispose of the property, however, the offender is prohibited from residing on the property (ostensibly allowing a registered offender the ability to be at the residence, but not "reside" on the property). In analyzing this Mendoza-Martinez factor, the Supreme Court of Kentucky determined a similar residency restriction was "regarded in our history and traditions as punishment" The court found the restriction expels registrants from their homes even if they resided there prior to the statute's enactment. The Oklahoma version of SORA is even more restrictive than the Kentucky law because the restrictive distance is twice as large as Kentucky's one-thousand-foot distance." ¶60, Page 48-50*

Given this opinion by the State's highest court, it seems that the LLEA's would abide by the law and not apply any of the residency restrictions retroactively. However, many of them are continuing to do so. Emphasis must be placed on the opinion of the SCOSO that follows the Oklahoma Constitution as well as the United States Constitution in mandating that punitive restrictions cannot be applied retroactively. If a registrant was convicted prior to the enactment of any of the residency restrictions the law mandates that the restriction cannot be assigned to that person.

Here is a timeline of the amendments to the residency restrictions found in Section 590 of Title 57:

- **RESIDENCY RESTRICTIONS TIMELINE**

<b><u>DATE</u></b>	<b><u>REQUIREMENT/RESTRICTION</u></b>
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The dates shown are enactments of the various residency restrictions. The SCOSO has given their opinion on the residency restrictions (as shown above) but has not ruled that they cannot be applied retroactively. Their opinion would weigh heavily if challenged in court.

Red is where certain requirements/restrictions have been amended from an earlier date.

11-01-2003

It is unlawful for any person registered per the OSORA to reside within 2,000 feet of any public or private school site or educational institution containing grades kindergarten through the 12<sup>th</sup> grade.

A registrant may own a home in a restricted area but cannot live there.

06-07-2006

It is unlawful for any registrant to reside, **either temporarily or permanently**, within 2,000 feet of any public or private school site, educational institution containing the grades kindergarten through the 12<sup>th</sup> grade, **playground, park or a licensed childcare facility. It is unlawful for two or more registrants to reside together in any individual dwelling during the term of registration as a sex offender.**

Any nonprofit organization established and housing registrants prior to this date shall be allowed to continue its operation.

11-01-2007

It is unlawful for any registrant to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution containing the grades kindergarten through the 12<sup>th</sup> grade, playground, park **(that is zoned by city, county, state, federal or tribal government)** or a licensed childcare **center as defined by the Department of Human Services.**

Establishment of a daycare center or park in the vicinity of the registrant will not require the relocation of the registrant or the sale of the property.

These restrictions shall not apply to any registrant residing in a hospital or other facility certified or licensed by the State of Oklahoma to provide medical services.

These restrictions shall not apply to any married persons whom are both Oklahoma registrants.

These restrictions shall not apply to any blood relatives whom are both Oklahoma registrants.

11-01-2008

It is unlawful for any registrant to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution containing the grades kindergarten through the 12<sup>th</sup> grade, playground, park **(that is zoned, established, operated or supported in whole or part** by city, county, state, federal or tribal government) or a licensed childcare center as defined by the Department of Human Services.

11-01-2010

It is unlawful for any registrant to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution containing the

grades kindergarten through the 12<sup>th</sup> grade, **property or campsite used by an organization whose primary purpose is working with children**, a playground or park (that is established, operated or supported in whole or part by city, county, state, federal or tribal government) or a licensed childcare center as defined by the Department of Human Services.

**11-01-2012**

It is unlawful for any registrant that was convicted of a crime against a child to reside with a child unless the registrant is the parent, stepparent or grandparent of the child.

**11-01-2015**

It is unlawful for any registrant to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution containing the grades kindergarten through the 12<sup>th</sup> grade, property or campsite used by an organization whose primary purpose is working with children, a playground or park (that is established, operated or supported in whole or part by **a homeowner's association or a city, town, county, state, federal or tribal government**) or a licensed childcare center as defined by the Department of Human Services.

**11-01-2017**

It is unlawful for any registrant that was convicted of a crime against a child to reside with a child unless the registrant is the parent, stepparent or grandparent of the child. **Any registrant that resides with a child as the parent, stepparent or grandparent of the minor child, provided the child is not the victim of the registrant, must report to the statewide centralized hotline of the Department of Human Services (800-522-3511) the name, and date of birth of any and all children residing with the registrant and the offences for which the person is required to register per the OSORA. This report is required within three days of intent to reside with a child.**

**The Department of Human Services may conduct a safety evaluation when a registrant resides in the home of a child.**

**11-01-2018**

It is unlawful for any registrant to reside, either temporarily or permanently, within 2,000 feet of any public or private school site, educational institution containing the grades kindergarten through the 12<sup>th</sup> grade, property or campsite used by an organization whose primary purpose is working with children, a playground or park (that is established, operated or supported in whole or part by a homeowner's association or a city, town, county, state, federal or tribal government) or a licensed childcare center **or family child care home** as defined **in the Oklahoma Child care Facilities Licensing Act or the residence of his or her victim.**

Establishment of a **licensed child** care center, **family child care home** or park in the vicinity of the residence of a registrant will not require the relocation of the registrant or the sale of the property.

**11-01-2019**

It is unlawful for any registrant that was convicted of a crime against a child to reside with a child unless the registrant is the parent, stepparent or grandparent of the child. Any registrant that resides with a child ~~as the parent, stepparent or~~



~~grandparent of the minor child, provided the child is not the victim of the registrant,~~ must report to the statewide centralized hotline of the Department of Human Services (@ 1-800-522-3511) the name, and date of birth of any and all children residing with the registrant and the offences for which the person is required to register per the OSORA. This report is required within three days of intent to reside with a child.

### c.) DRIVER'S LICENSE AND IDENTIFICATION CARDS

With respect to the words "SEX OFFENDER" on the license and identification cards, SCOSO opined:

*"Showing one's driver's license is frequently necessary in face-to-face encounters when cashing a check, using a credit card, applying for credit, obtaining a job, entering some public buildings, and in air travel as a few examples. This subjects an offender to unnecessary public humiliation and shame and is essentially a label not unlike a "scarlet letter." ¶59, Page 48*

*"...the displaying of the word "Sex Offender" on a driver's license is at least analogous to the traditional punishment of shaming." ¶61, Page 50*

With respect to the annual renewal, SCOSO opined:

*"Therefore registrants are required to pay four times the amount of a non-registrant." ¶51, Page 42*

Here are the dates of enactment timeline of the driver's license/ I.D. cards requirements found in Title 47, Sections 6-105.3, 6-111 and 6-115:

#### • DRIVER'S LICENSE/ IDENTIFICATION CARDS TIMELINE

<u>DATE</u>	<u>REQUIREMENT</u>
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The SCOSO has given their opinion on the driver's license/ I.D. cards (as shown above) but has not ruled that they cannot be applied retroactively. Their opinion would weigh heavily if challenged in court.

Red is where certain requirements/restrictions have been amended from an earlier date.

<b>06-07-2006</b>	When any person that has been convicted of or received a deferred judgement for any registerable OSORA crime applies for an original, renewal or replacement Oklahoma Class A, B, C or D driver's license or state identification card, such identification card shall only be valid for one year and the cost shall be the same as for other identification cards.
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<b>11-01-2007</b>	When any person that is required to register per the OSORA <b>and is designated by the ODOC as an aggravated or habitual sex offender</b> applies for an original, renewal or replacement of an Oklahoma Class A, B, C or D driver's license or state
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identification card **shall be issued a license or card bearing the words “SEX OFFENDER.”**

#### **d.) PUBLIC NOTIFICATION OF REGISTRY INFORMATION**

*“Originally, ...The statute provided that a file concerning registration information “shall be made available to state, county and municipal law enforcement agencies.” The file was also not made available for public inspection and no person other than a law enforcement officer employed by a state, county or municipal law enforcement agency had access to the file.” ¶ 53, Page 43*

Through a series of amendments to Title 57, Section 584, the OSORA mandated that the information registered is available to anyone at any time via the internet. This is in addition to the state mandating that registry information be sent to certain state agencies and certain businesses. If a registrant is designated as aggravated and/or habitual, then the LLEA may notify anyone it deems appropriate. Currently the OSORA provides dissemination of substantial personal information about a registrant including their physical description, a photograph, birthdate, address, employment information (including the employers address and phone number), school information, all automobiles available for them to drive including the license plate number, the crimes they were convicted of and their level status (if applicable).

The original OSORA enacted in 1989 specifically mandated that only state, county, and municipal law enforcement agencies have access to the registry information. No other person could have access to this information. With respect to this notification issue, the 2013 version of OSORA was best summed up by the SCOSO when they opined that it now has *“...the cumulative effect of removing any restrictions on making registry information available.” ¶53, Page 44*

*“Some courts have found such aggressive public notification of sex offender crimes “exposes sex offenders to profound humiliation and community-wide ostracism.” The Supreme Court of Indiana has found the effect of the public dissemination “subjects offenders to ‘vigilante justice’ which may include lost employment opportunities, housing discrimination, threats and violence.” ¶55, Page 44*

Furthermore, the SCOSO opined that:

*“We find SORA’s registration and notification provisions impose substantial disabilities on registrants.” ¶57, Page 47*

- It is compelling to point out that, as previously noted in the court’s ruling on Mr. Starkey’s registration time period that the SCOSO ruled that:

**“The State may impose registration duties and may publish registration information as part of its punishment of this category of defendants. The Oklahoma Constitution prohibits the addition of sanctions imposed on those who were already convicted before the legislation increasing sanctions and requirements of registration were enacted.” ¶78, Page 61**

In order to null a contradiction in the *Starkey* decision made by the SCOSO, we can only assume that the court's opinion is that a registrant's information can only be disseminated by what the state statutes say at the time of the registrant's conviction.

For the sake of brevity we shall not provide a timeline here of the dates of enactment of information that is required or the dissemination of it. However, it is important to note that the original OSORA (enacted on 11-01-1989) mandated that, **"The Department of Corrections shall maintain a file of all such registrations which shall be made available to state, county and municipal law enforcement agencies. Said file shall not be made available for public inspection and no person other than a law enforcement officer employed by a state, county or municipal law enforcement agency shall have access to said file. That is just an FYI.**

As of the date of this document, registrants information is now available to anyone, without restriction and parts of the information is available on the internet.

The details of the registered information disseminated to the public can be found in this document under:

**A.) REQUIREMENTS AND RESTRICTIONS**

**12.) REGISTERED INFORMATION**

**13.) AVAILABILITY OF REGISTRATION INFORMATION**