

HCS HB 999 -- SEXUAL OFFENDER REGISTRATION

SPONSOR: Schad

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 13 to 0.

This substitute changes the laws regarding sexual offender registration. In its main provisions, the substitute:

(1) Specifies that the State Highway Patrol must and the chief law enforcement officer of any county or the City of St. Louis may maintain an Internet web page that will only include the name and information for those sexual offenders assigned to Tier II and Tier III. Tier I offenders' names and information will not be included on the public web page but will, for 10 years, be included on a separate registry to which only law enforcement agencies have access;

(2) Requires a current photograph of the offender to be taken by the registering official and adds information regarding the tier level assigned; the offender's original and most recent registration date; the status of the offender's term of incarceration, probation, or parole; and whether the offender is a repeat offender to the information found on the public web page for Tier II and Tier III offenders;

(3) Specifies that an offender who has committed felonious restraint of a nonsexual nature when the victim was younger than 18 years of age or kidnapping of a nonsexual nature when the victim was younger than 18 years of age will be exempt from the public notification requirements of these provisions. A witness under active federal protection who is required to register under these provisions may be excluded from the public notification under federal law. A juvenile who is 14 years of age or older at the time of the offense, has been adjudicated for an offense that is equal to or more severe than aggravated sexual abuse, and is required to register will be exempt from the public notification requirements to include other specified jurisdictions;

(4) Specifies that the sexual offender registry requirements apply to any person who has been convicted of, found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit an offense listed in Section 589.414, RSMo, unless he or she is exempt from registering based on certain provisions and moves the crimes for which registration is required from Section 589.400 to Section 589.414;

(5) Expands the jurisdiction of a sexual offense to include any territory, the District of Columbia, and any foreign country;

(6) Requires any person to whom the registration requirements apply to register with the chief law enforcement official in the county in which he or she resides within three business days of adjudication, release from incarceration to the Division of Youth Services within the Department of Social Services or the Department of Mental Health, or other placement upon probation;

(7) Revises the lifetime registration requirements to exempt a person who is pardoned, including if pardoned in other specified jurisdictions and the pardon explicitly states that the person is relieved of his or her duty to register or the court orders the removal or exemption of the person under the provisions of Section 589.401;

(8) Specifies that a person is exempt from registering if he or she is convicted of, found guilty of, or pled guilty or nolo contendere to the crime of felonious restraint of a nonsexual nature or kidnapping of a child of a nonsexual nature when the person was the parent or guardian of the child. Any person currently on the registry or who otherwise would be required to register for a sexual offense involving sexual conduct where no force or threat of force was directed toward the victim or any other individual involved will be exempt from registering upon filing a petition with the court having jurisdiction and that court ordering removal from the registry, if:

(a) The victim was an adult, unless he or she was under the custodial authority of the offender; or

(b) The victim was 18 years of age or younger and the offender was not more than five years older than the victim at the time of the offense;

(9) Exempts from the registering provisions any person currently required to register for the following sexual offenses:

(a) Sexual misconduct in the second degree or third degree;

(b) Promoting obscenity in the first degree or second degree;

(c) Furnishing pornographic materials to minors;

(d) Public display of explicit sexual material; or

(e) Coercing acceptance of obscene material;

(10) Specifies that any person currently on the registry for committing, attempting to commit, or conspiring to commit a Tier I, Tier II, or juvenile Tier III offense or other comparable offense may file a petition for removal;

(11) Specifies that any nonresident worker, including work as a volunteer or intern, or a nonresident student who is required to register must do so for the duration of his or her employment or attendance at any school, whether public or private, including any secondary school, trade school, professional school, or institution of higher education on a full- or part-time basis in Missouri;

(12) Specifies that a person on the sexual offender registry may file a petition in the division of the circuit court in the county in which the offense requiring registration was adjudicated to have his or her name removed. If the offense was committed in another jurisdiction, the person must file the petition for removal according to the laws of that jurisdiction where the offense was adjudicated. Upon the granting of the petition for removal, the judgment may be registered in Missouri by sending the specified documentation to the county court in which the offender is required to register. A person required to register as a Tier III offender cannot file a petition for removal unless the requirement to register results from a juvenile adjudication. A petition for removal must be dismissed without prejudice if it fails to include the specified information or the following time periods have not elapsed since the date the person was required to register:

(a) For a Tier I offense, 10 years;

(b) For a Tier II offense, 15 years; and

(c) For a juvenile Tier III offense adjudicated as a juvenile, 25 years;

(13) Requires the petition to name as respondents the patrol and the chief law enforcement official of the county in which the petition is filed. The prosecuting attorney must be given notice by the person seeking removal or exemption from the registry in order to present evidence in opposition or demonstrate the reasons why the petition should be denied, must have access to all applicable records regarding the offender, and must make reasonable efforts to notify the victim of the crime for which registration is required of any hearing or proceeding in connection with the petition. The court cannot enter an order directing the removal of the offender's name unless it finds that the offender:

(a) Has not been adjudicated of or has charges pending for any additional nonsexual felony offense;

(b) Has not been adjudicated of or has charges pending for any additional sexual offense that would require registration, even

if the offense was a misdemeanor;

(c) Has successfully completed any required periods of supervised release, probation, or parole;

(d) Has successfully completed an appropriate sexual offender treatment program as approved by the court or the Department of Corrections; and

(e) Is not a current or potential threat to public safety;

(14) Prohibits an offender from filing a new petition for removal until 10 years have passed from the date of the adjudication resulting in a denial for a Tier I offender, 15 years have passed for a Tier II offender, or 25 years have passed for a juvenile Tier III offender. If the petition is denied for other reasons, the offender is prohibited from filing another petition for at least five years from the denial date. If a petition is granted by the court, it must enter a judgment directing the patrol to remove the offender's name from the public web page registry within three business days. A court may deny a petition for removal for any legitimate legal justification;

(15) Specifies that any person required to register who is to be paroled, discharged, or released from any correctional facility, mental health institution, private jail, or other specified private facility and plans to reside in Missouri must be informed by the official in charge of his or her duty to register. The official in charge must complete the initial registration notification at least seven days prior to the offender's release and forward the registration, within three business days of release, to the patrol and the chief law enforcement official in the county where the person expects to reside upon discharge. If an offender refuses to complete and sign the registration information or fails to directly report to the county chief law enforcement official within three business days, it will constitute an offense of failure to register;

(16) Requires any person who is required to register and is released on probation, discharged upon payment of a fine, or released after confinement in a county jail to be informed, prior to release, by the court having jurisdiction of his or her possible duty to register. If the offender is placed on probation, the court must make it a condition of probation that the offender report to register within three business days. If the offender is not placed on probation, the court must complete the initial notification of duty to register form and forward it within three business days to the patrol and the chief law enforcement officer in the county where the offender resides if

the offender resides in Missouri or where the offense was adjudicated if the offender does not reside in Missouri. If the offender resides outside Missouri, the court must direct the offender to proceed to the chief law enforcement officer in the county where the adjudication was heard to register. If the offender fails to complete these requirements or refuses to complete and sign the registration information, it will constitute an offense of failure to register;

(17) Specifies what information is required for the offender registration form, including the offender's full name and any aliases; date of birth; address of residences or habitual locales if homeless; name and address of employers; name and address of any institution of higher education he or she attends; Social Security number; telephone numbers; personal and work license plate number and vehicle information; online identifiers used for personal purposes; the crime for which registering is required; adjudication and crime information; age and gender of the victim at the time of the offense; date of the successful completion of the Missouri Sexual Offender Program or that it was not successfully completed; status of parole, probation, or supervised release; passport and immigration numbers, including expiration dates; and the physical description of the offender, including physical appearance or characteristics and identifying marks;

(18) Adds copies of all passport or immigration documents and a current photograph taken by the registering official to the list of documents that must accompany the registration form;

(19) Requires the patrol upon receipt of any changes to an offender's registration information to immediately notify all other jurisdictions in which the offender is registered or required to register. The offender is responsible for reviewing the registration information for accuracy at every regular, in-person appearance and if any inaccuracies are found to provide proof of the information in question. The signed form will serve as proof that the offender understands his or her duty to register;

(20) Allows an offender, who would otherwise be a Tier III offender, whose offense did not involve the use of force or threat of force and whose victim was 18 years of age or younger and the offender was not more than five years older than the victim at the time of the offense, to file a petition in the circuit court where the offense was adjudicated to have his or her classification changed to a Tier II offender. The substitute specifies the contents of the petition; the notification required; and the process, which is identical to the petition for removal;

(21) Specifies that any change to an offender's name, residence, employment, student status, or a termination of any of these items requires the offender to appear in person to the chief county law officer within three business days of the change. If there is a change in vehicle information, temporary residence information, or any designations used in Internet or telephone communications, a Tier I, II, or III offender must notify the official within three business days after a change but is not required to do so in person. If there is a change in temporary lodging information, a Tier III offender only must notify the official within three business days after a change. The official must forward the changes to the patrol within three business days. An offender must report to the chief law enforcement officer to verify his or her registration information in the following manner:

(a) A Tier I sexual offender, annually in the month of his or her birth;

(b) A Tier II sexual offender, semiannually in the month of his or her birth in person and six months thereafter by mail on a form to be provided by the patrol; and

(c) A Tier III sexual offender, semiannually in the month of his or her birth and six months thereafter in person and 90 days after each in-person report by mail on a form to be provided by the patrol;

(22) Specifies that any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the following crimes will be classified as a Tier I sexual offender:

(a) Felonious restraint when there is sexual motivation;

(b) Sexual contact or intercourse with skilled nursing facility residents;

(c) Invasion of privacy in the first or second degree;

(d) Child molestation in the second degree when the victim is 14 to 17 years of age;

(e) Sexual misconduct involving a child or in the first degree;

(f) Sexual contact with a prisoner or offender;

(g) Age misrepresentation under Section 566.153;

(h) Endangering the welfare of a child in the second degree when it is sexual in nature and the victim is 14 to 17 years of age;

(i) Possession of child pornography; or

(j) A comparable crime from another jurisdiction or those described as Tier I offenses under the federal Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006;

(23) Specifies that any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the following crimes will be classified as a Tier II sexual offender:

(a) Statutory rape or statutory sodomy in the second degree;

(b) Child molestation in the first degree when the victim is 14 to 17 years of age;

(c) Sexual contact with a student while on public school property when the victim is 14 to 17 years of age;

(d) Sexual abuse when the victim is 14 years of age or older;

(e) Enticement of a child;

(f) Trafficking for the purpose of sexual exploitation;

(g) Child molestation in the second degree when the victim is younger than 14 years of age;

(h) Promoting prostitution in the second or third degree when the victim is younger than 18 years of age;

(i) Endangering the welfare of a child in the first degree when there is sexual conduct or contact with a victim 14 to 17 years of age;

(j) Endangering the welfare of a child in the second degree when the offense is sexual in nature and the victim is younger than 13 years of age;

(k) Abuse of a child when the offense is sexual in nature;

(l) Genital mutilation of a female child;

(m) Use of a child in sexual performance;

(n) Promoting sexual performance by a child;

- (o) Sexual exploitation of a minor;
- (p) Promoting child pornography in the first or second degree;
- (q) Unlawful sex with an animal; or
- (r) A comparable crime in another jurisdiction or those described as Tier II offenses under the federal Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006;

(24) Specifies that a Tier II sexual offender will also include any offender whose classification was changed to a Tier II offender by a court order under Section 589.408 and any person who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I offense or a failure to register offense or comparable out-of-state failure to register offense who is already required to register as a Tier I offender due to being convicted of a Tier I offense on a previous occasion;

(25) Specifies that any offender registered as a predatory or persistent sexual offender or who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one of the following crimes will be classified as a Tier III sexual offender:

(a) Kidnapping when a sexual offense was committed during the kidnapping or when a kidnapping was committed for the purpose of committing a sexual offense and the victim is younger than 18 years of age, excluding kidnapping by a parent or guardian;

(b) Child kidnapping when a sexual offense was committing during the kidnapping or when the kidnapping was committed for the purpose of committing a sexual offense;

(c) Forcible rape;

(d) Statutory rape in the first degree;

(e) Sexual assault;

(f) Forcible sodomy;

(g) Statutory sodomy in the first degree;

(h) Child molestation in the first degree when the victim is younger than 14 years of age;

- (i) Deviate sexual assault;
- (j) Sexual contact with a student while on public school property when the victim is younger than 14 years of age;
- (k) Sexual abuse when the victim is younger than 14 years of age;
- (l) Sexual trafficking of a child or of a child younger than 12 years of age;
- (m) Promoting prostitution in the first degree when the victim is younger than 18 years of age;
- (n) Incest;
- (o) Endangering the welfare of a child in the first degree when there is sexual conduct or contact with a victim younger than 14 years of age or when there is sexual intercourse or deviate sexual intercourse with a victim younger than 18 years of age;
- (p) Any comparable crime in another jurisdiction or that is comparable to a Tier III offense under the federal Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006; or
- (q) Any offense of a sexual nature requiring registration that is not classified as a Tier I or Tier II offense by these provisions;
- (26) Specifies that a Tier III sexual offender will also include any person who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I or Tier II offense or a failure to register offense or other comparable out-of-state failure to register offense who is already required to register as a Tier II offender due to being convicted of a Tier II offense, two Tier I offenses, or a combination of a Tier I offense and a failure to register offense on a previous occasion;
- (27) Requires every offender required to register who works, including as a volunteer or unpaid intern; who attends any school, whether public or private including any secondary, trade, or professional school or institution of higher education; or who has temporary residence in Missouri to report in person to the chief law enforcement officer in that area where he or she works, attends school, or has temporary residence;
- (28) Specifies that it is not a defense to a prosecution for a

violation of any offense listed in these provisions that the victim was a peace officer masquerading as a minor; and

(29) Requires any person not currently registered due to being adjudicated of a sexual offense prior to the initial enactment of state or federal registry legislation to register for his or her original offense if he or she is currently incarcerated or under the supervision of the Department of Corrections for a sexual offense. If the offender's original offense is not currently a crime, he or she will be classified as a Tier I, II, or III offender by determining which current crime is most comparable to the original offense.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Less than \$100,000 in FY 2012, FY 2013, and FY 2014. No impact on Other State Funds in FY 2012, FY 2013, and FY 2014.

PROPOSERS: Supporters say that the original intent of the sexual offender registry was to notify citizens about these offenders in their community. However, the registry has now become an additional punishment, and it needs to go back to its original goal. The stigma with being listed as a sexual offender on the public registry can be devastating for people. They are shunned, lose their jobs, and cannot attend family or social functions. They often become depressed or suicidal.

Testifying for the bill were Representative Schad; Judy Burke; Rachel Wilson; Brittany Hunt; and Pamela Baumstark.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say the registry isn't useful anymore because there are too many people listed, many of whom are not true threats. Sexual offenders have a very low recidivism rate. The federal Sex Offender Registration and Notification Act requirements are not the solution. Many states have rejected the federal act because of its high costs and lack of effectiveness. However, if Missouri does not meet these federal requirements, it will be subject to the loss of grant funding for the Department of Public Safety. The current bill meets some of the federal requirements but needs changes to the tiers, notification provisions, and reporting requirements to be fully compliant.

Testifying on the bill were Troy Stabenow; Sharie Keil, Missouri Citizens for Reform; and Department of Public Safety.