

HCS HB 1700 -- SEXUAL OFFENDER REGISTRATION

SPONSOR: Schad

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 14 to 0.

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

(1) Changes the information that will be provided to the public on the website, by removing the offender's temporary, work, and school addresses and a physical description of the offender's vehicles. A current photograph of the offender must be taken by the registering official and information regarding the offender's classification level and the status of the offender's term of incarceration, probation, or parole must be included on the website;

(2) 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 if there is no other offense requiring registration, the offender is not a repeat offender, and no sexual conduct occurred during the offense. A witness under active federal protection who is required to register under these provisions may be excluded from the public website under federal law. A juvenile who is required to register will be excluded from the public website;

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

(4) 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 five business days of adjudication or release from commitment of the Division of Youth Services, the Department of Mental Health, or other placement or who is paroled, discharged, or otherwise released from any Department of Corrections correctional facility, mental health institution, private jail, or other specified private facility. The official in charge of a correctional or mental health facility is required to inform the offender of his or her possible duty to register and complete the initial registration at least seven days prior to release and forward the registration, within three business days of release, to the State Highway Patrol and to the chief law enforcement official in the county where the offender expects to reside upon release. If he or she is not planning on residing in Missouri, the information

must be forwarded to the State Highway Patrol and to the chief law enforcement official in the county where the facility is located;

(5) Requires the court to make it a condition of probation that any offender to whom the registration requirements apply who is placed on probation to report within five business days to the chief law enforcement official of the county of adjudication to complete the initial registration;

(6) Specifies that an offender who refuses to complete and sign the registration information or fails to register with the chief law enforcement official within five business days will be guilty of the offense of failure to register;

(7) Allows a registrant who is pardoned in Missouri or another state, territory, the District of Columbia, or foreign country and the pardon explicitly states that he or she is relieved of his or her duty to register as a sexual offender to be released from the lifetime registration requirement;

(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 nonsexual child abuse or 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 for any of these offenses must be removed;

(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 an offender not currently registered due to being adjudicated of a sexual offense prior to the initial enactment of state or federal sex offender registry legislation must only be required 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;

(11) Allows the chief law enforcement officer of any county to

give notice to any public or private school and child care facility that a sexual offender is residing, working, or attending school within a five-mile radius;

(12) Allows any offender on the registry to file a petition, if the specified time requirements are met, in the division of the circuit court in the county in which the offense requiring registration was adjudicated to have his or her name and information removed. If the offense was adjudicated outside of Missouri, the person may file a petition in the county in which he or she resides;

(13) Specifies that an offender who is required to register for the following offenses or their equivalent in another state, territory, or the District of Columbia or a foreign country or under federal, tribal, or military jurisdiction will have his or her petition for removal dismissed by the court if 20 years has not elapsed since the date the person was required to register:

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

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

(c) Forcible rape;

(d) Forcible sodomy;

(e) Sexual trafficking of a child;

(f) Sexual trafficking of a child younger than 12 years of age;
or

(g) Child molestation in the first degree when it is a class A felony;

(14) Specifies that an offender who is required to register for any sexual offense other than those listed in the previous subsection or an equivalent in another state, territory, or the District of Columbia or a foreign country or under federal, tribal, or military jurisdiction will have his or her petition for removal dismissed by the court if 10 years has not elapsed since the date the person was required to register;

(15) Specifies that any person who is otherwise exempt from registration under other provisions will not be required to

petition for the removal from the registry;

(16) Requires the petition for removal to be dismissed if all specified information is not included and requires the offender to give notice of the filing of his or her request for removal to the prosecuting attorney in the county where the petition is filed. The prosecuting attorney must be given an opportunity to present evidence in opposition to the facts alleged in the petition and must have access to all applicable records concerning the petitioner. The prosecuting attorney must make reasonable efforts to notify the crime victim for whom the person was required to register of the petition and the dates and time of any hearings or proceedings regarding the petition;

(17) Requires the court to enter an order directing the removal of the petitioner's name and information from the sexual offender registry and from any corresponding state or local law enforcement registry or website unless the offender:

(a) Has been adjudicated of or has charges pending for failure to register;

(b) Has been adjudicated of any additional sexual offense which would require registration and which occurred after the date the person initially registered as a sexual offender;

(c) Has charges pending for any offense which would require registration as a sexual offender;

(d) Has not successfully completed any required periods of supervised release, probation, or parole; and

(e) Has not successfully completed all appropriate sexual offender treatment, including that ordered by the court or the Department of Corrections;

(18) Requires the fingerprints to be examined by the state highway patrol and the Federal Bureau of Investigation in order to prove that he or she has not been adjudicated for or does not have specified charges pending;

(19) Specifies that if a petition is denied, except when denied solely on the basis of the fact that the petitioner has pending charges that are subsequently dismissed or the petitioner is acquitted, no successive petition can be filed for one year. If the denial is based on a subsequent conviction of a sex offense or failure to register, no successive petition can ever be filed;

(20) Requires the court, upon a finding that the petitioner is entitled to be removed from the sexual offender registry, to

enter a judgment directing the patrol and the chief law enforcement official in the county in which the petition was filed to remove the petitioner's name and information from all registries and public websites within three business days. A copy of the judgment must be given to the respondents named in the petition;

(21) Specifies the information, including a statement in writing and the signature of the offender, that is required on the offender registration form developed by or other form approved by the patrol and the documentation that must be included with the form;

(22) 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;

(23) Specifies that the offender is responsible for reviewing his or her existing registration information for accuracy at every regular in-person appearance and provide proof if any inaccuracies are found. The registering law enforcement official must, within three business days, correct the inaccuracy on its law enforcement registry and public website, if any, and notify the patrol of the change, who must correct the inaccuracy on its registry and public website within three business days;

(24) Specifies that the signed offender registration form will serve as proof that the offender understands his or her duty to register;

(25) Requires the patrol, upon receipt of each completed registration form or upon receipt of a change to registration information, to review the information to determine whether the offender will be working, including as a volunteer or unpaid intern; attending any school, whether public or private including any secondary, trade, or professional school or institution of higher education; or residing on a temporary basis for 14 or more consecutive days in a county other than the county of registration. If so, the patrol must, within three business days, notify the other jurisdictions where the offender will be working, attending school, or temporarily residing; and

(26) 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 five business days of the change instead of the current three business days requirement. If there is a change in vehicle information, temporary residence information, or any designations used in Internet or telephone

communications, an offender must notify the official within five business days after a change but is not required to do so in person. 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) Any offender required to register for an offense listed in subsection 13, 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; and

(b) Any offender required to register for any offense other than those listed in subsection 13, annually 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.

FISCAL NOTE: Estimated Net Cost on General Revenue Fund of Less than \$100,000 in FY 2013, FY 2014, and FY 2015. No impact on Other State Funds in FY 2013, FY 2014, and FY 2015.

PROPONENTS: Supporters say that the current registry is not adequately protecting the public as it was intended, especially because the average citizen cannot interpret the information it contains. The bill enhances public safety by providing notification about those who are true threats to society. Most sexual offenders have a very low rate of re-offense in comparison to other criminal offenders. Most sexual offenders are employable, but the stigma of being on the registry often prevents them from being hired. The number of people on the registry has increased dramatically in the past few years, but there has not been a corresponding decrease in the crime rate. Juveniles are removed from the registry under the bill, which is the right thing to do according to most juvenile organizations. The registry is a public notification tool and should not be used as punishment.

Testifying for the bill were Representative Schad; Dean L. Rosen; Sharie Keil; Missouri Family Network; Missouri State Fraternal Order of Police; and Missouri Probation and Parole Officers Association.

OPPONENTS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say that this is an issue that has needed to be addressed for some time. There is a willingness to make changes to the current registry, but the registry does serve a meaningful purpose to the public. The process of removal from the registry has been examined, and it was concluded that a person should have to go through a court

process to have this request granted because courts are easily accessible for the public and make the most sense. Any time there is a lessening of requirements there is a concern that offenders may come into the state to take advantage of the state's beneficial treatment of them.

Others testifying on the bill were Department of Public Safety; John Jordan, Missouri Sheriffs Association; State Highway Patrol; and Missouri Coalition Against Domestic and Sexual Violence.