

## HB 1700 -- Sexual Offender Registration and Classification

Sponsor: Schad

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

(1) Specifies that the State Highway Patrol must, and the chief law enforcement officer of any county or the city of Saint Louis may, maintain an Internet website that only includes the names and information for those sexual offenders classified as Final Level III and Level IV offenders. The names and information for those sexual offenders classified as Level I, II, and Temporary III will not be included on the public website, but will be on a separate registry to which only law enforcement agencies have access;

(2) 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;

(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 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;

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

(5) 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;

(6) 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;

(7) 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;

(8) 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;

(9) Allows the chief law enforcement officer of the county to charge a fee up to \$20 for classifying a registering sex offender;

(10) 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;

(11) Any person convicted of, found guilty of, or pled guilty or nolo contendere to a sexual offense involving sexual conduct where no force or threat of force was directed toward the victim will be exempt from registering, 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;

(12) 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;

(13) Specifies that offenders 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 their original offense if he or she is currently incarcerated or under the supervision of the Department of Corrections for a sexual offense;

(14) Allows the chief law enforcement officer of any county to give notice to any public or private school and child care facility that a Final Level III or Level IV sexual offender is residing, working, or attending school within a five mile radius;

(15) Requires, beginning January 1, 2013, any person required to register under these provisions to be classified as either a Level I, II, III, or IV sex offender;

(16) Specifies that a Level IV sex offender is any person who has been convicted of, found guilty of, or pled guilty or nolo contendere to committing the offense of failure to register; is required to register for more than one offense; is a predatory or persistent sexual offender; or is required to register for one of the following offenses or their equivalent in another state, territory, or the District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction:

(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 less 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 under 12 years of age; or
- (g) Child molestation in the first degree when it is a class A felony;

(17) Requires the chief law enforcement official with whom the offender registers to make a determination under these provision whether the offender will be automatically classified as a Level IV offender based upon the offense. If determined to be a Level IV offender, the official must record this on a classification form which must be developed and provided by the department. If determined not to be a Level IV offender, the official must classify the offender as a Temporary Level III offender on the form. Within three business days of making this classification, the official must forward a copy of the classification form to the patrol who must, within three business days of receipt, forward a copy to the newly-established Sex Offender Classification Board whose primary duty is to evaluate and classify sex offenders required to register;

(18) Allows any offender classified as a Temporary Level III offender, who does not believe he or she should be classified as a Level III offender to file, within 30 days of registration, a request with the board for final classification on the form to be developed by the department and provided to all registering officials, who must in turn provide a copy of the form at the time of registration to any offender classified as Temporary Level III offenders. The final classification form must be signed by the offender and accompanied with payment of the risk assessment fee in an amount to be determined by the Department of Mental Health in cooperation with the Department of Corrections within 30 days of registration;

(19) Requires the board, upon receipt of a request for a final classification form and risk assessment fee within the required 30-day time period, to evaluate the offender and make a determination as to whether he or she will be finally classified as a Level I, II, or Final III offender. The board must, within three business days, notify the offender, the registering law enforcement official, and the patrol of the final classification. The notice to the offender must also include notice of his or her reporting requirements according to his or her classification level;

(20) Specifies that any Temporary Level III offender who fails,

within the 30-day time period, to file with the board a request for final classification form or submit the risk assessment fee, will automatically be classified as a Final Level III offender. Within three days of the classification the board must notify the offender, the patrol, and the registering law enforcement official of the classification;

(21) Requires any person who prior to January 1, 2013, was required to register to be classified by the board as specified in the provisions of the bill;

(22) Requires the patrol and the registering law enforcement official, upon notification from the board that an offender's name and information should be removed from the registry, to remove, within three business days, the information from their law enforcement registries and public websites, if applicable;

(23) Requires, upon notification from the board that an offender has been classified as a certain level, the patrol and the registering law enforcement official to include an offender's name and information on its law enforcement registry. If classified as a Final Level III or Level IV offender, the patrol must list the offender on its public website and the registering law enforcement official may list the offender on its public website, if any;

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

(25) Requires the completed offender registration form, along with a completed classification form, to be forwarded by the registering law enforcement official to the patrol within three business days. This information must then be entered into the Missouri Uniform Law Enforcement Systems (MULES);

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

(b) A Level II sexual offender, 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; and

(c) A Temporary Level III, Final Level III, and Level IV 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;

(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) Requires the patrol to immediately notify all other jurisdictions in which an offender is either registered or required to register upon receipt of any changes to an offender's registration information;

(29) 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;

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

(31) Allows a Level I, II, Final III, or IV offender to file a request with the board to have his or her name and information removed from the registry if these specified time periods have elapsed:

(a) For a Level I offender, five years;

(b) For a Level II offender, 10 years;

(c) For a Final Level III offender, 15 years; and

(d) For a Level IV offender, 20 years;

(32) Specifies the information that must be included with the request for removal; requires the offender to pay any costs incurred by the board in obtaining records; requires a Level IV or Final III offender, who has not previously had a successfully completed risk assessment report filed with the board, to obtain a risk assessment and pay the fee associated with the assessment; requires the offender, if deemed necessary by the board, to obtain a second risk assessment and pay the fee associated with the assessment; 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 offense requiring registration was adjudicated;

(33) Specifies the findings the board must make in order to grant an offender's request for removal, including no subsequent felony adjudications or charges pending; no subsequent additional sex offense adjudications or charges pending; successful completion of required periods of supervised release, probation, or parole without revocation; successful completion of appropriate Department of Correction's or court-approved sex offender treatment program; and that the offender is not a current or potential threat to public safety;

(34) Requires the fingerprints filed with the board to be examined by the patrol in order to prove the facts that he or she has not been adjudicated for or does not have specified charges pending;

(35) Requires the board to notify any requesting offender determined not to be entitled for removal from the registry within three business days. Any offender denied a removal request by the board must wait at least one year before filing another request;

(36) Requires the board to notify the patrol to remove any requesting offender determined to be entitled for removal from the registry within three business days. The patrol must remove the offender's name and information from its law enforcement registry and public website within three business days of receiving notification and must notify all law enforcement agencies which have the offender listed on their registry or public website to remove the offender's name and information within three days. The board must also notify in writing the requesting offender of its decision to grant the request for removal;

(37) Requires the Department of Mental Health, in cooperation with the Department of Corrections, to determine the amount of the risk assessment fee required to be paid by any Temporary

Level III sex offender who files a request for classification with the board. The fee will be in an amount to cover the cost of the sex offender risk assessment, including a successfully completed sex offender risk assessment report from a mental health professional required by the board to evaluate and finally classify the offender. The Sex Offender Classification Fund is created, which will consist of risk assessment fees collected by the board and used to pay mental health providers;

(38) Requires the Department of Mental Health to develop, prior to January 1, 2013, a list of qualified and willing mental health professionals to conduct risk assessment on sex offenders referred to them by the board for a fee equal to the risk assessment fee and within the time limits established by the board. The list will be reviewed annually and, if possible, contain providers in every county. The providers must meet specified qualifications to be included on the list;

(39) Requires the Department of Mental Health to evaluate, prior to January 1, 2013, existing sex offender risk assessment tools and approve one or more of the tools for use by the mental health providers in conducting assessments and completing risk assessment reports. The approved tools will be reviewed annually for usefulness and accuracy;

(40) Requires the Department of Corrections to develop, prior to January 1, 2013, a classification form to be used by chief law enforcement officials with whom any sex offender registers which must be provided to the patrol, the board, and all registering law enforcement officials. The form must, at a minimum, include a place for the registering official to designate the offender as a Level IV or a Temporary Level III offender, a place for the registering official to sign and date, a place for the offender to sign and date, the reporting requirements for both Level IV and Temporary Level III offenders, and notification to Temporary Level III offenders of their right to request final classification by the board and the procedure for making the request;

(41) Requires the Department of Corrections to develop, prior to January 1, 2013, a request for final classification form to be used by any Temporary Level III offender who wishes to have a final classification determination made by the board which must be provided to the patrol, the board, and all registering law enforcement officials. The form must, at a minimum, contain notice which informs the offender of the time limit for filing the request, the amount of the risk assessment fee, and instructions as to how to file the request;

(42) Specifies the board will consist of five members, three of



whom are to be appointed by the Governor and must be a criminal defense attorney, a prosecuting attorney, and a licensed mental health professional who has demonstrated expertise in the treatment and assessment of sex offenders. The directors of the Department of Mental Health and the Department of Corrections, or the director's designee, will also be members of the board;

(43) Requires the board to meet as often as necessary to carry out its duties of classifying sex offenders, but at a minimum must meet twice a month for the first two years and once a month thereafter;

(44) Requires the board to evaluate and classify any Temporary Level III offender who requests final classification and pays the risk assessment fee within the 30-day time period as a Level I, Level II, or Final Level III offender. A Level I offender is a person who presents a low risk of reoffense, a Level II offender is a person who presents a moderate risk of reoffense, and a Final Level III offender is a person who presents a high risk of reoffense;

(45) Requires the board, as part of its evaluation process, to refer the requesting offender to a mental health provider on the Department of Mental Health's list within three business days of receipt of the offender's request. The offender then has five business days to contact that provider and make an appointment to be assessed. The board must require that the mental health provider deliver a successfully completed sex offender risk assessment report within 60 days of the date of referral in order to receive payment in an amount equal to the final classification fee. The bill specifies the minimum requirements for a successfully completed report. If the offender is at fault for an assessment not being completed within the time limits specified, he or she will automatically be classified as a Final Level III offender. If the board determines the delay to be the fault of the mental health provider, a 30-day extension may be granted for good cause shown or the offender may be reassigned to a different mental health provider for assessment;

(46) Requires the board, upon receipt of a successfully completed sex offender risk assessment report from a mental health provider, to evaluate and classify the offender within 30 business days and provide a copy of the classification to the offender, the patrol, and the registering law enforcement official;

(47) Specifies the minimum considerations the board must make in conducting an evaluation of an offender, including the nature of the offense and prior offenses committed; age and characteristics of the victim and the offender; whether a weapon, force, or

threats were used; the risk assessment report; the seriousness of the offense should the offender reoffend; the availability of community supports to the offender; and indications of likelihood of reoffense if released into the community. The board is allowed to have access to all applicable records regarding the offender;

(48) Requires the board, prior to April 1, 2013, to review the current list of sex offenders on the registry and classify those offenders according to the provisions of the bill; and

(49) Requires the board to submit an annual report, beginning January 2014, to the Speaker of the House of Representatives and the President Pro Tem of the Senate summarizing the board's activities for the previous year.