

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2397, Page 24, Section 221.105, Line 48,
2 by inserting after all of said section and line the following:

3
4 "567.020. 1. A person commits the offense of prostitution if he or she engages in or offers
5 or agrees to engage in sexual conduct with another person in return for something of value to be
6 received by any person.

7 2. The offense of prostitution is a class B misdemeanor unless the person knew prior to
8 performing the act of prostitution that he or she was infected with HIV in which case prostitution is
9 a class B felony. The use of condoms is not a defense to this offense.

10 3. As used in this section, "HIV" means the human immunodeficiency virus that causes
11 acquired immunodeficiency syndrome.

12 4. The judge may order a drug and alcohol abuse treatment program for any person found
13 guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B
14 misdemeanor offense, upon the successful completion of such program by the defendant, the court
15 may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and
16 enter a judgment of not guilty. For the class B felony offense, the court shall not allow the
17 defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty.
18 The judge, however, has discretion to take into consideration successful completion of a drug or
19 alcohol treatment program in determining the defendant's sentence.

20 5. Notwithstanding any other provisions of this section, if it is determined, after a
21 reasonable detention for investigative purposes, that a person suspected or charged with a violation
22 of this section is a person under the age of eighteen, that person shall be immune from prosecution
23 for an offense under this section.

24 567.030. 1. A person commits the offense of patronizing prostitution if he or she:

25 (1) Pursuant to a prior understanding, gives something of value to another person as
26 compensation for having engaged in sexual conduct with any person; or

27 (2) Gives or agrees to give something of value to another person with the understanding that
28 such person or another person will engage in sexual conduct with any person; or

29 (3) Solicits or requests another person to engage in sexual conduct with any person in return
30 for something of value.

31 2. It shall not be a defense that the person believed that the individual he or she patronized
32 for prostitution was eighteen years of age or older.

33 3. The offense of patronizing prostitution is a class B misdemeanor, unless the individual
34 who the person patronizes is less than eighteen years of age but older than fourteen years of age, in
35 which case patronizing prostitution is a class [~~A misdemeanor~~] E felony.

36 4. The offense of patronizing prostitution is a class [E] D felony if the individual who the

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1 person patronizes is fourteen years of age or younger. Nothing in this section shall preclude the
2 prosecution of an individual for the offenses of:

- 3 (1) Statutory rape in the first degree pursuant to section 566.032;
- 4 (2) Statutory rape in the second degree pursuant to section 566.034;
- 5 (3) Statutory sodomy in the first degree pursuant to section 566.062; or
- 6 (4) Statutory sodomy in the second degree pursuant to section 566.064.

7 589.400. 1. Sections 589.400 to 589.425 shall apply to:

8 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
9 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to
10 commit a felony offense of chapter 566, including sexual trafficking of a child and sexual
11 trafficking of a child under the age of twelve, or any offense of chapter 566 where the victim is a
12 minor, unless such person is exempted from registering under subsection 8 of this section; [œ]

13 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
14 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to
15 commit one or more of the following offenses: kidnapping or kidnapping in the first degree when
16 the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child
17 under section 568.060 when such abuse is sexual in nature; felonious restraint or kidnapping in the
18 second degree when the victim was a child and the defendant is not a parent or guardian of the
19 child; sexual contact or sexual intercourse with a resident of a nursing home or sexual conduct with
20 a nursing facility resident or vulnerable person in the first or second degree; endangering the welfare
21 of a child under section 568.045 when the endangerment is sexual in nature; genital mutilation of a
22 female child, under section 568.065; promoting prostitution in the first degree; promoting
23 prostitution in the second degree; promoting prostitution in the third degree; sexual exploitation of a
24 minor; promoting child pornography in the first degree; promoting child pornography in the second
25 degree; possession of child pornography; furnishing pornographic material to minors; public display
26 of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in the first
27 degree; promoting pornography for minors or obscenity in the second degree; incest; use of a child
28 in a sexual performance; or promoting sexual performance by a child; patronizing prostitution if the
29 individual the person patronizes is less than eighteen years of age; [œ]

30 (3) Any person who, since July 1, 1979, has been committed to the department of mental
31 health as a criminal sexual psychopath; [œ]

32 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
33 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; [œ]

34 (5) Any juvenile certified as an adult and transferred to a court of general jurisdiction who
35 has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to committing,
36 attempting to commit, or conspiring to commit a felony under chapter 566 which is equal to or more
37 severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any attempt
38 or conspiracy to commit such offense;

39 (6) Any juvenile fourteen years of age or older at the time of the offense who has been
40 adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under 18
41 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

42 (7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
43 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or foreign
44 country, or under federal, tribal, or military jurisdiction to committing, attempting to commit, or
45 conspiring to commit an offense which, if committed in this state, would be a violation of chapter
46 566, or a felony violation of any offense listed in subdivision (2) of this subsection or has been or is
47 required to register in another state or has been or is required to register under tribal, federal, or
48 military law; [œ] and

1 (8) Any person who has been or is required to register in another state or has been or is
2 required to register under tribal, federal, or military law and who works or attends an educational
3 institution, whether public or private in nature, including any secondary school, trade school,
4 professional school, or institution of higher education on a full-time or on a part-time basis or has a
5 temporary residence in Missouri. "Part-time" in this subdivision means for more than seven days in
6 any twelve-month period.

7 2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of
8 conviction, release from incarceration, or placement upon probation, register with the chief law
9 enforcement official of the county or city not within a county in which such person resides unless
10 such person has already registered in that county for the same offense. Any person to whom
11 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall
12 register with the chief law enforcement official of such county or city not within a county within
13 three days. The chief law enforcement official shall forward a copy of the registration form
14 required by section 589.407 to a city, town, village, or campus law enforcement agency located
15 within the county of the chief law enforcement official, if so requested. Such request may ask the
16 chief law enforcement official to forward copies of all registration forms filed with such official.
17 The chief law enforcement official may forward a copy of such registration form to any city, town,
18 village, or campus law enforcement agency, if so requested.

19 3. The registration requirements of sections 589.400 through 589.425 are lifetime
20 registration requirements unless:

21 (1) All offenses requiring registration are reversed, vacated or set aside;

22 (2) The registrant is pardoned of the offenses requiring registration;

23 (3) The registrant is no longer required to register and his or her name shall be removed
24 from the registry under the provisions of subsection 6 of this section; or

25 (4) The registrant may petition the court for removal or exemption from the registry under
26 subsection 7 or 8 of this section and the court orders the removal or exemption of such person from
27 the registry.

28 4. For processing an initial sex offender registration the chief law enforcement officer of the
29 county or city not within a county may charge the offender registering a fee of up to ten dollars.

30 5. For processing any change in registration required pursuant to section 589.414 the chief
31 law enforcement official of the county or city not within a county may charge the person changing
32 their registration a fee of five dollars for each change made after the initial registration.

33 6. Any person currently on the sexual offender registry for being convicted of, found guilty
34 of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to
35 commit, felonious restraint when the victim was a child and he or she was the parent or guardian of
36 the child, nonsexual child abuse that was committed under section 568.060, or kidnapping when the
37 victim was a child and he or she was the parent or guardian of the child shall be removed from the
38 registry. However, such person shall remain on the sexual offender registry for any other offense
39 for which he or she is required to register under sections 589.400 to 589.425.

40 7. Any person currently on the sexual offender registry for having been convicted of, found
41 guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or
42 conspiring to commit promoting prostitution in the second degree, promoting prostitution in the
43 third degree, public display of explicit sexual material, statutory rape in the second degree, and no
44 physical force or threat of physical force was used in the commission of the crime may file a
45 petition in the civil division of the circuit court in the county in which the offender was convicted or
46 found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or
47 conspiring to commit the offense or offenses for the removal of his or her name from the sexual
48 offender registry after ten years have passed from the date he or she was required to register.

1 8. Effective August 28, 2009, any person on the sexual offender registry for having been
2 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under
3 subsection 1 of this section may file a petition after two years have passed from the date the
4 offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or
5 offenses in the civil division of the circuit court in the county in which the offender was convicted
6 or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or
7 her name from the registry if such person was nineteen years of age or younger and the victim was
8 thirteen years of age or older at the time of the offense and no physical force or threat of physical
9 force was used in the commission of the offense, unless such person meets the qualifications of this
10 subsection, and such person was eighteen years of age or younger at the time of the offense, and is
11 convicted or found guilty of or pleads guilty or nolo contendere to a violation of section 566.068,
12 566.090, 566.093, ~~[ø]~~ 566.095, or 566.101 when such offense is a misdemeanor, in which case,
13 such person may immediately file a petition to remove or exempt his or her name from the registry
14 upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense.

15 9. (1) The court may grant such relief under subsection 7 or 8 of this section if such person
16 demonstrates to the court that he or she has complied with the provisions of this section and is not a
17 current or potential threat to public safety. The prosecuting attorney in the circuit court in which the
18 petition is filed must be given notice, by the person seeking removal or exemption from the registry,
19 of the petition to present evidence in opposition to the requested relief or may otherwise
20 demonstrate the reasons why the petition should be denied. Failure of the person seeking removal
21 or exemption from the registry to notify the prosecuting attorney of the petition shall result in an
22 automatic denial of such person's petition. If the prosecuting attorney is notified of the petition he
23 or she shall make reasonable efforts to notify the victim of the crime for which the person was
24 required to register of the petition and the dates and times of any hearings or other proceedings in
25 connection with that petition.

26 (2) If the petition is denied, such person shall wait at least twelve months before petitioning
27 the court again. If the court finds that the petitioner is entitled to relief, which removes or exempts
28 such person's name from the registry, a certified copy of the written findings or order shall be
29 forwarded by the court to the chief law enforcement official having jurisdiction over the offender
30 and to the Missouri state highway patrol in order to have such person's name removed or exempted
31 from the registry.

32 10. Any nonresident worker or nonresident student shall register for the duration of such
33 person's employment or attendance at any school of higher education and is not entitled to relief
34 under the provisions of subsection 9 of this section. Any registered offender from another state who
35 has a temporary residence in this state and resides more than seven days in a twelve-month period
36 shall register for the duration of such person's temporary residency and is not entitled to the
37 provisions of subsection 9 of this section.

38 11. Any person whose name is removed or exempted from the sexual offender registry
39 under subsection 7 or 8 of this section shall no longer be required to fulfill the registration
40 requirements of sections 589.400 to 589.425, unless such person is required to register for
41 committing another offense after being removed from the registry."; and
42

43 Further amend said bill by amending the title, enacting clause, and intersectional references
44 accordingly.