

SECOND REGULAR SESSION

HOUSE BILL NO. 2608

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORGAN.

4805H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 589.400, RSMo, and to enact in lieu thereof one new section relating to the sexual offender registry.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 589.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 589.400, to read as follows:

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

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

(2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one or more of the following offenses: kidnapping or kidnapping in the first degree when the victim was a child and the defendant was not a parent or guardian of the child; abuse of a child under section 568.060 when such abuse is sexual in nature; felonious restraint or kidnapping in the second degree when the victim was a child and the defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home or sexual conduct with a nursing facility resident or vulnerable person in the first or second degree; endangering the welfare of a child under section 568.045 when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in
19 the first degree; promoting child pornography in the second degree; possession of child
20 pornography; furnishing pornographic material to minors; public display of explicit sexual
21 material; coercing acceptance of obscene material; promoting obscenity in the first degree;
22 promoting pornography for minors or obscenity in the second degree; incest; use of a child in a
23 sexual performance; or promoting sexual performance by a child; ~~or~~

24 (3) Any person who, since July 1, 1979, has been committed to the department of mental
25 health as a criminal sexual psychopath; ~~or~~

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

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

33 (6) Any juvenile fourteen years of age or older at the time of the offense who has been
34 adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under
35 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

36 (7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
37 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or
38 foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to
39 commit, or conspiring to commit an offense which, if committed in this state, would be a
40 violation of chapter 566, or a felony violation of any offense listed in subdivision (2) of this
41 subsection or has been or is required to register in another state or has been or is required to
42 register under tribal, federal, or military law; or

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

49 2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of
50 conviction, release from incarceration, or placement upon probation, register with the chief law
51 enforcement official of the county or city not within a county in which such person resides unless
52 such person has already registered in that county for the same offense. Any person to whom
53 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall

54 register with the chief law enforcement official of such county or city not within a county within
55 three days. The chief law enforcement official shall forward a copy of the registration form
56 required by section 589.407 to a city, town, village, or campus law enforcement agency located
57 within the county of the chief law enforcement official, if so requested. Such request may ask
58 the chief law enforcement official to forward copies of all registration forms filed with such
59 official. The chief law enforcement official may forward a copy of such registration form to any
60 city, town, village, or campus law enforcement agency, if so requested.

61 3. The registration requirements of sections 589.400 through 589.425 are lifetime
62 registration requirements unless:

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

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

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

67 (4) The registrant may petition the court for removal or exemption from the registry
68 under subsection 7 ~~[or]~~ , 8, or 9 of this section and the court orders the removal or exemption
69 of such person from the registry.

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

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

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

84 7. Any person currently on the sexual offender registry for having been convicted of,
85 found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to
86 commit, or conspiring to commit promoting prostitution in the second degree, promoting
87 prostitution in the third degree, public display of explicit sexual material, statutory rape in the
88 second degree, and no physical force or threat of physical force was used in the commission of
89 the crime may file a petition in the civil division of the circuit court in the county in which the

90 offender was convicted or found guilty of or pled guilty or nolo contendere to committing,
91 attempting to commit, or conspiring to commit the offense or offenses for the removal of his or
92 her name from the sexual offender registry after ten years have passed from the date he or she
93 was required to register.

94 8. Effective August 28, 2009, any person on the sexual offender registry for having been
95 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included
96 under subsection 1 of this section may file a petition after two years have passed from the date
97 the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or
98 offenses in the civil division of the circuit court in the county in which the offender was
99 convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for
100 removal of his or her name from the registry if such person was nineteen years of age or younger
101 and the victim was thirteen years of age or older at the time of the offense and no physical force
102 or threat of physical force was used in the commission of the offense, unless such person meets
103 the qualifications of this subsection, and such person was eighteen years of age or younger at the
104 time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a
105 violation of section 566.068, [~~566.090,~~] 566.093, [~~or~~] 566.095, or **566.101** when such offense
106 is a misdemeanor, in which case, such person may immediately file a petition to remove or
107 exempt his or her name from the registry upon his or her conviction or finding or pleading of
108 guilty or nolo contendere to such offense.

109 9. **(1) Any person on the sexual offender registry who is not able to file a petition**
110 **under subsection 7 or 8 of this section may file a petition under this subsection to have his**
111 **or her name and information removed from the sexual offender registry if twenty years**
112 **have passed since the date of the conviction for such sex offense. Such petition shall be**
113 **filed in the division of the circuit court in the county or city not within a county in which**
114 **the offense that requires registration was adjudicated or, if such offense was adjudicated**
115 **outside the state of Missouri, in the division of the circuit court in the county or city not**
116 **within a county where such person resides.**

117 **(2) A petition under this subsection shall include the following information:**

118 **(a) The petitioner's:**

119 **a. Full name;**

120 **b. Sex;**

121 **c. Race;**

122 **d. Date of birth;**

123 **e. Last four digits of his or her Social Security number;**

124 **f. Address; and**

125 **g. Place of employment, school, or volunteer status;**

- 126 **(b) The offense that required the petitioner to register;**
127 **(c) The date the petitioner pled to, was convicted of, or was adjudicated for the**
128 **offense;**
129 **(d) The date the petitioner was required to register;**
130 **(e) The date the petitioner actually registered;**
131 **(f) The case number and court, including county, that entered the original order**
132 **for the adjudicated sex offense;**
133 **(g) The petitioner's fingerprints on an applicant fingerprint card;**
134 **(h) If the petitioner was pardoned or an offense requiring registration was**
135 **reversed, vacated, or set aside, an authenticated copy of the document nullifying the**
136 **offense;**
137 **(i) A statement that the petitioner is currently registered under applicable law and**
138 **has not been adjudicated for failure to register in any jurisdiction and does not have any**
139 **charges pending for failure to register; and**
140 **(j) A successfully completed sex offender risk assessment report authored by a**
141 **mental health professional on the sex offender mental health providers list approved by the**
142 **department of mental health and completed within the six months immediately preceding**
143 **the date of the filing of the petition.**
144 **(3) The court shall deny the petition for removal under this subsection if the court**
145 **finds that the petitioner is a high risk to reoffend.**
146 **(4) Such petition shall name as respondents the Missouri state highway patrol, the**
147 **prosecuting or circuit attorney in the county or city not within a county in which the**
148 **petition is filed, and the chief law enforcement official in the county or city not within a**
149 **county where the petitioner resides.**
150 **(5) All proceedings under this subsection shall be governed under the Missouri**
151 **supreme court rules of civil procedure. The prosecuting or circuit attorney in the circuit**
152 **court in which the petition is filed shall be given an opportunity to present evidence in**
153 **opposition to the facts alleged in the petition.**
154 **(6) The prosecuting or circuit attorney in the circuit court in which the petition is**
155 **filed shall have access to all applicable records concerning the petitioner including, but not**
156 **limited to, criminal history information under sections 43.500 to 43.543, mental health**
157 **records, juvenile records, and records of the department of corrections.**
158 **(7) If the petition to be removed from the sexual offender registry is granted, the**
159 **court shall enter an order directing the removal of the petitioner's name and information**
160 **from the sexual offender registry and from any corresponding state or local law**
161 **enforcement registry or website.**

162 **10.** (1) The court may grant such relief under subsection 7 or 8 of this section if such
163 person demonstrates to the court that he or she has complied with the provisions of this section
164 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit
165 court in which the petition is filed must be given notice, by the person seeking removal or
166 exemption from the registry, of the petition to present evidence in opposition to the requested
167 relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of
168 the person seeking removal or exemption from the registry to notify the prosecuting attorney of
169 the petition shall result in an automatic denial of such person's petition. If the prosecuting
170 attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of
171 the crime for which the person was required to register of the petition and the dates and times
172 of any hearings or other proceedings in connection with that petition.

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

179 ~~[10:]~~ **11.** Any nonresident worker or nonresident student shall register for the duration
180 of such person's employment or attendance at any school of higher education and is not entitled
181 to relief under the provisions of subsection ~~[9]~~ **10** of this section. Any registered offender from
182 another state who has a temporary residence in this state and resides more than seven days in a
183 twelve-month period shall register for the duration of such person's temporary residency and is
184 not entitled to the provisions of subsection ~~[9]~~ **10** of this section.

185 ~~[11:]~~ **12.** Any person whose name is removed or exempted from the sexual offender
186 registry under subsection 7 or 8 of this section shall no longer be required to fulfill the
187 registration requirements of sections 589.400 to 589.425, unless such person is required to
188 register for committing another offense after being removed from the registry.

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