# FIRST REGULAR SESSION HOUSE BILL NO. 334

## 94TH GENERAL ASSEMBLY

#### INTRODUCED BY REPRESENTATIVE LIPKE.

Read 1st time January 11, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

0853L.01I

### AN ACT

To repeal sections 43.650, 211.425, 566.147, 566.149, 589.400, 589.403, 589.405, 589.407, and 589.414, RSMo, and to enact in lieu thereof nine new sections relating to sexual offenders, with penalty provisions.

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

Section A. Sections 43.650, 211.425, 566.147, 566.149, 589.400, 589.403, 589.405, 589.407, and 589.414, RSMo, are repealed and nine new sections enacted in lieu thereof, to be 2 3 known as sections 43.650, 211.425, 566.147, 566.149, 589.400, 589.403, 589.405, 589.407, and 4 589.414, to read as follows: 43.650. 1. The patrol shall, subject to appropriation, maintain a web page on the Internet which shall be open to the public and shall include a registered sexual offender search capability. 2 3 2. The registered sexual offender search shall make it possible for any person using the Internet to search for and find the information specified in subsection 4 of this section, if known, 4 on offenders registered in this state pursuant to sections 589.400 to 589.425, RSMo[, except that 5 only persons who have been convicted of, found guilty of or plead guilty to committing or 6 7 attempting to commit sexual offenses shall be included on this web site]. 8 3. The registered sexual offender search shall include the capability to search for sexual 9 offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address. 10

4. Only the information listed in this subsection shall be provided to the public in theregistered sexual offender search:

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.

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13 (1) The name and any known aliases of the offender;

14 (2) The date of birth and any known alias dates of birth of the offender;

15 (3) A physical description of the offender;

16 (4) The residence, temporary, work, and school addresses of the offender, including the 17 street address, city, county, state, and zip code;

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(5) Any photographs of the offender;

19 (6) A physical description of the offender's vehicles, including the year, make, model, 20 color, and license plate number;

(7) The nature and dates of all offenses qualifying the offender to register;

22 (8) The date on which the offender was released from the department of mental health, 23 prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying

24 the offender to register; and

25 (9) Compliance status of the offender with the provisions of section 589.400 to 589.425, RSMo. 26

211.425. 1. Any person who has been adjudicated a delinquent by a juvenile court for 2 committing or attempting to commit a sex-related offense which if committed by an adult would 3 be considered a felony offense pursuant to chapter 566, RSMo, including, but not limited to, rape, forcible sodomy, child molestation and sexual abuse, shall be considered a juvenile sex 4 5 offender and shall be required to register as a juvenile sex offender by complying with the registration requirements provided for in this section unless the juvenile adjudicated as a 6 delinquent is fourteen years of age or older at the time of the offense and the offense 7 8 adjudicated was comparable to or more severe than aggravated sexual abuse, which 9 includes an attempt or conspiracy to commit such an offense, shall be required to register as an adult offender under section 589.400, RSMo. This requirement shall also apply to any 10 11 person who is or has been adjudicated a juvenile delinquent in any other state or federal jurisdiction for committing or attempting to commit offenses which would be proscribed herein. 12 13 2. Any state agency having supervision over a juvenile required to register as a juvenile sex offender or any court having jurisdiction over a juvenile required to register as a juvenile sex 14 offender, or any person required to register as a juvenile sex offender, shall, within ten days of 15 the juvenile offender moving into any county of this state, register with the juvenile office of the 16 17 county. If such juvenile offender changes residence or address, the state agency, court or person shall inform the juvenile office within ten days of the new residence or address and shall also be 18 19 required to register with the juvenile office of any new county of residence. Registration shall 20 be accomplished by completing a registration form similar to the form provided for in section 21 589.407, RSMo. Such form shall include, but is not limited to, the following:

(1) A statement in writing signed by the juvenile, giving the juvenile's name, address,
Social Security number, phone number, school in which enrolled, place of employment, offense
which requires registration, including the date, place, and a brief description of such offense, date
and place of adjudication regarding such offense, and age and gender of the victim at the time
of the offense; and

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(2) The fingerprints and a photograph of the juvenile.

28 3. Juvenile offices shall maintain the registration forms of those juvenile offenders in 29 their jurisdictions who register as required by this section. Information contained on the 30 registration forms shall be kept confidential and may be released by juvenile offices to only those 31 persons and agencies who are authorized to receive information from juvenile court records as 32 provided by law, including, but not limited to, those specified in section 211.321. State agencies 33 having custody of juveniles who fall within the registration requirements of this section shall 34 notify the appropriate juvenile offices when such juvenile offenders are being transferred to a 35 location falling within the jurisdiction of such juvenile offices.

4. Any juvenile who is required to register pursuant to this section but fails to do so or who provides false information on the registration form is subject to disposition pursuant to this chapter. Any person seventeen years of age or over who commits such violation is guilty of a class A misdemeanor as provided for in section 211.431.

40 5. Any juvenile to whom the registration requirement of this section applies shall be 41 informed by the official in charge of the juvenile's custody, upon the juvenile's discharge or 42 release from such custody, of the requirement to register pursuant to this section. Such official shall obtain the address where such juvenile expects to register upon being discharged or released 43 44 and shall report the juvenile's name and address to the juvenile office where the juvenile will be 45 required to register. This requirement to register upon discharge or release from custody does not apply in situations where the juvenile is temporarily released under guard or direct 46 47 supervision from a detention facility or similar custodial facility.

6. The requirement to register as a juvenile sex offender shall terminate upon the juvenile
offender reaching age twenty-one, unless such juvenile offender is required to register as an adult
offender pursuant to section 589.400, RSMo.

566.147. 1. Any person who, since July 1, 1979, has been or hereafter has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child pornography in the first degree; section 573.035, 8 RSMo, promoting child pornography in the second degree; section 573.037, RSMo, possession

9 of child pornography, or section 573.040, RSMo, furnishing pornographic material to minors;

10 or for an offense in any other state, foreign country, tribal, or under federal or military 11 jurisdiction which, if committed in this state, would be a violation listed in this section shall 12 not reside within one thousand feet of any public school as defined in section 160.011, RSMo, 13 or any private school giving instruction in a grade or grades not higher than the twelfth grade,

14 or child-care facility as defined in section 210.201, RSMo, which is in existence at the time the 15 individual begins to reside at the location.

16 2. If such person has already established a residence and a public school, a private 17 school, or child-care facility is subsequently built or placed within one thousand feet of such person's residence, then such person shall, within one week of the opening of such public school, 18 19 private school, or child-care facility, notify the county sheriff where such public school, private 20 school, or child-care facility is located that he or she is now residing within one thousand feet 21 of such public school, private school, or child-care facility and shall provide verifiable proof to 22 the sheriff that he or she resided there prior to the opening of such public school, private school, 23 or child-care facility.

3. For purposes of this section, "resides" means sleeps in a residence, which may includemore than one location and may be mobile or transitory.

4. Violation of the provisions of subsection 1 of this section is a class D felony except that the second or any subsequent violation is a class B felony. Violation of the provisions of subsection 2 of this section is a class A misdemeanor except that the second or subsequent violation is a class D felony.

566.149. 1. Any person who has pleaded guilty or nolo contendere to, or been convicted of, or been found guilty of violating any of the provisions of this chapter or the provisions of 2 3 subsection 2 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the welfare 4 of a child in the first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual 5 performance; section 568.090, RSMo, promoting a sexual performance by a child; section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo, promoting child 6 pornography; or section 573.040, RSMo, furnishing pornographic material to minors; or for an 7 8 offense in any other state, foreign country, tribal, or under federal or military jurisdiction 9 which, if committed in this state, would be a violation listed in this section shall not be present in or loiter within five hundred feet of any school building, on real property comprising 10 any school, or in any conveyance owned, leased, or contracted by a school to transport students 11 12 to or from school or a school- related activity when persons under the age of eighteen are present 13 in the building, on the grounds, or in the conveyance, unless the offender is a parent, legal

guardian, or custodian of a student present in the building and has met the conditions set forthin subsection 2 of this section.

16 2. No parent, legal guardian, or custodian who has pleaded guilty or nolo contendere to, 17 or been convicted of, or been found guilty of violating any of the offenses listed in subsection 18 1 of this section shall be present in any school building, on real property comprising any school, 19 or in any conveyance owned, leased, or contracted by a school to transport students to or from 20 school or a school-related activity when persons under the age of eighteen are present in the 21 building, on the grounds or in the conveyance unless the parent, legal guardian, or custodian has 22 permission to be present from the superintendent or school board or in the case of a private 23 school from the principal. In the case of a public school, if permission is granted, the 24 superintendent or school board president must inform the principal of the school where the sex 25 offender will be present. Permission may be granted by the superintendent, school board, or in the case of a private school from the principal for more than one event at a time, such as a series 26 27 of events, however, the parent, legal guardian, or custodian must obtain permission for any other 28 event he or she wishes to attend for which he or she has not yet had permission granted.

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3. Violation of the provisions of this section shall be a class A misdemeanor. 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, or attempting to commit, a felony
offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of
a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a
minor; or

7 (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, or attempting to commit one or more 8 9 of the following offenses: kidnapping when the victim was a child and the defendant was not a 10 parent or guardian of the child; felonious restraint when the victim was a child and the defendant 11 is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a 12 nursing home, under section 565.200, RSMo; endangering the welfare of a child under section 13 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, 14 under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution 15 in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor; 16 promoting child pornography in the first degree; promoting child pornography in the second 17 degree; possession of child pornography; furnishing pornographic material to minors; public 18 display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity 19 in the first degree; promoting pornography for minors or obscenity in the second degree; incest; 20 use of a child in a sexual performance; or promoting sexual performance by a child; and

21 committed or attempted to commit the offense against a victim who is a minor, defined for the

22 purposes of sections 589.400 to 589.425 as a person under eighteen years of age; or

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

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

(5) Any juvenile certified as an adult who has been convicted, pled or found guilty to, or nolo contendere or any person adjudicated delinquent as a juvenile for an offense which was comparable to or more severe than aggravated sexual abuse, or was an attempt or conspiracy to commit such an offense, and the offender is fourteen years of age or older at the time of the offense; or

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

39 [(6)] (7) Any person who has been or is required to register in another state or has been 40 or is required to register under **tribal**, federal, or military law and who works or attends [school 41 or training] **an education institution, including whether public or private, a secondary** 42 **school, trade or professional school, and institution of higher education** on a full-time or on 43 a part-time basis or has a temporary residence in Missouri. "Part-time" in this subdivision means 44 for more than fourteen days in any twelve-month period.

45 2. Any person to whom sections 589.400 to 589.425 apply shall, within [ten] three days 46 of conviction, release from incarceration, or placement upon probation, register with the chief 47 law enforcement official of the county or city not within a county in which such person resides 48 unless such person has already registered in that county for the same offense. Any person to 49 whom sections 589.400 to 589.425 apply if not currently registered in their county of residence 50 shall register with the chief law enforcement official of such county or city not within a county 51 within [ten] three days of August 28, 2003. The chief law enforcement official shall forward 52 a copy of the registration form required by section 589.407 to a city, town, village, or campus 53 law enforcement agency located within the county of the chief law enforcement official, if so 54 requested. Such request may ask the chief law enforcement official to forward copies of all 55 registration forms filed with such official. The chief law enforcement official may forward a

56 copy of such registration form to any city, town, village, or campus law enforcement agency, if57 so requested.

58 3. The registration requirements of sections 589.400 through 589.425 are lifetime 59 registration requirements unless:

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

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

62 (3) The registrant is no longer required to register and his or her name shall be removed63 from the registry under the provisions of subsection 6 of this section; or

64 (4) The registrant may petition the court for removal from the registry under subsection65 7 or 8 of this section and the court orders the removal of such person from the registry.

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

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

72 6. Effective August 28, 2006, any person currently on the sexual offender registry for 73 being convicted of, found guilty of, or pleading guilty or nolo contendere to committing 74 felonious restraint when the victim was a child and he or she was the parent or guardian of the 75 child, nonsexual child abuse that was committed under section 568.060, RSMo, or kidnapping 76 when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry 77 78 for any other offense for which he or she is required to register under sections 589.400 to 79 589.425.

80 7. Effective August 28, 2006, any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to 81 82 promoting prostitution in the second degree, promoting prostitution in the third degree, public 83 display of explicit sexual material, statutory rape in the second degree, and no physical force or 84 threat of physical force was used in the commission of the crime, may file a petition in the civil 85 division of the circuit court in the county in which the offender was convicted or found guilty 86 of or pled guilty or nolo contendere to the offense or offenses for the removal of his or her name 87 from the sexual offender registry after ten years have passed from the date he or she was required 88 to register.

89 8. Effective August 28, 2006, any person on the sexual offender registry for having been
90 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included
91 under subsection 1 of this section may file a petition after two years have passed from the date

the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense, **the offender was not more than four years older than the victim,** and no physical force or threat of physical force was used in the commission of the offense.

99 9. (1) The court may grant such relief under subsection 7 or 8 of this section if such 100 person demonstrates to the court that he or she has complied with the provisions of this section 101 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit 102 court in which the petition is filed must be given notice, by the person seeking removal from the 103 registry, of the petition to present evidence in opposition to the requested relief or may otherwise 104 demonstrate the reasons why the petition should be denied. Failure of the person seeking 105 removal from the registry to notify the prosecuting attorney of the petition shall result in an 106 automatic denial of such person's petition. If the prosecuting attorney is notified of the petition 107 he or she shall make reasonable efforts to notify the victim of the crime for which the person was 108 required to register of the petition and the dates and times of any hearings or other proceedings 109 in connection with that petition.

110 (2) If the petition is denied, such person shall wait at least twelve months before 111 petitioning the court again. If the court finds that the petitioner is entitled to relief, which 112 removes such person's name from the registry, a certified copy of the written findings or order 113 shall be forwarded by the court to the chief law enforcement official having jurisdiction over the 114 offender and to the Missouri state highway patrol in order to have such person's name removed 115 from the registry.

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

122 11. Any person whose name is removed from the sexual offender registry under 123 subsection 7 or 8 of this section shall no longer be required to fulfill the registration requirements 124 of sections 589.400 to 589.425, unless such person is required to register for committing another 125 offense after being removed from the registry.

589.403. Any person to whom subsection 1 of section 589.400 applies who is paroled,2 discharged, or otherwise released from any correctional facility of the department of corrections

3 or any mental health institution where such person was confined shall be informed by the official 4 in charge of such correctional facility or mental health institution of the person's possible duty to register pursuant to sections 589.400 to 589.425. If such person is required to register 5 pursuant to sections 589.400 to 589.425, the official in charge of the correctional facility or the 6 mental health institution shall obtain the address where the person expects to reside upon 7 discharge, parole or release, and shall report within three business days such address to the 8 9 chief law enforcement official of the county or city not within a county where the person expects 10 to reside upon discharge, parole or release.

589.405. Any person to whom subsection 1 of section 589.400 applies who is released on probation, discharged upon payment of a fine, or released after confinement in a county jail 2 shall, prior to such release or discharge, be informed of the possible duty to register pursuant to 3 4 sections 589.400 to 589.425 by the court having jurisdiction over the case. If such person is required to register pursuant to sections 589.400 to 589.425, the court shall obtain the address 5 where the person expects to reside upon discharge, parole or release and shall report within 6 three business days such address to the chief law enforcement official of the county or city not 7 within a county where the person expects to reside, or where the offender is an employee, or 8 9 where the offender is a student upon discharge, parole or release. For initial registration purposes only, the offender shall also register in the jurisdiction in which adjudicated if 10 11 such jurisdiction is different from the jurisdiction of residence.

589.407. 1. Any registration pursuant to sections 589.400 to 589.425 shall consist of
completion of an offender registration form developed by the Missouri state highway patrol.
Such form shall include, but is not limited to the following:

4 (1) A statement in writing signed by the person, giving the name, address, Social Security number and phone number of the person, the license plate number and vehicle 5 description, including the year, make, model, and color of each vehicle owned or operated by the 6 offender, the place of employment of such person, enrollment within any institutions of higher 7 education, the crime which requires registration, whether the person was sentenced as a 8 persistent or predatory offender pursuant to section 558.018, RSMo, the date, place, and a brief 9 10 description of such crime, the date and place of the conviction or plea regarding such crime, the 11 age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to section 589.040, if applicable; [and] 12 (2) The fingerprints, palm prints, and a photograph of the person;

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#### (3) A DNA sample, if a sample has not already been obtained.

2. The offender shall provide positive identification and documentation to substantiate
the accuracy of the information completed on the offender registration form, including but not
limited to the following:

18 (1) A photocopy of a valid driver's license or nondriver's identification card;

- 19 (2) A document verifying proof of the offender's residency; and
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(3) A photocopy of the vehicle registration for each of the offender's vehicles.

589.414. 1. [If] Any person required by sections 589.400 to 589.425 to register [changes residence or address within the same county or city not within a county as such person's previous 2 3 address, the person shall inform the chief law enforcement official in writing within ten days of 4 such new address and phone number, if the phone number is also changed.] shall not later than 5 three business days after each change of name, residence within the county or city not within a county where the offender is registered, employment, or student status, appear in 6 7 person to at least one chief law enforcement official of the county or city not within a county involved and inform that official of all changes in the information required for that 8 9 offender. That chief law enforcement official shall immediately provide that information to all other counties or city not within a county in which the offender is required to register 10 and shall forward within three business days the registrant changes to the Missouri state 11 12 highway patrol.

13 2. If any person required by sections 589.400 to 589.425 to register changes such person's residence or address to a different county or city not within a county, the person shall 14 15 appear in person and shall inform both the chief law enforcement official with whom the person last registered and the chief law enforcement official of the county or city not within a county 16 having jurisdiction over the new residence or address in writing within [ten] three business days 17 18 of such new address and phone number, if the phone number is also changed. If any person required by sections 589.400 to 589.425 to register changes their state of residence, the person 19 20 shall appear in person and shall inform both the chief law enforcement official with whom the 21 person was last registered and the chief law enforcement official of the area in the new state 22 having jurisdiction over the new residence or address within [ten] three business days of such 23 new address. Whenever a registrant changes residence, the chief law enforcement official of the 24 county or city not within a county where the person was previously registered shall [promptly] 25 within three business days inform the Missouri state highway patrol of the change. When the 26 registrant is changing the residence to a new state, the Missouri state highway patrol shall [promptly] within three business days inform the responsible official in the new state of 27 28 residence.

3. [Any person required by sections 589.400 to 589.425 to register who changes his or
her enrollment or employment status with any institution of higher education within this state,
by either beginning or ending such enrollment or employment, shall inform the chief law
enforcement officer of such change within seven days after such change is made.

4. Any person required by sections 589.400 to 589.425 to register who officially changes
such person's name shall inform the chief law enforcement officer of such name change within
seven days after such change is made.

5.] In addition to the requirements of subsections 1 and 2 of this section, the following offenders shall report in person to the chief law enforcement agency every ninety days to verify the information contained in their statement made pursuant to section 589.407:

39 (1) Any offender registered as a predatory or persistent sexual offender under the40 definitions found in section 558.018, RSMo;

41 (2) Any offender who is registered for a crime where the victim was less than eighteen42 years of age at the time of the offense; and

43 (3) Any offender who has pled guilty or been found guilty pursuant to section 589.42544 of failing to register or submitting false information when registering.

45 [6.] 4. In addition to the requirements of subsections 1 and 2 of this section, all registrants shall report semiannually in person in the month of their birth and six months 46 47 thereafter to the chief law enforcement agency to verify the information contained in their statement made pursuant to section 589.407. All registrants shall [provide an updated 48 49 photograph] allow the chief law enforcement official to take a current photograph of [himself or herself] the offender in the month of his or her birth to the chief law enforcement 50 51 agency. [The photograph must depict a clear likeness of the registrant or the registrant shall be in violation of this section. 52

53 7.] **5.** In addition to the requirements of subsections 1 and 2 of this section, all Missouri 54 registrants who work or attend school or training on a full-time or part-time basis in any other 55 state shall be required to report in person to the chief law enforcement officer in the area of the 56 state where they work or attend school or training and register in that state. "Part-time" in this 57 subsection means for more than fourteen days in any twelve-month period.

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