

SECOND REGULAR SESSION

HOUSE BILL NO. 2095

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES COX (Sponsor), ONDER, WOOD, ERVIN, BIVINS, NIEVES,
SATER AND FUNDERBURK (Co-sponsors).

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D. ADAM CRUMBLISS, Chief Clerk

4925L.01I

AN ACT

To repeal sections 566.083 and 589.400, RSMo, and to enact in lieu thereof three new sections relating to sexual misconduct involving a child, with penalty provisions.

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

Section A. Sections 566.083 and 589.400, RSMo, are repealed and three new sections
2 enacted in lieu thereof, to be known as sections 566.083, 566.084, and 589.400, to read as
3 follows:

566.083. 1. A person commits the crime of sexual misconduct involving a child **in the**
2 **first degree** if the person:

3 (1) Knowingly exposes his or her genitals to a child less than fourteen years of age under
4 circumstances in which he or she knows that his or her conduct is likely to cause affront or alarm
5 to the child;

6 (2) Knowingly exposes his or her genitals to a child less than fourteen years of age for
7 the purpose of arousing or gratifying the sexual desire of any person, including the child; or

8 (3) Knowingly coerces or induces a child less than fourteen years of age to expose the
9 child's genitals for the purpose of arousing or gratifying the sexual desire of any person,
10 including the child.

11 2. The provisions of this section shall apply regardless of whether the person violates the
12 section in person or via the Internet or other electronic means.

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.

13 3. It is not an affirmative defense to prosecution for a violation of this section that the
14 other person was a peace officer masquerading as a minor.

15 4. Sexual misconduct involving a child **in the first degree** is a class D felony unless the
16 actor has previously pleaded guilty to or been found guilty of an offense pursuant to this chapter
17 or the actor has previously pleaded guilty to or has been convicted of an offense against the laws
18 of another state or jurisdiction which would constitute an offense under this chapter, in which
19 case it is a class C felony.

**566.084. 1. A person commits the infraction of sexual misconduct involving a child
2 in the second degree if, while being under the age of eighteen, the person:**

3 **(1) Has sexual intercourse with another child who is at least fourteen years of age
4 but less than eighteen years of age and there is twenty-four-month difference in age, or less,
5 between the parties;**

6 **(2) Has deviate sexual intercourse with another child who is at least fourteen years
7 of age but less than eighteen years of age and there is twenty-four-month difference in age,
8 or less, between the parties;**

9 **(3) Knowingly exposes his or her genitals to another child who is at least fourteen
10 years of age but less than eighteen years of age and there is twenty-four-month difference
11 in age, or less, between the parties, under circumstances in which he or she knows that his
12 or her conduct is likely to cause an affront or alarm to the other child;**

13 **(4) Knowingly exposes his or her genitals to another child who is at least fourteen
14 years of age but less than eighteen years of age and there is twenty-four-month difference
15 in age, or less, between the parties, for the purpose of arousing or gratifying the sexual
16 desires of any person, including the other child;**

17 **(5) Knowingly coerces or induces another child who is at least fourteen years of age
18 but less than eighteen years of age and there is twenty-four-month difference in age, or less,
19 between the parties, to expose that child's genitals for the purpose of arousing or gratifying
20 the sexual desire of any person, including the child.**

21 **2. Sexual misconduct involving a child in the second degree is an infraction
22 punishable by a fine in an amount not to exceed two hundred dollars.**

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

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found
3 guilty of, or pled guilty or nolo contendere to committing, or attempting to commit, a felony
4 offense of chapter 566, RSMo, including sexual trafficking of a child and sexual trafficking of
5 a child under the age of twelve, or any offense of chapter 566, RSMo, where the victim is a
6 minor **except sexual misconduct involving a child in the second degree under section
7 566.084, RSMo;** or

8 (2) 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, or attempting to commit one or more
10 of the following offenses: kidnapping when the victim was a child and the defendant was not a
11 parent or guardian of the child; felonious restraint when the victim was a child and the defendant
12 is not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a
13 nursing home, under section 565.200, RSMo; endangering the welfare of a child under section
14 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child,
15 under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution
16 in the second degree; promoting prostitution in the third degree; sexual exploitation of a minor;
17 promoting child pornography in the first degree; promoting child pornography in the second
18 degree; possession of child pornography; furnishing pornographic material to minors; public
19 display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity
20 in the first degree; promoting pornography for minors or obscenity in the second degree; incest;
21 use of a child in a sexual performance; or promoting sexual performance by a child; and
22 committed or attempted to commit the offense against a victim who is a minor, defined for the
23 purposes of sections 589.400 to 589.425 as a person under eighteen years of age; 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 person who is a resident of this state who has, since July 1, 1979, or is hereafter
29 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, foreign
30 country, or under federal or military jurisdiction to committing, or attempting to commit, an
31 offense which, if committed in this state, would be a violation of chapter 566, RSMo, **except**
32 **sexual misconduct involving a child in the second degree under section 566.084, RSMo**, or
33 a felony violation of any offense listed in subdivision (2) of this subsection or has been or is
34 required to register in another state or has been or is required to register under federal or military
35 law; or

36 (6) Any person who has been or is required to register in another state or has been or is
37 required to register under federal or military law and who works or attends school or training on
38 a full-time or on a part-time basis or has a temporary residence in Missouri. "Part-time" in this
39 subdivision means for more than fourteen days in any twelve-month period.

40 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten days of
41 conviction, release from incarceration, or placement upon probation, register with the chief law
42 enforcement official of the county or city not within a county in which such person resides unless
43 such person has already registered in that county for the same offense. Any person to whom

44 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall
45 register with the chief law enforcement official of such county or city not within a county within
46 ten days of August 28, 2003. The chief law enforcement official shall forward a copy of the
47 registration form required by section 589.407 to a city, town, village, or campus law enforcement
48 agency located within the county of the chief law enforcement official, if so requested. Such
49 request may ask the chief law enforcement official to forward copies of all registration forms
50 filed with such official. The chief law enforcement official may forward a copy of such
51 registration form to any city, town, village, or campus law enforcement agency, if so requested.

52 3. The registration requirements of sections 589.400 through 589.425 are lifetime
53 registration requirements unless:

- 54 (1) All offenses requiring registration are reversed, vacated or set aside;
- 55 (2) The registrant is pardoned of the offenses requiring registration;
- 56 (3) The registrant is no longer required to register and his or her name shall be removed
57 from the registry under the provisions of subsection 6 of this section; or
- 58 (4) The registrant may petition the court for removal from the registry under subsection
59 7 or 8 of this section and the court orders the removal of such person from the registry.

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

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

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

74 7. Effective August 28, 2006, any person currently on the sexual offender registry for
75 having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to
76 promoting prostitution in the second degree, promoting prostitution in the third degree, public
77 display of explicit sexual material, statutory rape in the second degree, and no physical force or
78 threat of physical force was used in the commission of the crime, may file a petition in the civil
79 division of the circuit court in the county in which the offender was convicted or found guilty

80 of or pled guilty or nolo contendere to the offense or offenses for the removal of his or her name
81 from the sexual offender registry after ten years have passed from the date he or she was required
82 to register.

83 8. Effective August 28, 2006, any person on the sexual offender registry for having been
84 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included
85 under subsection 1 of this section may file a petition after two years have passed from the date
86 the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or
87 offenses in the civil division of the circuit court in the county in which the offender was
88 convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for
89 removal of his or her name from the registry if such person was nineteen years of age or younger
90 and the victim was thirteen years of age or older at the time of the offense and no physical force
91 or threat of physical force was used in the commission of the offense.

92 9. (1) The court may grant such relief under subsection 7 or 8 of this section if such
93 person demonstrates to the court that he or she has complied with the provisions of this section
94 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit
95 court in which the petition is filed must be given notice, by the person seeking removal from the
96 registry, of the petition to present evidence in opposition to the requested relief or may otherwise
97 demonstrate the reasons why the petition should be denied. Failure of the person seeking
98 removal from the registry to notify the prosecuting attorney of the petition shall result in an
99 automatic denial of such person's petition. If the prosecuting attorney is notified of the petition
100 he or she shall make reasonable efforts to notify the victim of the crime for which the person was
101 required to register of the petition and the dates and times of any hearings or other proceedings
102 in connection with that petition.

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

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

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

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