

SECOND REGULAR SESSION

HOUSE BILL NO. 1726

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE JONES (117).

3171L.01I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 589.400 and 589.425, RSMo, and to enact in lieu thereof two new sections relating to failing to register as a sex offender, with penalty provisions.

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

Section A. Sections 589.400 and 589.425, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 589.400 and 589.425, to read as follows: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, 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, 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 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, RSMo, when such abuse is sexual in nature; felonious restraint 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, under section 565.200, RSMo; endangering the welfare of a child under section 568.045, RSMo, when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065, RSMo; promoting prostitution in the first degree; promoting prostitution in the second degree; promoting prostitution in the third degree; sexual

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 exploitation of a minor; promoting child pornography in the first degree; promoting child
19 pornography in the second degree; possession of child pornography; furnishing pornographic
20 material to minors; public display of explicit sexual material; coercing acceptance of obscene
21 material; promoting obscenity in the first degree; promoting pornography for minors or obscenity
22 in the second degree; incest; use of a child in a sexual performance; or promoting sexual
23 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, RSMo,
31 which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241,
32 which shall include any attempt or conspiracy to commit such offense; **or**

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 **or**

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

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

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

54 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall
55 register with the chief law enforcement official of such county or city not within a county within
56 three days. The chief law enforcement official shall forward a copy of the registration form
57 required by section 589.407 to a city, town, village, or campus law enforcement agency located
58 within the county of the chief law enforcement official, if so requested. Such request may ask
59 the chief law enforcement official to forward copies of all registration forms filed with such
60 official. The chief law enforcement official may forward a copy of such registration form to any
61 city, town, village, or campus law enforcement agency, if so requested.

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

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

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

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

78 6. Any person currently on the sexual offender registry for being convicted of, found
79 guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or
80 conspiring to commit, felonious restraint when the victim was a child and he or she was the
81 parent or guardian of the child, nonsexual child abuse that was committed under section 568.060,
82 RSMo, or kidnapping when the victim was a child and he or she was the parent or guardian of
83 the child shall be removed from the registry. However, such person shall remain on the sexual
84 offender registry for any other offense for which he or she is required to register under sections
85 589.400 to 589.425.

86 7. Any person currently on the sexual offender registry for having been convicted of,
87 found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to
88 commit, or conspiring to commit promoting prostitution in the second degree, promoting
89 prostitution in the third degree, public display of explicit sexual material, statutory rape in the

90 second degree, and no physical force or threat of physical force was used in the commission of
91 the crime may file a petition in the civil division of the circuit court in the county in which the
92 offender was convicted or found guilty of or pled guilty or nolo contendere to committing,
93 attempting to commit, or conspiring to commit the offense or offenses for the removal of his or
94 her name from the sexual offender registry after ten years have passed from the date he or she
95 was required to register.

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

111 9. (1) The court may grant such relief under subsection 7 or 8 of this section if such
112 person demonstrates to the court that he or she has complied with the provisions of this section
113 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit
114 court in which the petition is filed must be given notice, by the person seeking removal or
115 exemption from the registry, of the petition to present evidence in opposition to the requested
116 relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of
117 the person seeking removal or exemption from the registry to notify the prosecuting attorney of
118 the petition shall result in an automatic denial of such person's petition. If the prosecuting
119 attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of
120 the crime for which the person was required to register of the petition and the dates and times
121 of any hearings or other proceedings in connection with that petition.

122 (2) If the petition is denied, such person shall wait at least twelve months before
123 petitioning the court again. If the court finds that the petitioner is entitled to relief, which
124 removes or exempts such person's name from the registry, a certified copy of the written findings
125 or order shall be forwarded by the court to the chief law enforcement official having jurisdiction

126 over the offender and to the Missouri state highway patrol in order to have such person's name
127 removed or exempted from the registry.

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

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

589.425. 1. A person commits the crime of failing to register as a sex offender when the
2 person is required to register under sections 589.400 to 589.425 and fails to comply with any
3 requirement of sections 589.400 to 589.425. Failing to register as a sex offender is a class D
4 felony unless the person is required to register based on having committed an offense in chapter
5 566, RSMo, which was an unclassified felony, a class A or B felony, or a felony involving a
6 child under the age of fourteen, in which case it is a class C felony.

7 2. A person commits the crime of failing to register as a sex offender as a second offense
8 by failing to comply with any requirement of sections 589.400 to 589.425 and he or she has
9 previously pled guilty to or has previously been found guilty of failing to register as a sex
10 offender. Failing to register as a sex offender as a second offense is a class D felony unless the
11 person is required to register based on having committed an offense in chapter 566, RSMo, or
12 an offense in any other state or foreign country, or under federal, tribal, or military jurisdiction,
13 which if committed in this state would be an offense under chapter 566, RSMo, which was an
14 unclassified felony, a class A or B felony, or a felony involving a child under the age of fourteen,
15 in which case it is a class C felony.

16 3. (1) A person commits the crime of failing to register as a sex offender as a third
17 offense by failing to meet the requirements of sections 589.400 to 589.425 and he or she has, on
18 two or more occasions, previously pled guilty to or has previously been found guilty of failing
19 to register as a sex offender. Failing to register as a sex offender as a third offense is a felony
20 which shall be punished by a term of imprisonment of not less than ten years and not more than
21 thirty years.

22 (2) No court may suspend the imposition or execution of sentence of a person who
23 pleads guilty to or is found guilty of failing to register as a sex offender as a third offense. No
24 court may sentence such person to pay a fine in lieu of a term of imprisonment.

25 (3) A person sentenced under this subsection shall not be eligible for conditional release
26 or parole until he or she has served at least two years of imprisonment.

27 (4) Upon release, an offender who has committed failing to register as a sex offender as
28 a third offense shall be electronically monitored as a mandatory condition of supervision.
29 Electronic monitoring may be based on a global positioning system or any other technology
30 which identifies and records the offender's location at all times.

31 **4. A person who has pled guilty to or been found guilty of violating any of the**
32 **provisions of this section may be charged a reimbursement fee for their search or**
33 **apprehension of up to five hundred dollars by the county sheriff for failure to register as**
34 **a sex offender under sections 589.400 to 589.425. Any fees collected under this subsection**
35 **shall only be allocated to the county sheriff for reimbursement of expenses and personnel**
36 **costs of the search or apprehension of the noncompliant sex offender.**

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