

SECOND REGULAR SESSION

# HOUSE BILL NO. 1765

102ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE HICKS.

3358H.011

DANA RADEMAN MILLER, Chief Clerk

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## AN ACT

To repeal sections 589.401 and 589.414, RSMo, and to enact in lieu thereof two new sections relating to the sexual offender registry.

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

Section A. Sections 589.401 and 589.414, RSMo, are repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 589.401 and 589.414, to read as follows:

589.401. 1. A person on the sexual offender registry may file a petition in the  
2 division of the circuit court in the county or city not within a county in which the offense  
3 requiring registration was committed to have his or her name removed from the sexual  
4 offender registry.

5 2. A person who is required to register in this state because of an offense that was  
6 adjudicated in another jurisdiction shall file his or her petition for removal according to the  
7 laws of the state, territory, tribal, or military jurisdiction, the District of Columbia, or foreign  
8 country in which his or her offense was adjudicated. Upon the grant of the petition for  
9 removal in the jurisdiction where the offense was adjudicated, such judgment may be  
10 registered in this state by sending the information required under subsection 5 of this section  
11 as well as one authenticated copy of the order granting removal from the sexual offender  
12 registry in the jurisdiction where the offense was adjudicated to the court in the county or city  
13 not within a county in which the offender is required to register. On receipt of a request for  
14 registration removal, the registering court shall cause the order to be filed as a foreign  
15 judgment, together with one copy of the documents and information, regardless of their form.  
16 The petitioner shall be responsible for costs associated with filing the petition.

17 3. A person required to register:

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           **(1) As a tier III offender;**  
19           **(2) Under subdivision (7) of subsection 1 of section 589.400; or**  
20           **(3) As a result of an offense that is sexual in nature committed against a minor or**  
21 **against an incapacitated person as defined under section 475.010**

22

23 shall not file a petition under this section unless the requirement to register results from a  
24 juvenile adjudication.

25           4. The petition shall be dismissed without prejudice if the following time periods  
26 have not elapsed since the date the person was required to register for his or her most recent  
27 offense under sections 589.400 to 589.425:

28           (1) For a tier I offense, ten years;

29           (2) For a tier II offense, twenty-five years; or

30           (3) For a tier III offense adjudicated delinquent, twenty-five years.

31           5. The petition shall be dismissed without prejudice if it fails to include any of the  
32 following:

33           (1) The petitioner's:

34           (a) Full name, including any alias used by the individual;

35           (b) Sex;

36           (c) Race;

37           (d) Date of birth;

38           (e) Last four digits of the Social Security number;

39           (f) Address; and

40           (g) Place of employment, school, or volunteer status;

41           (2) The offense and tier of the offense that required the petitioner to register;

42           (3) The date the petitioner was adjudicated for the offense;

43           (4) The date the petitioner was required to register;

44           (5) The case number and court, including the county or city not within a county, that  
45 entered the original order for the adjudicated sex offense;

46           (6) Petitioner's fingerprints on an applicant fingerprint card;

47           (7) If the petitioner was pardoned or an offense requiring registration was reversed,  
48 vacated, or set aside, an authenticated copy of the order; and

49           (8) If the petitioner is currently registered under applicable law and has not been  
50 adjudicated for failure to register in any jurisdiction and does not have any charges pending  
51 for failure to register.

52           6. The petition shall name as respondents the Missouri state highway patrol and the  
53 chief law enforcement official in the county or city not within a county in which the petition  
54 is filed.

55           7. All proceedings under this section shall be governed under the Missouri supreme  
56 court rules of civil procedure.

57           8. The person seeking removal or exemption from the registry shall provide the  
58 prosecuting attorney in the circuit court in which the petition is filed with notice of the  
59 petition. The prosecuting attorney may present evidence in opposition to the requested relief  
60 or may otherwise demonstrate the reasons why the petition should be denied. Failure of the  
61 person seeking removal or exemption from the registry to notify the prosecuting attorney of  
62 the petition shall result in an automatic denial of such person's petition.

63           9. The prosecuting attorney in the circuit court in which the petition is filed shall have  
64 access to all applicable records concerning the petitioner including, but not limited to,  
65 criminal history records, mental health records, juvenile records, and records of the  
66 department of corrections or probation and parole.

67           10. The prosecuting attorney shall make reasonable efforts to notify the victim of the  
68 crime for which the person was required to register of the petition and the dates and times of  
69 any hearings or other proceedings in connection with such petition.

70           11. The court shall not enter an order directing the removal of the petitioner's name  
71 from the sexual offender registry unless it finds the petitioner:

72           (1) Has not been adjudicated or does not have charges pending for any additional  
73 nonsexual offense for which imprisonment for more than one year may be imposed since the  
74 date the offender was required to register for his or her current tier level;

75           (2) Has not been adjudicated or does not have charges pending for any additional sex  
76 offense that would require registration under sections 589.400 to 589.425 since the date the  
77 offender was required to register for his or her current tier level, even if the offense was  
78 punishable by less than one year imprisonment;

79           (3) Has successfully completed any required periods of supervised release, probation,  
80 or parole without revocation since the date the offender was required to register for his or her  
81 current tier level;

82           (4) Has successfully completed an appropriate sex offender treatment program as  
83 approved by a court of competent jurisdiction or the Missouri department of corrections; and

84           (5) Is not a current or potential threat to public safety.

85           12. In order to meet the criteria required by subdivisions (1) and (2) of subsection 11  
86 of this section, the fingerprints filed in the case shall be examined by the Missouri state  
87 highway patrol. The petitioner shall be responsible for all costs associated with the  
88 fingerprint-based criminal history check of both state and federal files under section 43.530.

89           13. If the petition is denied due to an adjudication in violation of subdivision (1) or  
90 (2) of subsection 11 of this section, the petitioner shall not file a new petition under this  
91 section until:

92 (1) Fifteen years have passed from the date of the adjudication resulting in the denial  
93 of relief if the petitioner is classified as a tier I offender;

94 (2) Twenty-five years have passed from the date of adjudication resulting in the  
95 denial of relief if the petitioner is classified as a tier II offender; or

96 (3) Twenty-five years have passed from the date of the adjudication resulting in the  
97 denial of relief if the petitioner is classified as a tier III offender on the basis of a juvenile  
98 adjudication.

99 14. If the petition is denied due to the petitioner having charges pending in violation  
100 of subdivision (1) or (2) of subsection 11 of this section, the petitioner shall not file a new  
101 petition under this section until:

102 (1) The pending charges resulting in the denial of relief have been finally disposed of  
103 in a manner other than adjudication; or

104 (2) If the pending charges result in an adjudication, the necessary time period has  
105 elapsed under subsection 13 of this section.

106 15. If the petition is denied for reasons other than those outlined in subsection 11 of  
107 this section, no successive petition requesting such relief shall be filed for at least five years  
108 from the date the judgment denying relief is entered.

109 16. If the court finds the petitioner is entitled to have his or her name removed from  
110 the sexual offender registry, the court shall enter judgment directing the removal of the name.  
111 A copy of the judgment shall be provided to the respondents named in the petition.

112 17. Any person subject to the judgment requiring his or her name to be removed from  
113 the sexual offender registry is not required to register under sections 589.400 to 589.425  
114 unless such person is required to register for an offense that was different from that listed on  
115 the judgment of removal.

116 18. The court shall not deny the petition unless the petition failed to comply with the  
117 provisions of sections 589.400 to 589.425 or the prosecuting attorney provided evidence  
118 demonstrating the petition should be denied.

589.414. 1. Any person required by sections 589.400 to 589.425 to register shall,  
2 within three business days, appear in person to the chief law enforcement officer of the  
3 county or city not within a county if there is a change to any of the following information:

4 (1) Name;

5 (2) Residence;

6 (3) Employment, including status as a volunteer or intern;

7 (4) Student status; or

8 (5) A termination to any of the items listed in this subsection.

9           2. Any person required to register under sections 589.400 to 589.425 shall, within  
10 three business days, notify the chief law enforcement official of the county or city not within  
11 a county of any changes to the following information:

12           (1) Vehicle information;

13           (2) Temporary lodging information;

14           (3) Temporary residence information;

15           (4) Email addresses, instant messaging addresses, and any other designations used in  
16 internet communications, postings, or telephone communications; or

17           (5) Telephone or other cellular number, including any new forms of electronic  
18 communication.

19           3. The chief law enforcement official in the county or city not within a county shall  
20 immediately forward the registration changes described under subsections 1 and 2 of this  
21 section to the Missouri state highway patrol within three business days.

22           4. If any person required by sections 589.400 to 589.425 to register changes such  
23 person's residence or address to a different county or city not within a county, the person shall  
24 appear in person and shall inform both the chief law enforcement official with whom the  
25 person last registered and the chief law enforcement official of the county or city not within a  
26 county having jurisdiction over the new residence or address in writing within three business  
27 days of such new address and phone number, if the phone number is also changed. If any  
28 person required by sections 589.400 to 589.425 to register changes his or her state, territory,  
29 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction of  
30 residence, the person shall appear in person and shall inform both the chief law enforcement  
31 official with whom the person was last registered and the chief law enforcement official of the  
32 area in the new state, territory, the District of Columbia, or foreign country, or federal, tribal,  
33 or military jurisdiction having jurisdiction over the new residence or address within three  
34 business days of such new address. Whenever a registrant changes residence, the chief law  
35 enforcement official of the county or city not within a county where the person was  
36 previously registered shall inform the Missouri state highway patrol of the change within  
37 three business days. When the registrant is changing the residence to a new state, territory,  
38 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction, the  
39 Missouri state highway patrol shall inform the responsible official in the new state, territory,  
40 the District of Columbia, or foreign country, or federal, tribal, or military jurisdiction of  
41 residence within three business days.

42           5. Tier I sexual offenders, in addition to the requirements of subsections 1 to 4 of this  
43 section, shall report in person to the chief law enforcement official annually in the month of  
44 their birth to verify the information contained in their statement made pursuant to section  
45 589.407. Tier I sexual offenders include:

- 46 (1) Any offender who has been adjudicated for the offense of:
- 47 (a) Sexual abuse in the first degree under section 566.100 if the victim is eighteen
- 48 years of age or older;
- 49 (b) ~~[Sexual misconduct involving a child under section 566.083 if it is a first offense~~
- 50 ~~and the punishment is less than one year;~~
- 51 ~~(e)~~ (c) Sexual abuse in the second degree under section 566.101 if the punishment is less
- 52 than a year;
- 53 ~~[(d)]~~ (c) Kidnapping in the second degree under section 565.120 with sexual
- 54 motivation;
- 55 ~~[(e)]~~ (d) Kidnapping in the third degree under section 565.130;
- 56 ~~[(f)]~~ (e) Sexual conduct with a nursing facility resident or vulnerable person in the
- 57 first degree under section 566.115 if the punishment is less than one year;
- 58 ~~[(g)]~~ (f) Sexual conduct under section 566.116 with a nursing facility resident or
- 59 vulnerable person;
- 60 ~~[(h)]~~ (g) Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of public**
- 61 **duty** under section 566.145 if the victim is eighteen years of age or older;
- 62 ~~[(i)]~~ (h) Sex with an animal under section 566.111;
- 63 ~~[(j)]~~ (i) Trafficking for the purpose of sexual exploitation under section 566.209 if the
- 64 victim is eighteen years of age or older;
- 65 ~~[(k)]~~ (j) Possession of child pornography under section 573.037;
- 66 ~~[(l)]~~ (k) Sexual misconduct in the first degree under section 566.093;
- 67 ~~[(m)]~~ (l) Sexual misconduct in the second degree under section 566.095;
- 68 ~~[(n)]~~ ~~Child molestation in the second degree under section 566.068 as it existed prior~~
- 69 ~~to January 1, 2017, if the punishment is less than one year;]~~ or
- 70 ~~[(o)]~~ (m) Invasion of privacy under section 565.252 if the victim is less than eighteen
- 71 years of age;
- 72 (2) Any offender who is or has been adjudicated in any other state, territory, the
- 73 District of Columbia, or foreign country, or under federal, tribal, or military jurisdiction of an
- 74 offense of a sexual nature or with a sexual element that is comparable to the tier I sexual
- 75 offenses listed in this subsection or, if not comparable to those in this subsection, comparable
- 76 to those described as tier I offenses under the Sex Offender Registration and Notification Act,
- 77 Title I of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.
- 78 6. Tier II sexual offenders, in addition to the requirements of subsections 1 to 4 of this
- 79 section, shall report semiannually in person in the month of their birth and six months
- 80 thereafter to the chief law enforcement official to verify the information contained in their
- 81 statement made pursuant to section 589.407. Tier II sexual offenders include:
- 82 (1) Any offender who has been adjudicated for the offense of[:

83 ~~(a) Statutory sodomy in the second degree under section 566.064 if the victim is~~  
84 ~~sixteen to seventeen years of age;~~

85 ~~(b) Child molestation in the third degree under section 566.069 if the victim is~~  
86 ~~between thirteen and fourteen years of age;~~

87 ~~(c) Sexual contact with a student under section 566.086 if the victim is thirteen to~~  
88 ~~seventeen years of age;~~

89 ~~(d) Enticement of a child under section 566.151;~~

90 ~~(e) Abuse of a child under section 568.060 if the offense is of a sexual nature and the~~  
91 ~~victim is thirteen to seventeen years of age;~~

92 ~~(f) Sexual exploitation of a minor under section 573.023;~~

93 ~~(g) Promoting child pornography in the first degree under section 573.025;~~

94 ~~(h) Promoting child pornography in the second degree under section 573.035;~~

95 ~~(i) patronizing prostitution under section 567.030];~~

96 ~~(j) Sexual contact with a prisoner or offender under section 566.145 if the victim is~~  
97 ~~thirteen to seventeen years of age;~~

98 ~~(k) Child molestation in the fourth degree under section 566.071 if the victim is~~  
99 ~~thirteen to seventeen years of age;~~

100 ~~(l) Sexual misconduct involving a child under section 566.083 if it is a first offense~~  
101 ~~and the penalty is a term of imprisonment of more than a year; or~~

102 ~~(m) Age misrepresentation with intent to solicit a minor under section 566.153];~~

103 (2) Any person who is adjudicated of an offense comparable to a tier I offense listed  
104 in this section or failure to register offense under section 589.425 or comparable out-of-state  
105 failure to register offense and who is already required to register as a tier I offender due to  
106 having been adjudicated of a tier I offense on a previous occasion; or

107 (3) Any person who is or has been adjudicated in any other state, territory, the District  
108 of Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense  
109 of a sexual nature or with a sexual element that is comparable to the tier II sexual offenses  
110 listed in this subsection or, if not comparable to those in this subsection, comparable to those  
111 described as tier II offenses under the Sex Offender Registration and Notification Act, Title I  
112 of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248.

113 7. Tier III sexual offenders, in addition to the requirements of subsections 1 to 4 of  
114 this section, shall report in person to the chief law enforcement official every ninety days to  
115 verify the information contained in their statement made under section 589.407. Tier III  
116 sexual offenders include:

117 (1) Any offender registered as a predatory sexual offender [~~as defined in section~~  
118 ~~566.123]~~ or a persistent sexual offender as defined in section [~~566.124]~~ **566.125**;

119 (2) Any offender who has been adjudicated for the crime of:

- 120 (a) Rape in the first degree under section 566.030;
- 121 (b) Statutory rape in the first degree under section 566.032;
- 122 (c) Rape in the second degree under section 566.031;
- 123 (d) Endangering the welfare of a child in the first degree under section 568.045 if the  
124 offense is sexual in nature;
- 125 (e) Sodomy in the first degree under section 566.060;
- 126 (f) Statutory sodomy under section 566.062;
- 127 (g) Statutory sodomy under section 566.064 if the victim is under sixteen years of  
128 age;
- 129 (h) Sodomy in the second degree under section 566.061;
- 130 (i) Sexual misconduct involving a child under section 566.083 ~~if the offense is a~~  
131 ~~second or subsequent offense~~];
- 132 (j) Sexual abuse in the first degree under section 566.100 if the victim is under  
133 thirteen years of age;
- 134 (k) **Age misrepresentation with intent to solicit a minor under section 566.153;**
- 135 **(l) Enticement of a child under section 566.151;**
- 136 **(m)** Kidnapping in the first degree under section 565.110 if the victim is under  
137 eighteen years of age, excluding kidnapping by a parent or guardian;
- 138 ~~(n)~~ **(n)** Child kidnapping under section 565.115 **with sexual motivation;**
- 139 ~~(o)~~ **(o)** Sexual conduct with a nursing facility resident or vulnerable person in the  
140 first degree under section 566.115 if the punishment is greater than a year;
- 141 ~~(p)~~ **(p)** Incest under section 568.020;
- 142 ~~(q)~~ **(q)** Endangering the welfare of a child in the first degree under section 568.045  
143 with sexual intercourse or deviate sexual intercourse with a victim under eighteen years of  
144 age;
- 145 ~~(r)~~ **(r)** Child molestation in the first degree under section 566.067;
- 146 ~~(s)~~ **(s)** Child molestation in the second degree under section 566.068 **or child**  
147 **molestation in the second degree under section 566.068 as it existed prior to January 1,**  
148 **2017, if the punishment is less than one year;**
- 149 ~~(t)~~ **(t)** Child molestation in the third degree under section 566.069 if the victim is  
150 under ~~thirteen~~ **fourteen** years of age;
- 151 ~~(u)~~ **(u)** Promoting prostitution in the first degree under section 567.050 if the victim  
152 is under eighteen years of age;
- 153 ~~(v)~~ **(v)** Promoting prostitution in the second degree under section 567.060 if the  
154 victim is under eighteen years of age;
- 155 ~~(w)~~ **(w)** Promoting prostitution in the third degree under section 567.070 if the  
156 victim is under eighteen years of age;



157           ~~[(v)]~~ **(x)** Promoting travel for prostitution under section 567.085 if the victim is under  
158 eighteen years of age;

159           ~~[(w)]~~ **(y)** Trafficking for the purpose of sexual exploitation under section 566.209 if  
160 the victim is under eighteen years of age;

161           ~~[(x)]~~ **(z)** Sexual trafficking of a child in the first degree under section 566.210;

162           ~~[(y)]~~ **(aa)** Sexual trafficking of a child in the second degree under section 566.211;

163           ~~[(z)]~~ **(bb)** Genital mutilation of a female child under section 568.065;

164           ~~[(aa)]~~ **(cc)** Statutory rape in the second degree under section 566.034;

165           ~~[(bb)]~~ **(dd)** Child molestation in the fourth degree under section 566.071 if the victim  
166 is under ~~[thirteen]~~ **seventeen** years of age;

167           ~~[(ee)]~~ **(ee)** Sexual abuse in the second degree under section 566.101 if the penalty is a  
168 term of imprisonment of more than a year;

169           ~~[(dd)]~~ **(ff)** Patronizing prostitution under section 567.030 if the offender is a persistent  
170 offender **or if the victim is under eighteen years of age**;

171           ~~[(ee)]~~ **(gg)** Abuse of a child under section 568.060 if the offense is of a sexual nature  
172 and the victim is under ~~[thirteen]~~ **eighteen** years of age;

173           ~~[(ff)]~~ **(hh)** Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of**  
174 **public duty** under section 566.145 if the victim is under ~~[thirteen]~~ **eighteen** years of age;

175           ~~[(gg)]~~ ~~Sexual intercourse with a prisoner or offender under section 566.145;~~

176           ~~[(hh)]~~ **(ii)** Sexual contact with a student under section 566.086 if the victim is under  
177 ~~[thirteen]~~ **eighteen** years of age;

178           **(jj) Sexual exploitation of a minor under section 573.023;**

179           **(kk) Promoting child pornography in the first degree under section 573.025;**

180           **(ll) Promoting child pornography in the second degree under section 573.035;**

181           ~~[(ii)]~~ **(mm)** Use of a child in a sexual performance under section 573.200; or

182           ~~[(jj)]~~ **(nn)** Promoting a sexual performance by a child under section 573.205;

183           (3) Any offender who is adjudicated for a crime comparable to a tier I or tier II  
184 offense listed in this section or failure to register offense under section 589.425, or other  
185 comparable out-of-state failure to register offense, who has been or is already required to  
186 register as a tier II offender because of having been adjudicated for a tier II offense, two tier I  
187 offenses, or combination of a tier I offense and failure to register offense, on a previous  
188 occasion;

189           (4) Any offender who is adjudicated in any other state, territory, the District of  
190 Columbia, or foreign country, or under federal, tribal, or military jurisdiction for an offense of  
191 a sexual nature or with a sexual element that is comparable to a tier III offense listed in this  
192 section or a tier III offense under the Sex Offender Registration and Notification Act, Title I  
193 of the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248; or

194 (5) Any offender who is adjudicated in Missouri for any offense of a sexual nature  
195 requiring registration under sections 589.400 to 589.425 that is not classified as a tier I or tier  
196 II offense in this section.

197 8. In addition to the requirements of subsections 1 to 7 of this section, all Missouri  
198 registrants who work, including as a volunteer or unpaid intern, or attend any school whether  
199 public or private, including any secondary school, trade school, professional school, or  
200 institution of higher education, on a full-time or part-time basis or have a temporary residence  
201 in this state shall be required to report in person to the chief law enforcement officer in the  
202 area of the state where they work, including as a volunteer or unpaid intern, or attend any  
203 school or training and register in that state. "Part-time" in this subsection means for more  
204 than seven days in any twelve-month period.

205 9. If a person who is required to register as a sexual offender under sections 589.400  
206 to 589.425 changes or obtains a new online identifier as defined in section 43.651, the person  
207 shall report such information in the same manner as a change of residence before using such  
208 online identifier.

✓