

FIRST REGULAR SESSION

# HOUSE BILL NO. 1085

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GRAGG.

2292H.011

JOSEPH ENGLER, Chief Clerk

## AN ACT

To repeal section 589.414, RSMo, and to enact in lieu thereof three new sections relating to social transition in schools, with a penalty provision.

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

Section A. Section 589.414, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 167.172, 566.400, and 589.414, to read as follows:

**167.172. 1. As used in this section, the following terms mean:**

(1) "Parent", a parent, legal guardian, or other person having charge, control, or custody of a student;

(2) "Public school", the same definition as in section 160.011;

(3) "Staff member", a teacher, school employee, volunteer, contractor, or other presenter at a public school including, but not limited to, an individual in a position of authority or responsibility such as a counselor or health care worker.

**2. No public school staff member shall engage in the following:**

(1) Covering the topics of sexual orientation or gender identity in any classroom discussion or instruction in a manner that deviates from state content standards or curricula developed or approved by a public school governing authority;

(2) Discussing the topics of sexual orientation or gender identity during any extracurricular academic, athletic, or social activity under the jurisdiction of a public school or a public school governing authority;

(3) Discussing such public school staff member's own sexual orientation or gender identity with a student; or

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.

17           **(4) Displaying information or symbols promoting the topics of sexual orientation**  
18 **or gender identity anywhere on public school grounds including, but not limited to,**  
19 **classrooms, hallways, or public spaces.**

20           **3. If a student confides in any public school staff member regarding the topics of**  
21 **sexual orientation or gender identity, the following procedures shall apply:**

22           **(1) The public school shall contact the student's parent within twenty-four hours**  
23 **of receiving the information;**

24           **(2) The public school staff member shall refrain from engaging further in the**  
25 **situation unless the student's parent initiates a request for assistance; and**

26           **(3) If assistance is requested and provided by a public school staff member, such**  
27 **assistance shall be limited to the staff member's professional training and expertise and**  
28 **shall not extend beyond what is within the staff member's scope of responsibility.**

29           **4. If a public school staff member is approached by a student who confides**  
30 **information regarding sexual orientation or gender identity and the staff member does**  
31 **not comply with the procedures described in subsection 3 of this section, the following**  
32 **actions shall apply:**

33           **(1) For the staff member's first offense, a warning shall be issued to the staff**  
34 **member and the staff member shall be required to comply with the procedures in**  
35 **subsection 3 of this section;**

36           **(2) For the staff member's second offense, a formal written reprimand shall be**  
37 **issued to the staff member and inserted into the staff member's official employment file.**  
38 **The school district shall have the option to terminate the staff member's employment at**  
39 **the public school district's discretion; and**

40           **(3) For the staff member's third offense, the school district shall terminate the**  
41 **staff member's employment and refer the staff member to the appropriate prosecuting**  
42 **attorney or circuit attorney for charges filed under section 566.400 for the offense of**  
43 **contributing to social transition.**

**566.400. 1. As used in this section, the following terms mean:**

2           **(1) "Biological sex", the biological sex as listed on an individual's original birth**  
3 **certificate or a birth certificate amended under section 193.215 for a reason not related**  
4 **to a scrivener's error;**

5           **(2) "Child", a person under eighteen years of age who is enrolled as a student at**  
6 **a public school;**

7           **(3) "Social transition", the process by which a child takes steps to express a**  
8 **gender identity other than the gender associated with the child's biological sex through**  
9 **changes such as adopting a new name, pronouns, appearance, or behavior without**  
10 **involving medical or legal changes;**

11           **(4) "Staff member", a teacher, school employee, volunteer, contractor, or other**  
12 **presenter at a public school including, but not limited to, an individual in a position of**  
13 **authority or responsibility such as a counselor or health care worker;**

14           **(5) "Support", approval, assistance, encouragement, or other similar actions**  
15 **related to a child's social transition including, but not limited to:**

16           **(a) Material support, such as providing physical items or resources including,**  
17 **but not limited to, clothing or tools that help or promote with the social transition;**

18           **(b) Information, such as providing advice, education, or guidance about the**  
19 **social transition process; and**

20           **(c) Other resources, such as any other kind of help or assistance that might aid**  
21 **the child in the social transition including, but not limited to, emotional support or**  
22 **referrals to additional services.**

23           **2. A person commits the offense of contributing to social transition if the person**  
24 **is acting in such person's official capacity as a staff member and the person provides**  
25 **support to a child regarding social transition.**

26           **3. (1) The offense of contributing to social transition is a class E felony.**

27           **(2) A person who is convicted of the offense of contributing to social transition**  
28 **shall register as a sexual offender under sections 589.400 to 589.425.**

          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           (c) Sexual abuse in the second degree under section 566.101 if the punishment is less  
52 than a year;

53           (d) Kidnapping in the second degree under section 565.120 with sexual motivation;

54           (e) Kidnapping in the third degree under section 565.130;

- 55 (f) Sexual conduct with a nursing facility resident or vulnerable person in the first  
56 degree under section 566.115 if the punishment is less than one year;
- 57 (g) Sexual conduct under section 566.116 with a nursing facility resident or  
58 vulnerable person;
- 59 (h) Sexual ~~[contact with a prisoner or offender]~~ **conduct in the course of public duty**  
60 under section 566.145 if the victim is eighteen years of age or older;
- 61 (i) Sex with an animal under section 566.111;
- 62 (j) Trafficking for the purpose of sexual exploitation under section 566.209 if the  
63 victim is eighteen years of age or older;
- 64 (k) Possession of child pornography under section 573.037;
- 65 (l) Sexual misconduct in the first degree under section 566.093;
- 66 (m) Sexual misconduct in the second degree under section 566.095;
- 67 (n) Child molestation in the second degree under section 566.068 as it existed prior to  
68 January 1, 2017, if the punishment is less than one year; ~~[or]~~
- 69 (o) Invasion of privacy under section 565.252 if the victim is less than eighteen years  
70 of age; **or**
- 71 **(p) Contributing to social transition under section 566.400;**
- 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]~~ **conduct in the course of public duty**
- 97 under section 566.145 if the victim is 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) Kidnapping in the first degree under section 565.110 if the victim is under  
135 eighteen years of age, excluding kidnapping by a parent or guardian;
- 136 (l) Child kidnapping under section 565.115;
- 137 (m) Sexual conduct with a nursing facility resident or vulnerable person in the first  
138 degree under section 566.115 if the punishment is greater than a year;
- 139 (n) Incest under section 568.020;
- 140 (o) Endangering the welfare of a child in the first degree under section 568.045 with  
141 sexual intercourse or deviate sexual intercourse with a victim under eighteen years of age;
- 142 (p) Child molestation in the first degree under section 566.067;
- 143 (q) Child molestation in the second degree under section 566.068;
- 144 (r) Child molestation in the third degree under section 566.069 if the victim is under  
145 thirteen years of age;
- 146 (s) Promoting prostitution in the first degree under section 567.050 if the victim is  
147 under eighteen years of age;
- 148 (t) Promoting prostitution in the second degree under section 567.060 if the victim is  
149 under eighteen years of age;
- 150 (u) Promoting prostitution in the third degree under section 567.070 if the victim is  
151 under eighteen years of age;
- 152 (v) Promoting travel for prostitution under section 567.085 if the victim is under  
153 eighteen years of age;
- 154 (w) Trafficking for the purpose of sexual exploitation under section 566.209 if the  
155 victim is under eighteen years of age;
- 156 (x) Sexual trafficking of a child in the first degree under section 566.210;
- 157 (y) Sexual trafficking of a child in the second degree under section 566.211;
- 158 (z) Genital mutilation of a female child under section 568.065;
- 159 (aa) Statutory rape in the second degree under section 566.034;
- 160 (bb) Child molestation in the fourth degree under section 566.071 if the victim is  
161 under thirteen years of age;
- 162 (cc) Sexual abuse in the second degree under section 566.101 if the penalty is a term  
163 of imprisonment of more than a year;
- 164 (dd) Patronizing prostitution under section 567.030 if the offender is a persistent  
165 offender;

166 (ee) Abuse of a child under section 568.060 if the offense is of a sexual nature and the  
167 victim is under thirteen years of age;

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

170 (gg) ~~[Sexual intercourse with a prisoner or offender under section 566.145;~~  
171 ~~(hh)]~~ Sexual contact with a student under section 566.086 if the victim is under  
172 thirteen years of age;

173 ~~[(ii)]~~ **(hh)** Use of a child in a sexual performance under section 573.200; or  
174 ~~[(jj)]~~ **(ii)** Promoting a sexual performance by a child under section 573.205;

175 (3) Any offender who is adjudicated for a crime comparable to a tier I or tier II  
176 offense listed in this section or failure to register offense under section 589.425, or other  
177 comparable out-of-state failure to register offense, who has been or is already required to  
178 register as a tier II offender because of having been adjudicated for a tier II offense, two tier I  
179 offenses, or combination of a tier I offense and failure to register offense, on a previous  
180 occasion;

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

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

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

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