

SECOND REGULAR SESSION

# HOUSE BILL NO. 1723

## 103RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE COSTLOW.

3936H.011

JOSEPH ENGLER, Chief Clerk

---

### AN ACT

To repeal sections 566.034, 566.068, 566.071, and 589.400, RSMo, and to enact in lieu thereof four new sections relating to the age of consent, with penalty provisions.

---

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

Section A. Sections 566.034, 566.068, 566.071, and 589.400, RSMo, are repealed  
2 and four new sections enacted in lieu thereof, to be known as sections 566.034, 566.068,  
3 566.071, and 589.400, to read as follows:

566.034. 1. A person commits the offense of statutory rape in the second degree if  
2 being twenty-one years of age or older, he or she has sexual intercourse with another person  
3 who is less than ~~[seventeen]~~ **eighteen** years of age.

4 2. The offense of statutory rape in the second degree is a class D felony.

566.068. 1. A person commits the offense of child molestation in the second degree  
2 if he or she:

3 (1) Subjects a child who is less than twelve years of age to sexual contact; or

4 (2) Being more than ~~[four]~~ **three** years older than a child who is less than ~~[seventeen]~~  
5 **eighteen** years of age, subjects the child to sexual contact and the offense is an aggravated  
6 sexual offense.

7 2. The offense of child molestation in the second degree is a class B felony.

566.071. 1. A person commits the offense of child molestation in the fourth degree if,  
2 being more than ~~[four]~~ **three** years older than a child who is less than ~~[seventeen]~~ **eighteen**  
3 years of age, **the person** subjects the child to sexual contact.

4 2. The offense of child molestation in the fourth degree is a class E felony.

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

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.

2 (1) Any person who, since July 1, 1979, has been or is hereafter adjudicated for an  
3 offense referenced in section 589.414, unless such person is exempt from registering under  
4 subsection 9 or 10 of this section or section 589.401;

5 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been  
6 found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or  
7 conspiring to commit one or more of the following offenses: kidnapping or kidnapping in the  
8 first degree when the victim was a child and the defendant was not a parent or guardian of the  
9 child; abuse of a child under section 568.060 when such abuse is sexual in nature; felonious  
10 restraint or kidnapping in the second degree when the victim was a child and the defendant is  
11 not a parent or guardian of the child; sexual contact or sexual intercourse with a resident of a  
12 nursing home or sexual conduct with a nursing facility resident or vulnerable person in the  
13 first or second degree; endangering the welfare of a child under section 568.045 when the  
14 endangerment is sexual in nature; genital mutilation of a female child, under section 568.065;  
15 promoting prostitution in the first degree; promoting prostitution in the second degree;  
16 promoting prostitution in the third degree; sexual exploitation of a minor; promoting child  
17 pornography in the first degree; promoting child pornography in the second degree;  
18 possession of child pornography; furnishing pornographic material to minors; public display  
19 of explicit sexual material; coercing acceptance of obscene material; promoting obscenity in  
20 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;  
22 patronizing prostitution if the individual the person patronizes is less than eighteen years of  
23 age;

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

26 (4) Any person who, since July 1, 1979, has been found not guilty as a result of  
27 mental disease or defect of any offense referenced in section 589.414;

28 (5) Any juvenile certified as an adult and transferred to a court of general jurisdiction  
29 who has been adjudicated for an offense listed under section 589.414;

30 (6) Any juvenile fourteen years of age or older at the time of the offense who has  
31 been adjudicated for an offense which is equal to or more severe than aggravated sexual abuse  
32 under 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such  
33 offense;

34 (7) Any person who is a resident of this state who has, since July 1, 1979, been or is  
35 hereafter adjudicated in any other state, territory, the District of Columbia, or foreign country,  
36 or under federal, tribal, or military jurisdiction for an offense which, if committed in this state,  
37 would constitute an offense listed under section 589.414, or has been or is required to register

38 in another state, territory, the District of Columbia, or foreign country, or has been or is  
39 required to register under tribal, federal, or military law; or

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

47 2. Any person to whom sections 589.400 to 589.425 apply shall, within three business  
48 days of adjudication, release from incarceration, or placement upon probation, register with  
49 the chief law enforcement official of the county or city not within a county in which such  
50 person resides unless such person has already registered in that county for the same offense.  
51 For any juvenile under subdivision (6) of subsection 1 of this section, within three business  
52 days of adjudication or release from commitment to the division of youth services, the  
53 department of mental health, or other placement, such juvenile shall register with the chief  
54 law enforcement official of the county or city not within a county in which he or she resides  
55 unless he or she has already registered in such county or city not within a county for the same  
56 offense. Any person to whom sections 589.400 to 589.425 apply if not currently registered in  
57 their county of residence shall register with the chief law enforcement official of such county  
58 or city not within a county within three business days. The chief law enforcement official  
59 shall forward a copy of the registration form required by section 589.407 to a city, town,  
60 village, or campus law enforcement agency located within the county of the chief law  
61 enforcement official.

62 3. The registration requirements of sections 589.400 through 589.425 shall be as  
63 provided under subsection 4 of this section unless:

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

65 (2) The registrant is no longer required to register and his or her name shall be  
66 removed from the registry under the provisions of section 589.414; or

67 (3) The court orders the removal or exemption of such person from the registry under  
68 section 589.401.

69 4. The registration requirements shall be as follows:

70 (1) Fifteen years if the offender is a tier I sex offender as provided under section  
71 589.414;

72 (2) Twenty-five years if the offender is a tier II sex offender as provided under section  
73 589.414; or

74 (3) The life of the offender if the offender is a tier III sex offender.

75           5. (1) The registration period shall be reduced as described in subdivision (3) of this  
76 subsection for a sex offender who maintains a clean record for the periods described under  
77 subdivision (2) of this subsection by:

78           (a) Not being adjudicated of any offense for which imprisonment for more than one  
79 year may be imposed;

80           (b) Not being adjudicated of any sex offense;

81           (c) Successfully completing any periods of supervised release, probation, or parole;  
82 and

83           (d) Successfully completing an appropriate sex offender treatment program certified  
84 by the attorney general.

85           (2) In the case of a:

86           (a) Tier I sex offender, the period during which the clean record shall be maintained is  
87 ten years;

88           (b) Tier III sex offender adjudicated delinquent for the offense which required  
89 registration in a sex offender registry under sections 589.400 to 589.425, the period during  
90 which the clean record shall be maintained is twenty-five years.

91           (3) In the case of a:

92           (a) Tier I sex offender, the reduction is five years;

93           (b) Tier III sex offender adjudicated delinquent, the reduction is from life to that  
94 period for which the clean record under paragraph (b) of subdivision (2) of this subsection is  
95 maintained.

96           6. For processing an initial sex offender registration the chief law enforcement officer  
97 of the county or city not within a county may charge the offender registering a fee of up to ten  
98 dollars.

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

103           8. Any person currently on the sexual offender registry or who otherwise would be  
104 required to register for being adjudicated for the offense of felonious restraint of a nonsexual  
105 nature when the victim was a child and he or she was the parent or guardian of the child,  
106 nonsexual child abuse that was committed under section 568.060, or kidnapping of a  
107 nonsexual nature when the victim was a child and he or she was the parent or guardian of the  
108 child shall be removed from the registry. However, such person shall remain on the sexual  
109 offender registry for any other offense for which he or she is required to register under  
110 sections 589.400 to 589.425.

111 9. The following persons shall be exempt from registering as a sexual offender upon  
112 petition to the court of jurisdiction under section 589.401; except that, such person shall  
113 remain on the sexual offender registry for any other offense for which he or she is required to  
114 register under sections 589.400 to 589.425:

115 (1) Any person currently on the sexual offender registry or who otherwise would be  
116 required to register for a sexual offense involving:

117 (a) Sexual conduct where no force or threat of force was directed toward the victim or  
118 any other individual involved, if the victim was an adult, unless the adult was under the  
119 custodial authority of the offender at the time of the offense; or

120 (b) Sexual conduct where no force or threat of force was directed toward the victim,  
121 the victim was at least fourteen years of age, and the offender was not more than ~~four~~ **three**  
122 years older than the victim at the time of the offense; or

123 (2) Any person currently required to register for the following sexual offenses:

124 (a) Promoting obscenity in the first degree under section 573.020;

125 (b) Promoting obscenity in the second degree under section 573.030;

126 (c) Furnishing pornographic materials to minors under section 573.040;

127 (d) Public display of explicit sexual material under section 573.060;

128 (e) Coercing acceptance of obscene material under section 573.065;

129 (f) Trafficking for the purpose of slavery, involuntary servitude, peonage, or forced  
130 labor under section 566.206;

131 (g) Abusing an individual through forced labor under section 566.203;

132 (h) Contributing to human trafficking through the misuse of documentation under  
133 section 566.215; or

134 (i) Acting as an international marriage broker and failing to provide the information  
135 and notice as required under section 578.475.

136 10. Any person currently on the sexual offender registry for having been adjudicated  
137 for a tier I or II offense or adjudicated delinquent for a tier III offense or other comparable  
138 offenses listed under section 589.414 may file a petition under section 589.401.

139 11. Any nonresident worker, including work as a volunteer or intern, or nonresident  
140 student shall register for the duration of such person's employment, including participation as  
141 a volunteer or intern, or attendance at any school of higher education whether public or  
142 private, including any secondary school, trade school, professional school, or institution of  
143 higher education on a full-time or part-time basis in this state unless granted relief under  
144 section 589.401. Any registered offender shall provide information regarding any place in  
145 which the offender is staying when away from his or her residence for seven or more days,  
146 including the period of time the offender is staying in such place. Any registered offender  
147 from another state who has a temporary residence in this state and resides more than seven

148 days in a twelve-month period shall register for the duration of such person's temporary  
149 residency unless granted relief under section 589.401.

✓