

SECOND REGULAR SESSION

HOUSE BILL NO. 2605

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

6335H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 589.400, RSMo, and to enact in lieu thereof one new section relating to the removal from the sex offender registry.

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

Section A. Section 589.400, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 589.400, to read as follows: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, including sexual trafficking of a child and sexual trafficking of a child under the age of twelve, or any offense of chapter 566 where the victim is a minor, unless such person is exempted from registering under subsection ~~[8]~~ **9** of this section;

(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 or kidnapping in the first degree 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 when such abuse is sexual in nature; felonious restraint or kidnapping in the second degree 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 or sexual conduct with a nursing facility resident or vulnerable person in the first or second degree; endangering the welfare of a child under section 568.045 when the endangerment is sexual in nature; genital mutilation of a female child, under section 568.065; promoting

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 prostitution in the first degree; promoting prostitution in the second degree; promoting
19 prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in
20 the first degree; promoting child pornography in the second degree; possession of child
21 pornography; furnishing pornographic material to minors; public display of explicit sexual
22 material; coercing acceptance of obscene material; promoting obscenity in the first degree;
23 promoting pornography for minors or obscenity in the second degree; incest; use of a child in a
24 sexual performance; or promoting sexual performance by a child; ~~or~~

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

27 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental
28 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; ~~or~~

29 (5) Any juvenile certified as an adult and transferred to a court of general jurisdiction
30 who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to
31 committing, attempting to commit, or conspiring to commit a felony under chapter 566 which
32 is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which
33 shall include any attempt or conspiracy to commit such offense;

34 (6) Any juvenile fourteen years of age or older at the time of the offense who has been
35 adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under
36 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

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, or a felony violation of any offense listed in subdivision (2) of this
42 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~~ to 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 or 9 of this section and the court orders the removal or exemption of
70 such 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 charge the offender registering a fee of up to ten
73 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 charge the person
76 changing ~~their~~ his or her 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 or kidnapping when the victim was a child and he or she was the parent or guardian of the child
83 shall be removed from the registry. However, such person shall remain on the sexual offender
84 registry for any other offense for which he or she is required to register under sections 589.400
85 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.] Any person granted a suspended imposition of sentence after~~
96 **pleading guilty to a registerable offense under sections 589.400 to 589.425 shall be removed**
97 **from the registry upon successful completion of probation.**

98 **8. After five years have elapsed from the completion of the sentence, a person who**
99 **is required to register under sections 589.400 to 589.425 may petition for removal from the**
100 **registry if the person:**

101 **(1) Has a duty to register for a registerable offense committed when the offender**
102 **was a juvenile, regardless of whether the conviction was in this state; or**

103 **(2) Is required to register for a conviction in this state, is not prohibited from**
104 **petitioning for removal under subsection 11 of this section, and has spent ten consecutive**
105 **years in the community without being convicted of a subsequent registerable offense**
106 **during that time period; or**

107 **(3) Is required to register for a federal, tribal, or out-of-state conviction and such**
108 **person has spent fifteen consecutive years in the community without being convicted of a**
109 **subsequent registerable offense during that time period.**

110 ~~[8-] 9. Effective August 28, 2009, any person on the sexual offender registry for having~~
111 ~~been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense~~
112 ~~included under subsection 1 of this section may file a petition after two years have passed from~~
113 ~~the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the~~
114 ~~offense or offenses in the civil division of the circuit court in the county in which the offender~~
115 ~~was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for~~
116 ~~removal of his or her name from the registry if such person was nineteen years of age or younger~~
117 ~~and the victim was thirteen years of age or older at the time of the offense and no physical force~~
118 ~~or threat of physical force was used in the commission of the offense, unless such person meets~~
119 ~~the qualifications of this subsection, and such person was eighteen years of age or younger at the~~
120 ~~time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a~~
121 ~~violation of section 566.068, 566.090, 566.093, or 566.095 when such offense is a misdemeanor,~~
122 ~~in which case, such person may immediately file a petition to remove or exempt his or her name~~
123 ~~from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere~~
124 ~~to such offense.~~

125 [9-] 10. (1) The court may grant such relief under subsection [~~7-0~~] 8 or 9 of this section
126 if such person demonstrates to the court that he or she has complied with the provisions of this
127 section and is not a current or potential threat to public safety. The prosecuting attorney in the
128 circuit court in which the petition is filed must be given notice, by the person seeking removal
129 or exemption from the registry, of the petition to present evidence in opposition to the requested
130 relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of
131 the person seeking removal or exemption from the registry to notify the prosecuting attorney of
132 the petition shall result in an automatic denial of such person's petition. If the prosecuting
133 attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of
134 the crime for which the person was required to register of the petition and the dates and times
135 of any hearings or other proceedings in connection with that petition.

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

142 **11. (1) A person shall not petition for removal from the registry if the person:**

143 **(a) Has been determined to be a sexually violent predator under sections 632.480**
144 **to 632.513;**

145 **(b) Is subject to a period of supervision for the crime of failing to register as a sex**
146 **offender under section 589.425 within the previous five years; or**

147 **(c) Has been convicted of a subsequent registerable offense that was committed**
148 **after the date of the person's first registration under sections 589.400 to 589.425.**

149 **(2) Any person who does not petition for removal from the registry may petition**
150 **the court to be exempted from any public community notification requirements under**
151 **section 589.402 if the person has spent fifteen consecutive years in the community without**
152 **being convicted of a subsequent registerable offense during that time period.**

153 **12. A petition for removal from the registry or exemption from public notification**
154 **under this section shall be made to the court in which the petitioner was convicted of the**
155 **offense that subjects him or her to the duty to register or, in the case of convictions in other**
156 **states, a foreign country, or a federal, tribal, or military court, to the court in the county**
157 **where the person is registered at the time the petition is sought. The prosecuting attorney**
158 **of the county shall be named and served as the respondent in any such petition.**

159 **13. (1) The court shall order a petitioner be removed from the registry only if the**
160 **petitioner shows by clear and convincing evidence that the petitioner has satisfied the**
161 **following criteria to warrant removal from the central registry of sex offenders:**

162 **(a) Since the date of the person's first registration, the petitioner has not been**
163 **adjudicated guilty of any subsequent registerable offense;**

164 **(b) The petitioner has satisfactorily completed and been discharged from any**
165 **period of supervision;**

166 **(c) The petitioner has successfully completed a sex offender treatment program**
167 **conducted by a qualified sex offender treatment provider credentialed and approved by**
168 **the department of corrections;**

169 **(d) The petitioner has submitted to the court a risk assessment or evaluation**
170 **prepared by a qualified community sex offender treatment provider credentialed and**
171 **approved by the department of corrections showing the person is not a high risk to**
172 **reoffend; and**

173 **(e) The petitioner has submitted three letters of reference by individuals who can**
174 **attest to the petitioner's community and personal support system, and stability in**
175 **employment and housing.**

176 ~~[10.]~~ **14.** Any nonresident worker or nonresident student shall register for the duration
177 of such person's employment or attendance at any school of higher education and is not entitled
178 to relief under the provisions of subsection ~~[9]~~ **10** of this section. Any registered offender from
179 another state who has a temporary residence in this state and resides more than seven days in a
180 twelve-month period shall register for the duration of such person's temporary residency and is
181 not entitled to the provisions of subsection ~~[9]~~ **10** of this section.

182 ~~[11.]~~ **15.** Any person whose name is removed or exempted from the sexual offender
183 registry under subsection 7 ~~[or]~~ , 8, **or 9** of this section shall no longer be required to fulfill the
184 registration requirements of sections 589.400 to 589.425, unless such person is required to
185 register for committing another offense after being removed from the registry.

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