

# SENATE BILL NO. 1338

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR FITZWATER.

5177S.01H

KRISTINA MARTIN, Secretary

## 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.

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

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2 repealed and two new sections enacted in lieu thereof, to be  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

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

6 2. A person who is required to register in this state  
7 because of an offense that was adjudicated in another  
8 jurisdiction shall file his or her petition for removal  
9 according to the laws of the state, territory, tribal, or  
10 military jurisdiction, the District of Columbia, or foreign  
11 country in which his or her offense was adjudicated. Upon  
12 the grant of the petition for removal in the jurisdiction  
13 where the offense was adjudicated, such judgment may be  
14 registered in this state by sending the information required  
15 under subsection 5 of this section as well as one  
16 authenticated copy of the order granting removal from the  
17 sexual offender registry in the jurisdiction where the  
18 offense was adjudicated to the court in the county or city

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 not within a county in which the offender is required to  
20 register. On receipt of a request for registration removal,  
21 the registering court shall cause the order to be filed as a  
22 foreign judgment, together with one copy of the documents  
23 and information, regardless of their form. The petitioner  
24 shall be responsible for costs associated with filing the  
25 petition.

26 3. A person required to register:

27 (1) As a tier III offender;

28 (2) **Under subdivision (7) of subsection 1 of section**  
29 **589.400; or**

30 (3) **As a result of an offense that is sexual in nature**  
31 **committed against a minor or against an incapacitated person**  
32 **as defined under section 475.010**

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

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

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

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

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

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

45 (1) The petitioner's:

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

48 (b) Sex;

49 (c) Race;

- 50 (d) Date of birth;
- 51 (e) Last four digits of the Social Security number;
- 52 (f) Address; and
- 53 (g) Place of employment, school, or volunteer status;
- 54 (2) The offense and tier of the offense that required
- 55 the petitioner to register;
- 56 (3) The date the petitioner was adjudicated for the
- 57 offense;
- 58 (4) The date the petitioner was required to register;
- 59 (5) The case number and court, including the county or
- 60 city not within a county, that entered the original order
- 61 for the adjudicated sex offense;
- 62 (6) Petitioner's fingerprints on an applicant
- 63 fingerprint card;
- 64 (7) If the petitioner was pardoned or an offense
- 65 requiring registration was reversed, vacated, or set aside,
- 66 an authenticated copy of the order; and
- 67 (8) If the petitioner is currently registered under
- 68 applicable law and has not been adjudicated for failure to
- 69 register in any jurisdiction and does not have any charges
- 70 pending for failure to register.
- 71 6. The petition shall name as respondents the Missouri
- 72 state highway patrol and the chief law enforcement official
- 73 in the county or city not within a county in which the
- 74 petition is filed.
- 75 7. All proceedings under this section shall be
- 76 governed under the Missouri supreme court rules of civil
- 77 procedure.
- 78 8. The person seeking removal or exemption from the
- 79 registry shall provide the prosecuting attorney in the
- 80 circuit court in which the petition is filed with notice of
- 81 the petition. The prosecuting attorney may present evidence

82 in opposition to the requested relief or may otherwise  
83 demonstrate the reasons why the petition should be denied.  
84 Failure of the person seeking removal or exemption from the  
85 registry to notify the prosecuting attorney of the petition  
86 shall result in an automatic denial of such person's  
87 petition.

88 9. The prosecuting attorney in the circuit court in  
89 which the petition is filed shall have access to all  
90 applicable records concerning the petitioner including, but  
91 not limited to, criminal history records, mental health  
92 records, juvenile records, and records of the department of  
93 corrections or probation and parole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

164           17. Any person subject to the judgment requiring his  
165 or her name to be removed from the sexual offender registry  
166 is not required to register under sections 589.400 to  
167 589.425 unless such person is required to register for an  
168 offense that was different from that listed on the judgment  
169 of removal.

170           18. The court shall not deny the petition unless the  
171 petition failed to comply with the provisions of sections  
172 589.400 to 589.425 or the prosecuting attorney provided  
173 evidence demonstrating the petition should be denied.

          589.414. 1. Any person required by sections 589.400  
2 to 589.425 to register shall, within three business days,

3 appear in person to the chief law enforcement officer of the  
4 county or city not within a county if there is a change to  
5 any of the following information:

6 (1) Name;

7 (2) Residence;

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

10 (4) Student status; or

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

13 2. Any person required to register under sections  
14 589.400 to 589.425 shall, within three business days, notify  
15 the chief law enforcement official of the county or city not  
16 within a county of any changes to the following information:

17 (1) Vehicle information;

18 (2) Temporary lodging information;

19 (3) Temporary residence information;

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

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

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

30 4. If any person required by sections 589.400 to  
31 589.425 to register changes such person's residence or  
32 address to a different county or city not within a county,  
33 the person shall appear in person and shall inform both the  
34 chief law enforcement official with whom the person last

35 registered and the chief law enforcement official of the  
36 county or city not within a county having jurisdiction over  
37 the new residence or address in writing within three  
38 business days of such new address and phone number, if the  
39 phone number is also changed. If any person required by  
40 sections 589.400 to 589.425 to register changes his or her  
41 state, territory, the District of Columbia, or foreign  
42 country, or federal, tribal, or military jurisdiction of  
43 residence, the person shall appear in person and shall  
44 inform both the chief law enforcement official with whom the  
45 person was last registered and the chief law enforcement  
46 official of the area in the new state, territory, the  
47 District of Columbia, or foreign country, or federal,  
48 tribal, or military jurisdiction having jurisdiction over  
49 the new residence or address within three business days of  
50 such new address. Whenever a registrant changes residence,  
51 the chief law enforcement official of the county or city not  
52 within a county where the person was previously registered  
53 shall inform the Missouri state highway patrol of the change  
54 within three business days. When the registrant is changing  
55 the residence to a new state, territory, the District of  
56 Columbia, or foreign country, or federal, tribal, or  
57 military jurisdiction, the Missouri state highway patrol  
58 shall inform the responsible official in the new state,  
59 territory, the District of Columbia, or foreign country, or  
60 federal, tribal, or military jurisdiction of residence  
61 within three business days.

62 5. Tier I sexual offenders, in addition to the  
63 requirements of subsections 1 to 4 of this section, shall  
64 report in person to the chief law enforcement official  
65 annually in the month of their birth to verify the



66 information contained in their statement made pursuant to  
67 section 589.407. Tier I sexual offenders include:

68 (1) Any offender who has been adjudicated for the  
69 offense of:

70 (a) Sexual abuse in the first degree under section  
71 566.100 if the victim is eighteen years of age or older;

72 (b) [Sexual misconduct involving a child under section  
73 566.083 if it is a first offense and the punishment is less  
74 than one year;

75 [(c)] Sexual abuse in the second degree under section  
76 566.101 if the punishment is less than a year;

77 [(d)] (c) Kidnapping in the second degree under  
78 section 565.120 with sexual motivation;

79 [(e)] (d) Kidnapping in the third degree under section  
80 565.130;

81 [(f)] (e) Sexual conduct with a nursing facility  
82 resident or vulnerable person in the first degree under  
83 section 566.115 if the punishment is less than one year;

84 [(g)] (f) Sexual conduct under section 566.116 with a  
85 nursing facility resident or vulnerable person;

86 [(h)] (g) Sexual [contact with a prisoner or offender]  
87 **conduct in the course of public duty** under section 566.145  
88 if the victim is eighteen years of age or older;

89 [(i)] (h) Sex with an animal under section 566.111;

90 [(j)] (i) Trafficking for the purpose of sexual  
91 exploitation under section 566.209 if the victim is eighteen  
92 years of age or older;

93 [(k)] (j) Possession of child pornography under  
94 section 573.037;

95 [(l)] (k) Sexual misconduct in the first degree under  
96 section 566.093;

97            [(m)] (1) Sexual misconduct in the second degree under  
98 section 566.095;

99            [(n) Child molestation in the second degree under  
100 section 566.068 as it existed prior to January 1, 2017, if  
101 the punishment is less than one year;] or

102           [(o)] (m) Invasion of privacy under section 565.252 if  
103 the victim is less than eighteen years of age;

104           (2) Any offender who is or has been adjudicated in any  
105 other state, territory, the District of Columbia, or foreign  
106 country, or under federal, tribal, or military jurisdiction  
107 of an offense of a sexual nature or with a sexual element  
108 that is comparable to the tier I sexual offenses listed in  
109 this subsection or, if not comparable to those in this  
110 subsection, comparable to those described as tier I offenses  
111 under the Sex Offender Registration and Notification Act,  
112 Title I of the Adam Walsh Child Protection and Safety Act of  
113 2006, Pub. L. 109-248.

114           6. Tier II sexual offenders, in addition to the  
115 requirements of subsections 1 to 4 of this section, shall  
116 report semiannually in person in the month of their birth  
117 and six months thereafter to the chief law enforcement  
118 official to verify the information contained in their  
119 statement made pursuant to section 589.407. Tier II sexual  
120 offenders include:

121           (1) Any offender who has been adjudicated for the  
122 offense of [:

123           (a) Statutory sodomy in the second degree under  
124 section 566.064 if the victim is sixteen to seventeen years  
125 of age;

126           (b) Child molestation in the third degree under  
127 section 566.069 if the victim is between thirteen and  
128 fourteen years of age;

129 (c) Sexual contact with a student under section  
130 566.086 if the victim is thirteen to seventeen years of age;

131 (d) Enticement of a child under section 566.151;

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

135 (f) Sexual exploitation of a minor under section  
136 573.023;

137 (g) Promoting child pornography in the first degree  
138 under section 573.025;

139 (h) Promoting child pornography in the second degree  
140 under section 573.035;

141 (i)] patronizing prostitution under section 567.030;

142 [(j) Sexual contact with a prisoner or offender under  
143 section 566.145 if the victim is thirteen to seventeen years  
144 of age;

145 (k) Child molestation in the fourth degree under  
146 section 566.071 if the victim is thirteen to seventeen years  
147 of age;

148 (l) Sexual misconduct involving a child under section  
149 566.083 if it is a first offense and the penalty is a term  
150 of imprisonment of more than a year; or

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

153 (2) Any person who is adjudicated of an offense  
154 comparable to a tier I offense listed in this section or  
155 failure to register offense under section 589.425 or  
156 comparable out-of-state failure to register offense and who  
157 is already required to register as a tier I offender due to  
158 having been adjudicated of a tier I offense on a previous  
159 occasion; or

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

170 7. Tier III sexual offenders, in addition to the  
171 requirements of subsections 1 to 4 of this section, shall  
172 report in person to the chief law enforcement official every  
173 ninety days to verify the information contained in their  
174 statement made under section 589.407. Tier III sexual  
175 offenders include:

176 (1) Any offender registered as a predatory sexual  
177 offender [as defined in section 566.123] or a persistent  
178 sexual offender as defined in section [566.124] **566.125;**

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

181 (a) Rape in the first degree under section 566.030;

182 (b) Statutory rape in the first degree under section  
183 566.032;

184 (c) Rape in the second degree under section 566.031;

185 (d) Endangering the welfare of a child in the first  
186 degree under section 568.045 if the offense is sexual in  
187 nature;

188 (e) Sodomy in the first degree under section 566.060;

189 (f) Statutory sodomy under section 566.062;

190 (g) Statutory sodomy under section 566.064 if the  
191 victim is under sixteen years of age;

192 (h) Sodomy in the second degree under section 566.061;  
193 (i) Sexual misconduct involving a child under section  
194 566.083 **[if the offense is a second or subsequent offense];**  
195 (j) Sexual abuse in the first degree under section  
196 566.100 if the victim is under thirteen years of age;  
197 (k) **Age misrepresentation with intent to solicit a**  
198 **minor under section 566.153;**  
199 (l) **Enticement of a child under section 566.151;**  
200 (m) Kidnapping in the first degree under section  
201 565.110 if the victim is under eighteen years of age,  
202 excluding kidnapping by a parent or guardian;  
203 **[(l)] (n) Child kidnapping under section 565.115 with**  
204 **sexual motivation;**  
205 **[(m)] (o) Sexual conduct with a nursing facility**  
206 **resident or vulnerable person in the first degree under**  
207 **section 566.115 if the punishment is greater than a year;**  
208 **[(n)] (p) Incest under section 568.020;**  
209 **[(o)] (q) Endangering the welfare of a child in the**  
210 **first degree under section 568.045 with sexual intercourse**  
211 **or deviate sexual intercourse with a victim under eighteen**  
212 **years of age;**  
213 **[(p)] (r) Child molestation in the first degree under**  
214 **section 566.067;**  
215 **[(q)] (s) Child molestation in the second degree under**  
216 **section 566.068 or child molestation in the second degree**  
217 **under section 566.068 as it existed prior to January 1,**  
218 **2017, if the punishment is less than one year;**  
219 **[(r)] (t) Child molestation in the third degree under**  
220 **section 566.069 if the victim is under [thirteen] fourteen**  
221 **years of age;**

222            [(s)] (u) Promoting prostitution in the first degree  
223 under section 567.050 if the victim is under eighteen years  
224 of age;

225            [(t)] (v) Promoting prostitution in the second degree  
226 under section 567.060 if the victim is under eighteen years  
227 of age;

228            [(u)] (w) Promoting prostitution in the third degree  
229 under section 567.070 if the victim is under eighteen years  
230 of age;

231            [(v)] (x) Promoting travel for prostitution under  
232 section 567.085 if the victim is under eighteen years of age;

233            [(w)] (y) Trafficking for the purpose of sexual  
234 exploitation under section 566.209 if the victim is under  
235 eighteen years of age;

236            [(x)] (z) Sexual trafficking of a child in the first  
237 degree under section 566.210;

238            [(y)] (aa) Sexual trafficking of a child in the second  
239 degree under section 566.211;

240            [(z)] (bb) Genital mutilation of a female child under  
241 section 568.065;

242            [(aa)] (cc) Statutory rape in the second degree under  
243 section 566.034;

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

247            [(cc)] (ee) Sexual abuse in the second degree under  
248 section 566.101 if the penalty is a term of imprisonment of  
249 more than a year;

250            [(dd)] (ff) Patronizing prostitution under section  
251 567.030 if the offender is a persistent offender **or if the**  
252 **victim is under eighteen years of age;**

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

256 [(ff)] (hh) Sexual [contact with a prisoner or  
257 offender] **conduct in the course of public duty** under section  
258 566.145 if the victim is under [thirteen] **eighteen** years of  
259 age;

260 [(gg) Sexual intercourse with a prisoner or offender  
261 under section 566.145;

262 [(hh)] (ii) Sexual contact with a student under section  
263 566.086 if the victim is under [thirteen] **eighteen** years of  
264 age;

265 (jj) **Sexual exploitation of a minor under section**  
266 **573.023;**

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

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

271 [(ii)] (mm) Use of a child in a sexual performance  
272 under section 573.200; or

273 [(jj)] (nn) Promoting a sexual performance by a child  
274 under section 573.205;

275 (3) Any offender who is adjudicated for a crime  
276 comparable to a tier I or tier II offense listed in this  
277 section or failure to register offense under section  
278 589.425, or other comparable out-of-state failure to  
279 register offense, who has been or is already required to  
280 register as a tier II offender because of having been  
281 adjudicated for a tier II offense, two tier I offenses, or  
282 combination of a tier I offense and failure to register  
283 offense, on a previous occasion;

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

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

296           8. In addition to the requirements of subsections 1 to  
297 7 of this section, all Missouri registrants who work,  
298 including as a volunteer or unpaid intern, or attend any  
299 school whether public or private, including any secondary  
300 school, trade school, professional school, or institution of  
301 higher education, on a full-time or part-time basis or have  
302 a temporary residence in this state shall be required to  
303 report in person to the chief law enforcement officer in the  
304 area of the state where they work, including as a volunteer  
305 or unpaid intern, or attend any school or training and  
306 register in that state. "Part-time" in this subsection  
307 means for more than seven days in any twelve-month period.

308           9. If a person who is required to register as a sexual  
309 offender under sections 589.400 to 589.425 changes or  
310 obtains a new online identifier as defined in section  
311 43.651, the person shall report such information in the same  
312 manner as a change of residence before using such online  
313 identifier.

✓