

HB 462 -- State Sexual Offender Registry

Sponsor: Phillips

This bill changes the laws regarding the state sexual offender registry and its requirements. In its main provisions, the bill:

(1) Requires the State Highway Patrol to maintain a website with registered sexual offender search capability and allows a sheriff to maintain a separate website, if desired. The bill adds to the information that must be provided by the State Highway Patrol or that may be provided by a sheriff to the public on the website, including the tier level assigned to the offender; the original and most recent registration date; the status of the offender's term of incarceration, probation, or parole; and whether the offender is a repeat sexual offender (Sections 43.650 and 589.402, RSMo);

(2) Exempts offenders who commit the crimes of felonious restraint or kidnapping of a nonsexual nature when the victim is less than 18 years of age from the public notification requirements if there is no other offense for which he or she is required to register, he or she is not a repeat sexual offender, and no sexual conduct or attempted sexual conduct occurred during the offense (Sections 43.650 and 589.402);

(3) Exempts witnesses afforded federal protection and juveniles 14 years of age or older at the time of the offense who have been adjudicated for an offense, or any attempt, which is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, from the public notification requirements (Sections 43.650 and 589.402);

(4) Specifies that an offender must, within three business days of adjudication; release from incarceration, the Division of Youth Services within the Department of Social Services, or the Department of Mental Health, or placement upon probation; register with the sheriff in the county in which he or she resides. The sheriff must forward a copy of the registration form to any city, town, village, or campus law enforcement agency located within the county (Section 589.400.2);

(5) Specifies that the registration requirements are lifetime requirements unless all of the offenses are reversed, vacated, or set aside; the registrant is pardoned of the offenses and the pardon explicitly states the offender is relieved of his or her duty to register; the registrant is no longer required to register under these provisions; or the court orders the removal or exemption of the offender from the registry under these provisions (Section 589.400.3);

(6) Exempts an offender currently on the registry, or who would otherwise be required to register, for being adjudicated for the offenses of felonious restraint of a nonsexual nature and kidnapping, when the victim was a child and he or she was the parent or guardian and nonsexual child abuse from registering as a sexual offender (Section 589.400.6);

(7) Exempts an offender from registering as a sexual offender, upon petition of the court of jurisdiction, for any offense involving sexual conduct where no force or threat of force was directed toward the victim or any individual involved and the victim was an adult, unless the adult victim was under the custodial authority of the offender; any offense involving sexual conduct where the victim was at least 14 years of age and the offender was not more than four years older than the victim at the time of the offense; or any offender currently required to register for the sexual offenses of sexual misconduct in the second and third degree, promoting obscenity in the first and second degree, furnishing pornographic materials to minors, public display of explicit sexual material, coercing acceptance of obscene material, or unlawful sex with an animal (Section 589.400.7);

(8) Allows an offender currently on the sexual offender registry for having been adjudicated of a tier I, II, or juvenile III offense or other comparable offense listed in these provisions to file a petition for removal from the registry (Section 589.400.8);

(9) Specifies that any nonresident worker, including a volunteer, intern, or nonresident student must register for the duration of his or her employment, volunteering, internship, or attendance at any school of higher education, whether public or private, including any secondary, trade, or professional school or institution of higher education on a full or part-time basis, unless removed from the registry upon petition to the court. He or she must report in person to the sheriff in the area of the state he or she works or attends school. Any registered offender from another state who resides in the state more than 7 days in a 12-month period must register for the duration of his or her temporary residency, unless removed from the registry upon petition to the court (Sections 589.400.9 and 589.414.8);

(10) Allows a sexual offender on the registry to file a petition in the circuit court of the county in which the offense was adjudicated to have his or her name removed from the registry. If required to register in this state based on a sexual offense committed in another jurisdiction, the offender must file his or her petition for removal in the jurisdiction where the case was adjudicated, and if granted, the judgment can be registered in the

state by sending an authenticated copy of the removal order along with specified information to the court in the county the offender is required to register (Sections 589.401.1 and 589.401.2);

(11) Prohibits an offender required to register as a tier III offender from filing a petition for removal unless he or she is required to register based on a juvenile adjudication (Section 589.401.3);

(12) Specifies that a petition for removal will be dismissed if specified time periods have not elapsed since the date the offender was required to register for his or her most recent offense. For a tier I offense, the time period is 10 years and for a tier II or tier III offense adjudicated as a juvenile, the time period is 25 years (Section 589.401.4);

(13) Specifies the information the petition for removal must include to not be dismissed by the court, including information about the petitioner, offense requiring registration, the court case in which the sex offense was adjudicated, petitioner's fingerprints, and if the petitioner has been adjudicated or has charges pending for the offense of failure to register (Section 589.401.5);

(14) Requires the petition to name as respondents the State Highway Patrol and the sheriff in the county in which the petition is filed. The petitioner must notify the prosecuting attorney in the circuit court in which the petition is filed to allow the prosecutor to present evidence in opposition. The prosecutor must have access to all applicable records concerning the petitioner and must make reasonable efforts to notify the victim of the crime for which the petitioner was required to register of the petition and any hearings associated with the petition (Sections 589.401.6 to 589.401.10);

(15) Specifies that the court cannot enter an order granting the removal of the petitioner's name from the sexual offender registry unless it finds the petitioner has not been adjudicated of or has charges pending for any additional sexual offense or felony nonsexual offense; has successfully completed any required periods of supervised release, probation, or parole without revocation; has successfully completed an appropriate sex offender treatment program; and is not a current or potential threat to public safety (Section 589.401.11);

(16) Specifies that if the removal petition is denied based upon an adjudication of an additional offense, a tier I classified petitioner cannot file a new petition until 10 years have passed from the date of adjudication resulting in the denial or 25 years

have passed if classified as a tier II or juvenile tier III offender. However, if the removal petition is denied based upon additional charges pending, and those charges are disposed of in a manner other than adjudication, the petitioner can file a new removal petition immediately. Otherwise, if a petition is denied for other reasons, then no successive petition can be filed for at least five years from the date of the judgment denying relief is entered (Sections 589.401.13 to 589.401.15);

(17) Specifies that if the court finds the petitioner is entitled to have his or her name removed from the registry, the court must enter judgment directing the removal and provide a copy of the judgment to the respondents named. The court may deny the petition for any legitimate legal justification (Sections 589.401.16 and 589.401.18);

(18) Requires any offender who is required to register and is released from any Department of Corrections' facility, mental health institution, private jail, or other private facility recognized or contracted with the departments, to be informed by the official in charge of the offender's possible duty to register. The official must complete the initial registration notification at least seven days prior to release and forward the registration, within three business days of release, to the State Highway Patrol and the sheriff where the offender expects to reside upon release. If the offender does not reside or plan to reside in this state, the official must forward the offender's registration to the State Highway Patrol and the sheriff where the facility is located. If the offender fails to complete and sign the registration information, or fails to register with the sheriff within three business days, it will constitute the offense of failure to register (Section 589.403);

(19) Requires that any offender who is released on probation, discharged upon payment of a fine, or released from a county jail to be informed by the court of the offender's possible duty to register. If released on probation, the court must make it a condition of probation that the offender, within three business days, report to the sheriff of the county of adjudication to complete the initial registration. If the offender is not placed on probation, the court must complete the initial registration notification form and forward, within three business days, to the State Highway Patrol and the sheriff where the offender resides. If the offender does not reside in the state, the court must order the offender to proceed directly to the sheriff in the county where the adjudication was heard to register and complete the initial notification form. If the offender refuses to complete and sign the registration information, or if the offender resides outside of the state and refuses to directly report to the sheriff, it will

constitute the offense of failure to register (Section 589.405);

(20) Specifies the information that must be included in the offender registration form developed or approved by the State Highway Patrol, including the full name; date and place of birth; residence address; employers and addresses; schools attending; social security number; telephone numbers; personal and work vehicle descriptions; aircraft and boat descriptions; online identifiers used; details about the crime and the victim for which the offender is registering; the date the offender completed the sexual offender program, or that it was not successfully completed; the status of the offender's parole, probation, or supervised release; any temporary lodging information pertaining to travel for seven or more days over a 12-month period, and if travel is international then the offender must notify the sheriff at least 21 days in advance, unless certain exceptions exist; passport and immigration numbers and expiration dates; professional license numbers and expiration dates; and the physical description of the offender, including appearance or characteristics and identifying marks. Requires certain copies of documents to be included with the form, including all passport or immigration documents; professional licenses held; fingerprints, palm prints, and a photograph of the offender; a current photograph of the offender to be taken by the sheriff; and a DNA sample from the offender, if not already obtained (Section 589.407.1);

(21) Requires the offender to provide positive identification and documentation to verify the accuracy of the information completed on the registration form, including a copy of a valid driver's license or nondriver's identification card, a document verifying proof of the offender's residence, and a copy of the vehicle registration of each of the offender's vehicles. The State Highway Patrol must maintain all required registration information in digitized form (Sections 589.407.2 and 589.407.3);

(22) Specifies that the offender is responsible for reviewing his or her existing registration information for accuracy at every in-person appearance and if any inaccuracies are found to provide proof of the information in question (Section 589.407.5);

(23) Requires the State Highway Patrol, upon receipt of any changes to an offender's registration information, to immediately notify all other jurisdictions in which the offender is either registered or required to register (Section 589.407.4);

(24) Specifies that the signed offender registration form will serve as proof that the offender understands his or her duty to register as a sexual offender and that a statement to this effect will be included on the registration form (Section 589.407.6);

(25) Requires that if there is a termination or change in name, residence, employment, student status, that the offender must, no later than three business days, appear in offender to the sheriff to update their registration information. If there is a change in vehicle information, temporary lodging or residence information, E-mail or other Internet communication designations, or telephone numbers, then the offender must, within three business days, notify the sheriff of the change in their registration information. Upon receiving a change, the sheriff must forward the changes to the State Highway Patrol within three business days (Sections 589.414.1 to 589.414.3);

(26) Classifies any offender who has been adjudicated of the following crimes as a tier I offender, who must report to the sheriff annually in the month of their birth to verify their registration information:

(1) Felonious restraint under Section 565.120, with sexual motivation;

(2) Sexual contact or intercourse with a skilled nursing facility resident under Section 565.200;

(3) Invasion of privacy in the first and second degree under Sections 565.252 and 565.253;

(4) Child molestation in the second degree under Section 566.068 and the victim is 14 to 17 years of age;

(5) Sexual misconduct involving a child under Section 566.083;

(6) Sexual misconduct in the first degree under Section 566.090;

(7) Sexual contact with a prisoner or offender under Section 566.145;

(8) Age misrepresentation under Section 566.153;

(9) Endangering the welfare of a child in the second degree under Section 568.050, when the offense is of a sexual nature and the victim is 14 to 17 years of age; or

(10) Any offender who is or has been adjudicated in any other jurisdiction for an offense of a sexual nature or with a sexual element that is comparable to one of the tier I offenses listed or comparable to a tier I offense under the federal Sex Offender Registration and Notification Act (Section 589.414.5);

(27) Classifies any offender who has been adjudicated of the following crimes as a tier II offender, who must report to the sheriff semiannually in the month of their birth and six months thereafter to verify their registration information:

- (1) Statutory rape in the second degree under Section 566.037;
- (2) Statutory sodomy in the second degree under Section 566.064;
- (3) Child molestation in the first degree under Section 566.067 and the victim is 14 to 17 years of age;
- (4) Sexual contact with a student while on public school property under Section 566.086 and the victim is 14 to 17 years of age;
- (5) Sexual abuse under Section 566.100 and the victim is 14 years of age or older;
- (6) Enticement of a child under Section 566.151;
- (7) Trafficking for the purpose of sexual exploitation under Section 566.209;
- (8) Child molestation in the second degree under Section 566.213 and the victim is less than 14 years of age;
- (9) Promoting prostitution in the second and third degree under Sections 567.060 and 567.070 and the victim is less than 18 years of age;
- (10) Endangering the welfare of a child in the first degree under Section 568.045, when the offense includes sexual conduct or contact and the victim is 14 to 17 years of age;
- (11) Endangering the welfare of a child in the second degree under Section 568.050, when the offense is of a sexual nature and the victim is less than 13 years of age;
- (12) Abuse of a child under Section 568.060, when the offense is of a sexual nature;
- (13) Genital mutilation of a female child under Section 568.065;
- (14) Child used in a sexual performance under Section 568.080;
- (15) Promoting a sexual performance by a child under Section 568.090;
- (16) Sexual exploitation of a minor under Section 573.023;

(17) Promoting child pornography in the first and second degrees under Sections 573.025 and 573.035;

(18) Possession of child pornography under Section 573.037;

(19) Any offender who is adjudicated of a crime comparable to a tier I offense or the offense of failure to register and who is already required to register as a tier I offender due to having been adjudicated of a tier I offense previously; or

(20) Any offender who is or has been adjudicated in any other jurisdiction for an offense of a sexual nature or with a sexual element that is comparable to a tier II offense or comparable to a tier II offense under the federal Sex Offender Registration and Notification Act (Section 589.414.6);

(28) Classifies any offender who has been adjudicated of the following crimes as a tier III offender who must report to the sheriff every 90 days to verify their registration information:

(1) Kidnapping under Section 565.110 and the victim is less than 18 years of age, excluding kidnapping by a parent or guardian;

(2) Child kidnapping under Section 565.115;

(3) Forcible rape under Section 566.030;

(4) Statutory rape in the first degree under Section 566.032;

(5) Sexual assault under Section 566.040;

(6) Forcible sodomy under Section 566.060;

(7) Statutory sodomy in the first degree under Section 566.062;

(8) Child molestation in the first degree under Section 566.067 and the victim is less than 14 years of age;

(9) Deviate sexual assault under Section 566.070;

(10) Sexual contact with a student while on public school property under Section 566.086 and the victim is less than 14 years of age;

(11) Sexual abuse under Section 566.100 and the victim is less than 14 years of age;

(12) Sexual trafficking of a child under Section 566.212;

(13) Sexual trafficking of a child less than 12 years of age, under Section 566.213;

(14) Promoting prostitution in the first degree under Section 567.050 and the victim is less than 18 years of age;

(15) Incest under Section 568.020;

(16) Endangering the welfare of a child in the first degree under Section 568.045, when the offense includes sexual conduct or contact and the victim is less than 14 years of age, or includes sexual intercourse or deviate sexual intercourse and the victim is less than 18 years of age;

(17) Any offender registered as a predatory or persistent sexual offender;

(18) Any offender who is adjudicated for a crime comparable to a tier I or tier II offense or the offense of failure to register and who is already required to register as a tier II offender due to having been adjudicated of a tier II offense, two tier I offenses, or combination of a tier I offense and the offense of failure to register previously;

(19) Any offender who is or has been adjudicated in any other jurisdiction for an offense of a sexual nature or with a sexual element that is comparable to a tier III offense or comparable to a tier III offense under the federal Sex Offender Registration and Notification Act; or

(20) Any offender who is adjudicated in the state of any offense of a sexual nature requiring registration that is not classified as either a tier I or tier II offense (Section 589.414.7);

(29) Specifies that it is not a defense to prosecution for any offense in these provisions that the victim was a peace officer masquerading as a minor (Section 589.414.10); and

(30) Specifies that individuals who have been adjudicated of a sexual offense prior to the enactment of the state or federal sex offender registries will be required to register for their original offense if he or she is currently incarcerated or under the supervision of the Department of Corrections for any crime or is adjudicated for any felony offense (Section 589.414.11).