

HB 624 -- Sexual Offender Registration

Sponsor: Ellinger

This bill changes the laws regarding sexual offender registration. In its main provisions, the bill:

(1) Specifies that the State Highway Patrol must and the chief law enforcement officer of any county or the City of St. Louis may maintain an Internet web page that only includes the name and information for sexual offenders designated as Tier II and Tier III offenders. The names and information of Tier I offenders will not be included on the public web page but will be on a separate registry to which only law enforcement agencies have access for 10 years;

(2) Requires a current photograph of the offender to be taken by the registering official and adds the tier level assigned; the offender's 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 offender to the information found on the public web page for Tier II and Tier III offenders;

(3) Specifies that an offender who has committed felonious restraint or kidnapping of a nonsexual nature when the victim was less than 18 years of age will be exempt from the public notification requirements. A witness under active federal protection who is required to register may be excluded from public notification under federal law. A juvenile who is 14 years of age or older at the time of the offense, has been adjudicated for an offense that is equal to or more severe than aggravated sexual abuse, and is required to register will be exempt from the public notification requirements to include other specified jurisdictions;

(4) Specifies that the sexual offender registry requirements apply to any person who has been convicted of, found guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit an offense listed in Section 589.414, RSMo, unless he or she is exempt from registering and moves the crimes for which registration is required from Section 589.400 to Section 589.414;

(5) Expands the jurisdiction of a sexual offense to include any territory, the District of Columbia, and any foreign country;

(6) Requires a person to register with the chief law enforcement official in the county in which he or she resides within three business days of adjudication, release from incarceration to the Division of Youth Services within the Department of Social Services

or the Department of Mental Health, or other placement upon probation;

(7) Revises the lifetime registration requirements to exempt a person who is pardoned, including a person pardoned in other specified jurisdictions, and the pardon explicitly states that the person is relieved of his or her duty to register or the court orders the removal or exemption of the person under the provisions of Section 589.411;

(8) Specifies that a person is exempt from registering if he or she is convicted of, found guilty of, or pled guilty or nolo contendere to the crime of felonious restraint or kidnapping of a nonsexual nature when the person was the parent or guardian of the child. Any person registered or required to register for a sexual offense involving sexual conduct and no force or threat of force was directed toward the victim or any other individual involved can file a petition with the court having jurisdiction and will be exempt from registering if:

(a) The victim was an adult, unless he or she was under the custodial authority of the offender; or

(b) The victim was 18 years of age or younger and the offender was not more than five years older than the victim at the time of the offense;

(9) Exempts from the registration provisions any person currently required to register for the following sexual offenses:

(a) Sexual misconduct in the second or third degree;

(b) Promoting obscenity in the first or second degree;

(c) Furnishing pornographic materials to minors;

(d) Public display of explicit sexual material; or

(e) Coercing acceptance of obscene material;

(10) Specifies that a person currently on the registry for committing, attempting to commit, or conspiring to commit a Tier I, Tier II, or juvenile Tier III offense or other comparable offense may file a petition for removal;

(11) Specifies that a nonresident worker, including a volunteer, intern, or a nonresident student, who is required to register must do so for the duration of his or her employment or attendance at any school, whether public or private, including any secondary

school, trade school, professional school, or institution of higher education on a full-time or part-time basis in Missouri;

(12) Specifies that a person on the sexual offender registry may 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 person must file his or her petition for removal according to the laws of the jurisdiction where the offense was adjudicated, and if granted, the judgment may be registered in Missouri by sending the specified documentation to the county court in which the offender is required to register. A person required to register as a Tier III offender cannot file a petition for removal unless the requirement to register results from a juvenile adjudication. A petition for removal must be dismissed without prejudice if it fails to include the specified information or the following time periods have not lapsed since the date the person was required to register:

- (a) For a Tier I offense, 10 years;
- (b) For a Tier II offense, 15 years; and
- (c) For a Tier III offense adjudicated as a juvenile, 25 years;

(13) Requires the petition to name as respondents the State Highway Patrol and the chief law enforcement official of the county in which the petition is filed. The prosecuting attorney must be given notice by the person seeking removal or exemption from the registry so the prosecuting attorney can present evidence in opposition or demonstrate the reasons the petition should be denied. The prosecuting attorney must have access to all applicable records regarding the offender 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 hearing or proceeding in connection with the petition. The court cannot enter an order directing the removal of the offender's name unless it finds that the offender:

- (a) Has not been adjudicated of or has charges pending for any additional nonsexual felony offense;
- (b) Has not been adjudicated of or has charges pending for any additional sexual offense that would require registration, even if the offense was a misdemeanor;
- (c) Has successfully completed any required periods of supervised release, probation, or parole;

(d) Has successfully completed an appropriate sexual offender treatment program as approved by a court of jurisdiction or the Department of Corrections; and

(e) Is not a current or potential threat to public safety;

(14) Prohibits an offender from filing a new petition for removal for 10 years from the date of the adjudication resulting in a denial for a Tier I offender, 15 years have passed for a Tier II offender, or 25 years have passed for a Tier III offender adjudicated as a juvenile. If the petition is denied for other reasons, the offender is prohibited from filing another petition for at least five years from the denial date. If a petition is granted by the court, it must enter a judgment directing the State Highway Patrol to remove the offender's name from the registry within three business days. A court may deny a petition for removal for any legitimate legal justification;

(15) Specifies that a person required to register who is paroled, discharged, or released from any correctional facility, mental health institution, private jail, or other specified private facility and plans to reside in Missouri must be informed by the official in charge of his or her duty to register. The official in charge must complete the initial registration notification at least seven days prior to the offender's release and forward the registration, within three business days of release, to the State Highway Patrol and the chief law enforcement official in the county where the person expects to reside. If an offender refuses to complete and sign the registration information or fails to directly report to the county chief law enforcement official within three business days, the person will commit the offense of failure to register;

(16) Specifies that a person required to register who is released on probation, discharged upon payment of a fine, or released after confinement in a county jail to be informed, prior to release, by the court having jurisdiction of his or her duty to register. If the offender is placed on probation, the court must make it a condition of probation that the offender report to register within three business days to the chief law enforcement official of the county of adjudication. If the offender is not placed on probation, the court must complete the initial notification of duty to register form and forward it within three business days to the State Highway Patrol and the chief law enforcement officer in the county where the offender resides if the offender resides in Missouri or where the offense was adjudicated if the offender does not reside in Missouri. If the offender fails to complete these requirements or refuses to complete and sign the registration information, the person will commit the offense of failure to

register;

(17) Specifies the information that is required for the offender registration form;

(18) Adds copies of all passport or immigration documents and a current photograph taken by the registering official to the list of documents that must accompany the registration form;

(19) 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 registered or required to register. The offender is responsible for reviewing the registration information for accuracy at every regular, in-person appearance and if any inaccuracies are found for providing proof of the information in question. The signed form will serve as proof that the offender understands his or her duty to register;

(20) Allows an offender, who would otherwise be a Tier II or Tier III offender, to file a petition in the circuit court where the offense was adjudicated to have his or her classification lowered one tier. The bill specifies the contents of the petition; the notification required; and the factors the court must, at a minimum, consider in making a determination as to whether the petition should be granted;

(21) Specifies that any change to an offender's name, residence, employment, student status, or a termination of any of these items requires the offender to appear in person to the chief county law enforcement officer within three business days of the change. If there is a change in vehicle information, temporary residence information, or any designations used in Internet or telephone communications, a Tier I, II, or III offender must notify the officer within three business days after a change but is not required to do so in person. If there is a change in temporary lodging information, a Tier III offender only must notify the officer. The officer must forward the changes to the State Highway Patrol within three business days. An offender must report to the chief law enforcement officer to verify his or her registration information in the following manner:

(a) A Tier I sexual offender, annually in the month of his or her birth;

(b) A Tier II sexual offender, in person in the month of his or her birth and six months thereafter by mail on a form to be provided by the State Highway Patrol; and

(c) A Tier III sexual offender, semiannually in the month of his

or her birth and six months thereafter in person and 90 days after each in-person report by mail on a form to be provided by the State Highway Patrol;

(22) Specifies that an offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the following crimes will be classified as a Tier I sexual offender:

- (a) Felonious restraint when there is sexual motivation;
- (b) Sexual contact or intercourse with skilled nursing facility residents;
- (c) Invasion of privacy in the first or second degree;
- (d) Child molestation in the second degree when the victim is 14 to 17 years of age;
- (e) Sexual misconduct involving a child or in the first degree;
- (f) Sexual contact with a prisoner or offender;
- (g) Age misrepresentation under Section 566.153;
- (h) Endangering the welfare of a child in the second degree when it is sexual in nature and the victim is 14 to 17 years of age;
- (i) Possession of child pornography; or
- (j) A comparable crime from another jurisdiction or those described as Tier I offenses under the federal Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006;

(23) Specifies that any offender who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the following crimes will be classified as a Tier II sexual offender:

- (a) Statutory rape or statutory sodomy in the second degree;
- (b) Child molestation in the first degree when the victim is 14 to 17 years of age;
- (c) Sexual contact with a student while on public school property when the victim is 14 to 17 years of age;
- (d) Sexual abuse when the victim is 14 years of age or older;

- (e) Enticement of a child;
- (f) Trafficking for the purpose of sexual exploitation;
- (g) Child molestation in the second degree when the victim is less than 14 years of age;
- (h) Promoting prostitution in the second or third degree when the victim is less than 18 years of age;
- (i) Endangering the welfare of a child in the first degree when there is sexual conduct or contact with a victim 14 to 17 years of age;
- (j) Endangering the welfare of a child in the second degree when the offense is sexual in nature and the victim is less than 13 years of age;
- (k) Abuse of a child when the offense is sexual in nature;
- (l) Genital mutilation of a female child;
- (m) Use of a child in a sexual performance;
- (n) Promoting a sexual performance by a child;
- (o) Sexual exploitation of a minor;
- (p) Promoting child pornography in the first or second degree;
- (q) Unlawful sex with an animal; or
- (r) A comparable crime in another jurisdiction or those described as Tier II offenses under the federal Sex Offender Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006;
- (24) Specifies that a Tier II sexual offender will also include any offender whose classification was changed to a Tier II offender by a court order under Section 589.408 and any person who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I offense or a failure to register offense or comparable out-of-state failure to register offense who is already required to register as a Tier I offender due to being convicted of a Tier I offense on a previous occasion;
- (25) Specifies that an offender registered as a predatory or

persistent sexual offender or who has been convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit one of the following crimes will be classified as a Tier III sexual offender:

- (a) Kidnapping when a sexual offense was committed during the kidnapping or when a kidnapping was committed for the purpose of committing a sexual offense and the victim is less than 18 years of age, excluding kidnapping by a parent or guardian;
- (b) Child kidnapping when a sexual offense was committed during the kidnapping or when the kidnapping was committed for the purpose of committing a sexual offense;
- (c) Forcible rape;
- (d) Statutory rape in the first degree;
- (e) Sexual assault;
- (f) Forcible sodomy;
- (g) Statutory sodomy in the first degree;
- (h) Child molestation in the first degree when the victim is less than 14 years of age;
- (i) Deviate sexual assault;
- (j) Sexual contact with a student while on public school property when the victim is less than 14 years of age;
- (k) Sexual abuse when the victim is less than 14 years of age;
- (l) Sexual trafficking of a child or of a child less than 12 years of age;
- (m) Promoting prostitution in the first degree when the victim is less than 18 years of age;
- (n) Incest;
- (o) Endangering the welfare of a child in the first degree when there is sexual conduct or contact with a victim less than 14 years of age or when there is sexual intercourse or deviate sexual intercourse with a victim less than 18 years of age;
- (p) Any comparable crime in another jurisdiction or that is comparable to a Tier III offense under the federal Sex Offender



Registration and Notification Act, Title I of the Adam Walsh Child Protection and Safety Act of 2006; or

(q) Any offense of a sexual nature requiring registration that is not classified as a Tier I or Tier II offense by these provisions;

(26) Specifies that a Tier III sexual offender will also include any person who is convicted of, found guilty of, or has pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit a crime comparable to a Tier I or Tier II offense or a failure to register offense or other comparable out-of-state failure to register offense who is already required to register as a Tier II offender due to being convicted of a Tier II offense, two Tier I offenses, or a combination of a Tier I offense and a failure to register offense on a previous occasion;

(27) Requires every offender required to register who works, including as a volunteer or unpaid intern; who attends any school, whether public or private including any secondary, trade, or professional school or institution of higher education; or who has temporary residence in Missouri to report in person to the chief law enforcement officer in the area where he or she works, attends school, or has temporary residence;

(28) Specifies that it is not a defense to a prosecution for a violation of any offense listed in these provisions that the victim was a peace officer masquerading as a minor; and

(29) Requires any person not currently registered due to being adjudicated of a sexual offense prior to the initial enactment of state or federal registry legislation to register for his or her original offense only if he or she is currently incarcerated or under the supervision of the Department of Corrections for a sexual offense. If the offender's original offense is not currently a crime, he or she will be classified as a Tier I, II, or III offender by determining which current crime is most comparable to the original offense.