

SECOND REGULAR SESSION

# HOUSE BILL NO. 1526

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALKER (74).

5161H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 567.020, 567.030, and 589.400, RSMo, and to enact in lieu thereof three new sections relating to minor children suspected of prostitution, with penalty provisions.

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

Section A. Sections 567.020, 567.030, and 589.400, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 567.020, 567.030, and 589.400, to read as follows:

567.020. 1. A person commits the offense of prostitution if he or she engages in or offers or agrees to engage in sexual conduct with another person in return for something of value to be received by any person.

2. The offense of prostitution is a class B misdemeanor unless the person knew prior to performing the act of prostitution that he or she was infected with HIV in which case prostitution is a class B felony. The use of condoms is not a defense to this offense.

3. As used in this section, "HIV" means the human immunodeficiency virus that causes acquired immunodeficiency syndrome.

4. The judge may order a drug and alcohol abuse treatment program for any person found guilty of prostitution, either after trial or upon a plea of guilty, before sentencing. For the class B misdemeanor offense, upon the successful completion of such program by the defendant, the court may at its discretion allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. For the class B felony offense, the court shall not allow the defendant to withdraw the plea of guilty or reverse the verdict and enter a judgment of not guilty. The judge, however, has discretion to take into consideration successful completion of a drug or alcohol treatment program in determining the defendant's sentence.

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.

17           **5. Notwithstanding any other provisions of this section, if it is determined, after a**  
18 **reasonable detention for investigative purposes, that a person suspected or charged with**  
19 **a violation of this section is a person under the age of eighteen, that person shall be immune**  
20 **from prosecution for an offense under this section.**

567.030. 1. A person commits the offense of patronizing prostitution if he or she:

2           (1) Pursuant to a prior understanding, gives something of value to another person as  
3 compensation for having engaged in sexual conduct with any person; or

4           (2) Gives or agrees to give something of value to another person with the understanding  
5 that such person or another person will engage in sexual conduct with any person; or

6           (3) Solicits or requests another person to engage in sexual conduct with any person in  
7 return for something of value.

8           2. It shall not be a defense that the person believed that the individual he or she  
9 patronized for prostitution was eighteen years of age or older.

10           3. The offense of patronizing prostitution is a class B misdemeanor, unless the individual  
11 who the person patronizes is less than eighteen years of age but older than fourteen years of age,  
12 in which case patronizing prostitution is a class ~~[A misdemeanor]~~ **E felony**.

13           4. The offense of patronizing prostitution is a class ~~[E]~~ **D felony** if the individual who  
14 the person patronizes is fourteen years of age or younger. Nothing in this section shall preclude  
15 the prosecution of an individual for the offenses of:

16           (1) Statutory rape in the first degree pursuant to section 566.032;

17           (2) Statutory rape in the second degree pursuant to section 566.034;

18           (3) Statutory sodomy in the first degree pursuant to section 566.062; or

19           (4) Statutory sodomy in the second degree pursuant to section 566.064.

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

2           (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found  
3 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring  
4 to commit a felony offense of chapter 566, including sexual trafficking of a child and sexual  
5 trafficking of a child under the age of twelve, or any offense of chapter 566 where the victim is  
6 a minor, unless such person is exempted from registering under subsection 8 of this section; ~~[or]~~

7           (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found  
8 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring  
9 to commit one or more of the following offenses: kidnapping or kidnapping in the first degree  
10 when the victim was a child and the defendant was not a parent or guardian of the child; abuse  
11 of a child under section 568.060 when such abuse is sexual in nature; felonious restraint or  
12 kidnapping in the second degree when the victim was a child and the defendant is not a parent  
13 or guardian of the child; sexual contact or sexual intercourse with a resident of a nursing home

14 or sexual conduct with a nursing facility resident or vulnerable person in the first or second  
15 degree; endangering the welfare of a child under section 568.045 when the endangerment is  
16 sexual in nature; genital mutilation of a female child, under section 568.065; promoting  
17 prostitution in the first degree; promoting prostitution in the second degree; promoting  
18 prostitution in the third degree; sexual exploitation of a minor; promoting child pornography in  
19 the first degree; promoting child pornography in the second degree; possession of child  
20 pornography; furnishing pornographic material to minors; public display of explicit sexual  
21 material; coercing acceptance of obscene material; promoting obscenity in the first degree;  
22 promoting pornography for minors or obscenity in the second degree; incest; use of a child in a  
23 sexual performance; or promoting sexual performance by a child; **patronizing prostitution if**  
24 **the individual the person patronizes is less than eighteen years of age; [œ]**

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

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; [œ]

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; [œ] **and**

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 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 of this section and the court orders the removal or exemption of such  
70 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 registration a fee of five dollars for each change made after the initial registration.

77           6. Any person currently on the sexual offender registry for being convicted of, found  
78 guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or  
79 conspiring to commit, felonious restraint when the victim was a child and he or she was the  
80 parent or guardian of the child, nonsexual child abuse that was committed under section 568.060,  
81 or kidnapping when the victim was a child and he or she was the parent or guardian of the child  
82 shall be removed from the registry. However, such person shall remain on the sexual offender  
83 registry for any other offense for which he or she is required to register under sections 589.400  
84 to 589.425.

85           7. Any person currently on the sexual offender registry for having been convicted of,  
86 found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to  
87 commit, or conspiring to commit promoting prostitution in the second degree, promoting  
88 prostitution in the third degree, public display of explicit sexual material, statutory rape in the  
89 second degree, and no physical force or threat of physical force was used in the commission of  
90 the crime may file a petition in the civil division of the circuit court in the county in which the  
91 offender was convicted or found guilty of or pled guilty or nolo contendere to committing,  
92 attempting to commit, or conspiring to commit the offense or offenses for the removal of his or  
93 her name from the sexual offender registry after ten years have passed from the date he or she  
94 was required to register.

95           8. Effective August 28, 2009, any person on the sexual offender registry for having been  
96 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included  
97 under subsection 1 of this section may file a petition after two years have passed from the date  
98 the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or  
99 offenses in the civil division of the circuit court in the county in which the offender was  
100 convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for  
101 removal of his or her name from the registry if such person was nineteen years of age or younger  
102 and the victim was thirteen years of age or older at the time of the offense and no physical force  
103 or threat of physical force was used in the commission of the offense, unless such person meets  
104 the qualifications of this subsection, and such person was eighteen years of age or younger at the  
105 time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a  
106 violation of section 566.068, 566.090, 566.093, ~~566.095~~, or **566.101** when such offense is  
107 a misdemeanor, in which case, such person may immediately file a petition to remove or exempt  
108 his or her name from the registry upon his or her conviction or finding or pleading of guilty or  
109 nolo contendere to such offense.

110           9. (1) The court may grant such relief under subsection 7 or 8 of this section if such  
111 person demonstrates to the court that he or she has complied with the provisions of this section  
112 and is not a current or potential threat to public safety. The prosecuting attorney in the circuit  
113 court in which the petition is filed must be given notice, by the person seeking removal or  
114 exemption from the registry, of the petition to present evidence in opposition to the requested  
115 relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of  
116 the person seeking removal or exemption from the registry to notify the prosecuting attorney of  
117 the petition shall result in an automatic denial of such person's petition. If the prosecuting  
118 attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of  
119 the crime for which the person was required to register of the petition and the dates and times  
120 of any hearings or other proceedings in connection with that petition.

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

127 10. Any nonresident worker or nonresident student shall register for the duration of such  
128 person's employment or attendance at any school of higher education and is not entitled to relief  
129 under the provisions of subsection 9 of this section. Any registered offender from another state  
130 who has a temporary residence in this state and resides more than seven days in a twelve-month  
131 period shall register for the duration of such person's temporary residency and is not entitled to  
132 the provisions of subsection 9 of this section.

133 11. Any person whose name is removed or exempted from the sexual offender registry  
134 under subsection 7 or 8 of this section shall no longer be required to fulfill the registration  
135 requirements of sections 589.400 to 589.425, unless such person is required to register for  
136 committing another offense after being removed from the registry.

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