

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1346
97TH GENERAL ASSEMBLY

5376H.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 43.650, 589.400, and 589.402, RSMo, and to enact in lieu thereof five new sections relating to sexual offenses, with penalty provisions.

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

Section A. Sections 43.650, 589.400, and 589.402, RSMo, are repealed and five new
2 sections enacted in lieu thereof, to be known as sections 43.650, 566.088, 566.157, 589.400, and
3 589.402, to read as follows:

43.650. 1. The patrol shall, subject to appropriation, maintain a web page on the internet
2 which shall be open to the public and shall include a registered sexual offender search capability.

3 2. The registered sexual offender search shall make it possible for any person using the
4 internet to search for and find the information specified in subsection 4 of this section, if known,
5 on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only
6 persons who have been convicted of, found guilty of or plead guilty to committing, attempting
7 to commit, or conspiring to commit sexual offenses shall be included on this website.

8 3. The registered sexual offender search shall include the capability to search for sexual
9 offenders by name, zip code, and by typing in an address and specifying a search within a certain
10 number of miles radius from that address.

11 4. Only the information listed in this subsection shall be provided to the public in the
12 registered sexual offender search:

13 (1) The name and any known aliases of the offender;

14 (2) The date of birth and any known alias dates of birth of the offender;

15 (3) A physical description of the offender;

16 (4) The residence, temporary, work, and school addresses of the offender, including the
17 street address, city, county, state, and zip code;

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 (5) Any photographs of the offender;
- 19 (6) A physical description of the offender's vehicles, including the year, make, model,
- 20 color, and license plate number;
- 21 (7) The nature and dates of all offenses qualifying the offender to register;
- 22 (8) The date on which the offender was released from the department of mental health,
- 23 prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying
- 24 the offender to register;
- 25 (9) Compliance status of the offender with the provisions of section 589.400 to 589.425;
- 26 and
- 27 (10) Any online identifiers, as defined in section 43.651, used by the person. Such
- 28 online identifiers shall not be included in the general profile of an offender on the web page and
- 29 shall only be available to a member of the public by a search using the specific online identifier
- 30 to determine if a match exists with a registered offender.

31 **5. No person required to register under sections 589.400 to 589.425 for an offense**

32 **committed in Missouri or any other state or jurisdiction who was under eighteen years of**

33 **age at the time of the commission of the offense requiring registration shall have his or her**

34 **information published on the internet web page described in this section. Any person**

35 **currently on the internet web page who was under eighteen years of age at the time of the**

36 **commission of the offense in Missouri or any other state or jurisdiction requiring**

37 **registration under this section shall be immediately removed from the internet web page.**

566.088. 1. The provisions of this section shall be known as "Carrie's Law".

2 **2. A person commits the crime of sexual exploitation by a person of higher**

3 **authority if such person is or holds oneself out to be in any higher authority than the**

4 **victim, whether such authority is related to a professional license, or is recognized or**

5 **upheld as an authority figure within the scope of his or her relationship with a specific**

6 **group or body of individuals or constituencies and engages in sexual conduct, as defined**

7 **in section 566.010, with another person who is not the individual's spouse and the sexual**

8 **conduct occurred:**

9 **(1) Following a documented pattern of efforts to seduce the victim over a period of**

10 **time; and**

11 **(2) During the course of a meeting in which the victim sought or received**

12 **instruction, counseling, advice, therapy, aid, or comfort from the person or within one**

13 **hundred twenty days after such meeting has ended; or**

14 **(3) During a period of time in which the victim was meeting on an ongoing basis**

15 **with the person of higher authority to seek or receive instruction, counseling, advice,**

16 **therapy, aid, or comfort from the person; or**

17 (4) While the person was in a position of trust or authority over the victim and used
18 that position of trust or authority to engage in the sexual conduct.

19 3. Consent by the victim is not a defense under this section.

20 4. Sexual exploitation by a person of higher authority is a class B misdemeanor
21 unless the person used the relationship to solicit or collect anything of monetary value from
22 the victim or on behalf of the victim, or such monetary collection was solicited or required
23 by the structure of the group or body of individuals bestowing such authority, in which
24 case such sexual exploitation shall be a class A misdemeanor.

 566.157. 1. For purposes of this section, the following terms mean:

2 (1) "Instant messaging or chat room program", a program that allows a form of
3 real time text communication between two or more people via computers connected over
4 a network such as the internet, or between cell phone or wireless communication device
5 users, or over a cell phone or wireless communication device network;

6 (2) "Social networking website", a website that allows users to create web pages or
7 profiles about themselves that are available to the general public, or to any other users, and
8 offers a mechanism for communication among users. Social networking website shall not
9 include any of the following:

10 (a) A website that provides only one of the following services: photo-sharing,
11 electronic mail, or instant messaging;

12 (b) A website, the primary purpose of which is the facilitation of commercial
13 transactions involving goods or services between its members or visitors;

14 (c) A website, the primary purpose of which is the dissemination of news; or

15 (d) A website of a governmental entity.

16 2. A person commits the offense of unlawful internet communication with a minor
17 if:

18 (1) Such person has been found guilty of:

19 (a) Any of the provisions of this chapter;

20 (b) Incest under section 568.020;

21 (c) Endangering the welfare of a child in the first degree under section 568.045;

22 (d) Use of a child in a sexual performance under section 568.080;

23 (e) Promoting a sexual performance by a child under section 568.090;

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

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

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

27 (i) Possession of child pornography under section 573.037; or

28 (j) Furnishing pornographic material to minors under section 573.040; and

29 **(2) Such person knowingly violates a condition of probation, parole, or supervised**
30 **release that prohibits such person from using a social networking website or an instant**
31 **messaging or chat room program to communicate, directly or through an intermediary,**
32 **with a child less than sixteen years of age.**

33 **3. Unlawful internet communication with a minor is a class A misdemeanor unless**
34 **the person has previously been found guilty of an offense under this section, in which case**
35 **it is a class D felony.**

36 **4. It is a defense to prosecution under this section that the person reasonably**
37 **believed that the child was at least sixteen years of age.**

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 when the victim was a child and
10 the defendant was not a parent or guardian of the child; abuse of a child under section 568.060
11 when such abuse is sexual in nature; felonious restraint when the victim was a child and the
12 defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a
13 resident of a nursing home, under section 565.200; endangering the welfare of a child under
14 section 568.045 when the endangerment is sexual in nature; genital mutilation of a female child,
15 under section 568.065; promoting prostitution in the first degree; promoting prostitution in the
16 second degree; promoting prostitution in the third degree; sexual exploitation of a minor;
17 promoting child pornography in the first degree; promoting child pornography in the second
18 degree; possession of child pornography; furnishing pornographic material to minors; public
19 display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity
20 in the first degree; promoting pornography for minors or obscenity in the second degree; incest;
21 use of a child in a sexual performance; or promoting sexual performance by a child; or

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

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

26 (5) Any juvenile certified as an adult and transferred to a court of general jurisdiction
27 who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to

28 committing, attempting to commit, or conspiring to commit a felony under chapter 566 which
29 is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which
30 shall include any attempt or conspiracy to commit such offense; **or**

31 (6) Any juvenile fourteen years of age or older at the time of the offense who has been
32 adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under
33 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;
34 **or**

35 (7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter
36 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or
37 foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to
38 commit, or conspiring to commit an offense which, if committed in this state, would be a
39 violation of chapter 566, or a felony violation of any offense listed in subdivision (2) of this
40 subsection or has been or is required to register in another state or has been or is required to
41 register under tribal, federal, or military law; or

42 (8) Any person who has been or is required to register in another state or has been or is
43 required to register under tribal, federal, or military law and who works or attends an educational
44 institution, whether public or private in nature, including any secondary school, trade school,
45 professional school, or institution of higher education on a full-time or on a part-time basis or
46 has a temporary residence in Missouri. "Part-time" in this subdivision means for more than
47 seven days in any twelve-month period.

48 2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of
49 conviction, release from incarceration, or placement upon probation, register with the chief law
50 enforcement official of the county or city not within a county in which such person resides unless
51 such person has already registered in that county for the same offense. Any person to whom
52 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall
53 register with the chief law enforcement official of such county or city not within a county within
54 three days. The chief law enforcement official shall forward a copy of the registration form
55 required by section 589.407 to a city, town, village, or campus law enforcement agency located
56 within the county of the chief law enforcement official, if so requested. Such request may ask
57 the chief law enforcement official to forward copies of all registration forms filed with such
58 official. The chief law enforcement official may forward a copy of such registration form to any
59 city, town, village, or campus law enforcement agency, if so requested.

60 3. The registration requirements of sections 589.400 through 589.425 are lifetime
61 registration requirements unless:

- 62 (1) All offenses requiring registration are reversed, vacated or set aside;
63 (2) The registrant is pardoned of the offenses requiring registration;

64 (3) The registrant is no longer required to register and his or her name shall be removed
65 from the registry under the provisions of subsection 6 of this section; or

66 (4) The registrant may petition the court for removal or exemption from the registry
67 under subsection 7 or 8 of this section and the court orders the removal or exemption of such
68 person from the registry.

69 4. For processing an initial sex offender registration the chief law enforcement officer
70 of the county or city not within a county may charge the offender registering a fee of up to ten
71 dollars.

72 5. For processing any change in registration required pursuant to section 589.414 the
73 chief law enforcement official of the county or city not within a county may charge the person
74 changing their registration a fee of five dollars for each change made after the initial registration.

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

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

93 8. Effective August 28, 2009, any person on the sexual offender registry for having been
94 convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included
95 under subsection 1 of this section **and who was certified as an adult for such offense** may file
96 a petition after [two] **five** years have passed from the date the offender was convicted or found
97 guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the
98 circuit court in the county in which the offender was convicted or found guilty of or pled guilty
99 or nolo contendere to the offense or offenses for removal of his or her name from the registry if

such person was [nineteen] **seventeen** years of age or younger and [the victim was thirteen years of age or older] **was no more than five years older than the victim** at the time of the offense, [and] **the victim is eighteen years of age or older at the time the petition is filed**, no physical force or threat of physical force was used in the commission of the offense, [unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of section 566.068, 566.090, 566.093, or 566.095 when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense] **and the offender successfully completes all court ordered treatment.**

9. **Any person required to register under sections 589.400 to 589.425 and was adjudicated as a juvenile for the crime for which he or she must register shall not be subject to the provisions of subsection 1 of section 589.402.**

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

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

[10.] 11. Any nonresident worker or nonresident student shall register for the duration of such person's employment or attendance at any school of higher education and is not entitled to relief under the provisions of subsection 9 of this section. Any registered offender from another state who has a temporary residence in this state and resides more than seven days in a

135 twelve-month period shall register for the duration of such person's temporary residency and is
136 not entitled to the provisions of subsection 9 of this section.

137 [11.] **12.** Any person whose name is removed or exempted from the sexual offender
138 registry under subsection 7 or 8 of this section shall no longer be required to fulfill the
139 registration requirements of sections 589.400 to 589.425, unless such person is required to
140 register for committing another offense after being removed from the registry.

589.402. 1. The chief law enforcement officer of the county or city not within a county
2 may maintain a web page on the internet, which shall be open to the public and shall include a
3 registered sexual offender search capability.

4 2. The registered sexual offender search shall make it possible for any person using the
5 internet to search for and find the information specified in subsection 3 of this section, if known,
6 on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only
7 persons who have been convicted of, found guilty of, or plead guilty to committing, attempting
8 to commit, or conspiring to commit sexual offenses shall be included on this website.

9 3. Only the information listed in this subsection shall be provided to the public in the
10 registered sexual offender search:

- 11 (1) The name and any known aliases of the offender;
- 12 (2) The date of birth and any known alias dates of birth of the offender;
- 13 (3) A physical description of the offender;
- 14 (4) The residence, temporary, work, and school addresses of the offender, including the
15 street address, city, county, state, and zip code;
- 16 (5) Any photographs of the offender;
- 17 (6) A physical description of the offender's vehicles, including the year, make, model,
18 color, and license plate number;
- 19 (7) The nature and dates of all offenses qualifying the offender to register;
- 20 (8) The date on which the offender was released from the department of mental health,
21 prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying
22 the offender to register;
- 23 (9) Compliance status of the offender with the provisions of sections 589.400 to
24 589.425; and
- 25 (10) Any online identifiers, as defined in section 43.651, used by the person. Such
26 online identifiers shall not be included in the general profile of an offender on the web page and
27 shall only be available to a member of the public by a search using the specific online identifier
28 to determine if a match exists with a registered offender.

29 4. The chief law enforcement officer of any county or city not within a county may
30 publish in any newspaper distributed in the county or city not within a county the sexual offender

31 information provided under subsection 3 of this section for any offender residing in the county
32 or city not within a county.

33 **5. No person required to register under sections 589.400 to 589.425 for an offense**
34 **committed in Missouri or any other state or jurisdiction who was under eighteen years of**
35 **age at the time of the commission of the offense requiring registration shall have his or her**
36 **information published on the internet web page described in this section. Any person**
37 **currently on the internet web page who was under eighteen years of age at the time of the**
38 **commission of the offense in Missouri or any other state or jurisdiction requiring**
39 **registration under this section shall be immediately removed from the internet web page.**

✓