

FIRST REGULAR SESSION

SENATE BILL NO. 341

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR NASHEED.

Read 1st time January 24, 2017, and ordered printed.

ADRIANE D. CROUSE, Secretary.

1493S.02I

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.

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Section A. Sections 567.020, 567.030, and 589.400, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 567.020,
3 567.030, and 589.400, to read as follows:

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

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

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

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

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

18 consideration successful completion of a drug or alcohol treatment program in
19 determining the defendant's sentence.

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

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

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

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

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

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

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

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

- 21 (1) Statutory rape in the first degree pursuant to section 566.032;
22 (2) Statutory rape in the second degree pursuant to section 566.034;
23 (3) Statutory sodomy in the first degree pursuant to section 566.062; or
24 (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
3 of, been found guilty of, or pled guilty or nolo contendere to committing,
4 attempting to commit, or conspiring to commit a felony offense of chapter 566,
5 including sexual trafficking of a child and sexual trafficking of a child under the

6 age of twelve, or any offense of chapter 566 where the victim is a minor, unless
7 such person is exempted from registering under subsection 8 of this section; or

8 (2) Any person who, since July 1, 1979, has been or is hereafter convicted
9 of, been found guilty of, or pled guilty or nolo contendere to committing,
10 attempting to commit, or conspiring to commit one or more of the following
11 offenses: kidnapping or kidnapping in the first degree when the victim was a
12 child and the defendant was not a parent or guardian of the child; abuse of a
13 child under section 568.060 when such abuse is sexual in nature; felonious
14 restraint or kidnapping in the second degree when the victim was a child and the
15 defendant is not a parent or guardian of the child; sexual contact or sexual
16 intercourse with a resident of a nursing home or sexual conduct with a nursing
17 facility resident or vulnerable person in the first or second degree; endangering
18 the welfare of a child under section 568.045 when the endangerment is sexual in
19 nature; genital mutilation of a female child, under section 568.065; promoting
20 prostitution in the first degree; promoting prostitution in the second degree;
21 promoting prostitution in the third degree; sexual exploitation of a minor;
22 promoting child pornography in the first degree; promoting child pornography in
23 the second degree; possession of child pornography; furnishing pornographic
24 material to minors; public display of explicit sexual material; coercing acceptance
25 of obscene material; promoting obscenity in the first degree; promoting
26 pornography for minors or obscenity in the second degree; incest; use of a child
27 in a sexual performance; or promoting sexual performance by a child;
28 **patronizing prostitution if the individual the person patronizes is less**
29 **than eighteen years of age; or**

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

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

35 (5) Any juvenile certified as an adult and transferred to a court of general
36 jurisdiction who has been convicted of, found guilty of, or has pleaded guilty or
37 nolo contendere to committing, attempting to commit, or conspiring to commit a
38 felony under chapter 566 which is equal to or more severe than aggravated sexual
39 abuse under 18 U.S.C. Section 2241, which shall include any attempt or
40 conspiracy to commit such offense;

41 (6) Any juvenile fourteen years of age or older at the time of the offense

42 who has been adjudicated for an offense which is equal to or more severe than
43 aggravated sexual abuse under 18 U.S.C. Section 2241, which shall include any
44 attempt or conspiracy to commit such offense;

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

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

60 2. Any person to whom sections 589.400 to 589.425 apply shall, within
61 three days of conviction, release from incarceration, or placement upon probation,
62 register with the chief law enforcement official of the county or city not within a
63 county in which such person resides unless such person has already registered
64 in that county for the same offense. Any person to whom sections 589.400 to
65 589.425 apply if not currently registered in their county of residence shall
66 register with the chief law enforcement official of such county or city not within
67 a county within three days. The chief law enforcement official shall forward a
68 copy of the registration form required by section 589.407 to a city, town, village,
69 or campus law enforcement agency located within the county of the chief law
70 enforcement official, if so requested. Such request may ask the chief law
71 enforcement official to forward copies of all registration forms filed with such
72 official. The chief law enforcement official may forward a copy of such
73 registration form to any city, town, village, or campus law enforcement agency,
74 if so requested.

75 3. The registration requirements of sections 589.400 through 589.425 are
76 lifetime registration requirements unless:

77 (1) All offenses requiring registration are reversed, vacated or set aside;

78 (2) The registrant is pardoned of the offenses requiring registration;

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

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

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

88 5. For processing any change in registration required pursuant to section
89 589.414 the chief law enforcement official of the county or city not within a county
90 may charge the person changing their registration a fee of five dollars for each
91 change made after the initial registration.

92 6. Any person currently on the sexual offender registry for being convicted
93 of, found guilty of, or pleading guilty or nolo contendere to committing,
94 attempting to commit, or conspiring to commit, felonious restraint when the
95 victim was a child and he or she was the parent or guardian of the child,
96 nonsexual child abuse that was committed under section 568.060, or kidnapping
97 when the victim was a child and he or she was the parent or guardian of the child
98 shall be removed from the registry. However, such person shall remain on the
99 sexual offender registry for any other offense for which he or she is required to
100 register under sections 589.400 to 589.425.

101 7. Any person currently on the sexual offender registry for having been
102 convicted of, found guilty of, or having pleaded guilty or nolo contendere to
103 committing, attempting to commit, or conspiring to commit promoting prostitution
104 in the second degree, promoting prostitution in the third degree, public display
105 of explicit sexual material, statutory rape in the second degree, and no physical
106 force or threat of physical force was used in the commission of the crime may file
107 a petition in the civil division of the circuit court in the county in which the
108 offender was convicted or found guilty of or pled guilty or nolo contendere to
109 committing, attempting to commit, or conspiring to commit the offense or offenses
110 for the removal of his or her name from the sexual offender registry after ten
111 years have passed from the date he or she was required to register.

112 8. Effective August 28, 2009, any person on the sexual offender registry
113 for having been convicted of, found guilty of, or having pled guilty or nolo

114 contendere to an offense included under subsection 1 of this section may file a
115 petition after two years have passed from the date the offender was convicted or
116 found guilty of or pled guilty or nolo contendere to the offense or offenses in the
117 civil division of the circuit court in the county in which the offender was convicted
118 or found guilty of or pled guilty or nolo contendere to the offense or offenses for
119 removal of his or her name from the registry if such person was nineteen years
120 of age or younger and the victim was thirteen years of age or older at the time of
121 the offense and no physical force or threat of physical force was used in the
122 commission of the offense, unless such person meets the qualifications of this
123 subsection, and such person was eighteen years of age or younger at the time of
124 the offense, and is convicted or found guilty of or pleads guilty or nolo contendere
125 to a violation of section 566.068, 566.090, 566.093, or 566.095 when such offense
126 is a misdemeanor, in which case, such person may immediately file a petition to
127 remove or exempt his or her name from the registry upon his or her conviction or
128 finding or pleading of guilty or nolo contendere to such offense.

129 9. (1) The court may grant such relief under subsection 7 or 8 of this
130 section if such person demonstrates to the court that he or she has complied with
131 the provisions of this section and is not a current or potential threat to public
132 safety. The prosecuting attorney in the circuit court in which the petition is filed
133 must be given notice, by the person seeking removal or exemption from the
134 registry, of the petition to present evidence in opposition to the requested relief
135 or may otherwise demonstrate the reasons why the petition should be
136 denied. Failure of the person seeking removal or exemption from the registry to
137 notify the prosecuting attorney of the petition shall result in an automatic denial
138 of such person's petition. If the prosecuting attorney is notified of the petition he
139 or she shall make reasonable efforts to notify the victim of the crime for which
140 the person was required to register of the petition and the dates and times of any
141 hearings or other proceedings in connection with that petition.

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

149 10. Any nonresident worker or nonresident student shall register for the

150 duration of such person's employment or attendance at any school of higher
151 education and is not entitled to relief under the provisions of subsection 9 of this
152 section. Any registered offender from another state who has a temporary
153 residence in this state and resides more than seven days in a twelve-month period
154 shall register for the duration of such person's temporary residency and is not
155 entitled to the provisions of subsection 9 of this section.

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

✓

Bill

Copy