

CRIMINAL LAW: Pursuant to subsection 3 of Section 566.617,
POLICE: RSMo, as enacted by Conference Committee
POLICE RECORDS: Substitute for House Committee Substitute for
SHERIFFS: Senate Committee Substitute for Senate Bill
SUNSHINE LAW: No. 56, 89th General Assembly, First Regular
Session (1997), a local law enforcement
agency shall provide to any person upon request a complete list of the names and
addresses of sex offenders registered within such agency's jurisdiction as well as the
crime for which each offender was convicted.

September 5, 1997

OPINION NO. 145-97

J. Ronald Carrier
Greene County Prosecuting Attorney
Greene County Judicial Facility
1010 Boonville Avenue
Springfield, Missouri 65802-3804

Dear Mr. Carrier:

This opinion is in response to your question asking if a local law enforcement agency should provide to any person upon request a complete list of the names and addresses of sex offenders registered within such agency's jurisdiction as well as the crime for which each offender was convicted. Your question arises as a result of the enactment of two bills by the General Assembly in 1997 which addressed this issue: 1) Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 56, 89th General Assembly, First Regular Session (hereinafter "Senate Bill No. 56"), and 2) House Bill No. 883, 89th General Assembly, First Regular Session (hereinafter "House Bill No. 883"). Both bills were effective August 28, 1997.

Senate Bill No. 56, among other changes, repealed Section 566.617, RSMo 1994, and enacted a new section with the same number. Section 566.617, as enacted by Senate Bill No. 56, provides:

566.617. 1. Except as provided in subsection 3 of this section, the statements, photographs, and fingerprints required by sections 566.600 to 566.625 shall not be subject to the provisions of chapter 610, RSMo, and are not public records as defined in section 610.010, RSMo, and shall be available [only] to courts, prosecutors and law enforcement agencies.

2. Except as provided in subsection 3 of this section, the statements, photographs, and fingerprints required by sections 566.600 to 566.625 shall not be subject to the provisions of chapter 610, RSMo, and are not public records as defined in section 610.010, RSMo, and shall not be open to inspection by the public or any person, other than a regularly employed peace officer or law enforcement officer.

3. Notwithstanding any provision of law to the contrary, the local law enforcement agency shall provide a complete list of the names and addresses of each offender registered within such agency's jurisdiction as well as the crime for which such offender was convicted to any person upon request.

The words added to Section 566.617 by Senate Bill No. 56 are highlighted by underlining and the word deleted is shown in brackets.

Sections 566.600 to 566.625, RSMo 1994 and Supp. 1996, comprised the sex offender registration law. House Bill No. 883 repealed Sections 566.600 to 566.625, RSMo 1994 and Supp. 1996, and enacted similar sections numbered Sections 589.400 to 589.425. Section 589.417, as enacted by House Bill No. 883, provides:

589.417. 1. The statements, photographs and fingerprints required by sections 589.400 to 589.425 shall not be subject to the provisions of chapter 610, RSMo, and are not public records as defined in section 610.010, RSMo, and shall be available only to courts, prosecutors and law enforcement agencies.

2. The statements, photographs and fingerprints required by sections 589.400 to 589.425 shall not be subject to the provisions of chapter 610, RSMo, and are not public records as defined in section 610.010, RSMo, and shall not be open to inspection by the public or any person, other than a regularly employed peace officer or law enforcement officer.

Section 589.417, as enacted House Bill No. 883, is the same as Section 566.617, RSMo 1994, except for section number references.

There are two statutes enacted at the same legislative session dealing with similar topics. In interpreting statutes, courts strive both to implement the policy of the legislature and to harmonize all provisions of the statutes. 20th & Main Redevelopment Partnership v. Kelley, 774 S.W.2d 139 (Mo. banc 1989). The principle that statutes should be construed harmoniously when they relate to the same subject matter is all the more compelling when statutes are passed in the same legislative session. State, Department of Labor and Industrial Relations, Division of Labor Standards v. SKC Electric, Inc., 936 S.W.2d 802 (Mo. banc 1997).

In the situation about which you are concerned, the changes by Senate Bill No. 56 and House Bill No. 883 can be harmonized. The sex offender registration law formerly contained in Sections 566.600 to 566.625 is now set forth as a result of House Bill No. 883 in Sections 589.400 to 589.425. Section 589.417, as enacted by House Bill No. 883, provides that statements, photographs and fingerprints required by the sex offender registration law are not available to the public.¹ Section 566.617, as enacted by Senate Bill No. 56, likewise provides that statements, photographs and fingerprints are not available to the public. However, subsection 3 of Section 566.617 provides a local law enforcement agency shall provide to any person upon request a complete list of the names and addresses of sex offenders registered within such agency's jurisdiction as well as the crime for which each offender was convicted. Harmonizing the provisions enacted by the two bill, statements, photographs and

¹Pursuant to Section 589.407, as enacted by House Bill No. 883, a "statement" includes the name, address, social security number and phone number of the person, the place of employment of such person, the crime which requires registration, the date and place of such crime, the date and place of the conviction or plea regarding such crime, the age and gender of the victim at the time of the offense and whether the person successfully completed the Missouri sexual offender program pursuant to Section 589.040, if applicable.

J. Ronald Carrier
Page 4

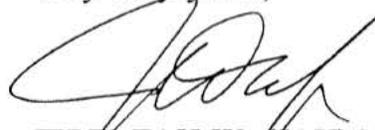
fingerprints are not available to the public; however, a complete list of names, addresses and crimes is available to any person upon request.²

Furthermore, effect should be given to the changes enacted by each of the two bills. Missouri Attorney General Opinion No. 194, Ratcliff, 1978, a copy of which is enclosed, at page 4. In the situation about which you are concerned, House Bill No. 883 reenacts the language of Section 566.617 without change, except for section number references. Senate Bill No. 56 reenacts such section with changes and, among other changes, adds as subsection 3 the provision for a local law enforcement agency to provide to any person upon request a complete list of the names and addresses of sex offenders registered within such agency's jurisdiction as well as the crime for which each offender was convicted. Subsection 3 is a change from prior law and such change by the General Assembly should be given effect.

CONCLUSION

It is the opinion of this office that pursuant to subsection 3 of Section 566.617, RSMo, as enacted by Conference Committee Substitute for House Committee Substitute for Senate Committee Substitute for Senate Bill No. 56, 89th General Assembly, First Regular Session (1997), a local law enforcement agency shall provide to any person upon request a complete list of the names and addresses of sex offenders registered within such agency's jurisdiction as well as the crime for which each offender was convicted.

Very truly yours,



JEREMIAH W. (JAY) NIXON
Attorney General

²We do not address which offenders should be shown on the list. Particularly, we do not address whether those offenders who received a suspended imposition of sentence should be shown on the list.