

HOUSE BILL NO. 268

INTRODUCED BY C. SCHOMER, N. NICOL, J. ETCHART

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO SEXUAL AND VIOLENT OFFENDER REGISTRATION; REQUIRING THE COUNTY ATTORNEY TO NOTIFY THE ATTORNEY GENERAL'S OFFICE WHEN A PETITION TO RELIEVE DUTY TO REGISTER IS FILED; AND AMENDING SECTION 46-23-506, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-506, MCA, is amended to read:

"46-23-506. Duty of registration -- duration, frequency, reduction, and relief. (1) A sexual offender required to register under this part shall register for the remainder of the sexual offender's life, except as provided in subsection (3) or during a period of time during which the sexual offender is in prison.

(2) (a) A violent offender required to register under this part shall register for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing and after registering for 10 years, is automatically relieved of the duty to register unless convicted as provided in subsection (2)(b).

(b) If convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, the violent offender shall register for the remainder of the violent offender's life unless relieved of the duty to register as provided in subsection (2)(e).

(c) When a violent offender is relieved of the duty to register under subsection (2)(a), the department of justice shall remove the violent offender from the registry.

(d) Petitions for relief from registration under this part must be filed in the appropriate Montana district court. Orders or other documents granting relief from registration requirements that originated in other jurisdictions are not valid in Montana.

(e) Except as provided in subsection (5), at any time after 10 years of registration for a violent offender registered as provided in subsection (2)(b), a violent offender may petition the sentencing court or the

1 district court for the judicial district in which the violent offender resides for an order relieving the violent
 2 offender of the duty to register. The petition must be served on the county attorney in the county where the
 3 petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the
 4 victim of the last offense for which the violent offender was convicted if the victim's address is reasonably
 5 available. The court shall consider any written or oral statements of the victim. The court may grant the petition
 6 on finding that:

- 7 (i) the violent offender has remained a law-abiding citizen; and
- 8 (ii) continued registration is not necessary for public protection and that relief from registration is in
 9 the best interests of society.

10 (3) Except as provided in subsection (7), at any time after 10 years of registration for a level 1
 11 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may
 12 petition the sentencing court or the district court for the judicial district in which the offender resides for an order
 13 relieving the offender of the duty to register. The petition must be served on the county attorney in the county
 14 where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition
 15 to the attorney general's office and to the victim of the last offense for which the offender was convicted if the
 16 victim's address is reasonably available. The court shall consider any written or oral statements of the victim.
 17 The court may grant the petition on finding that:

- 18 (a) the offender has maintained a clean record during their period of registration; and
- 19 (b) continued registration is not necessary for public protection and that relief from registration is in
 20 the best interests of society.

21 (4) A level 3 sexual offender may have their period of registration reduced to 25 years if the sexual
 22 offender was adjudicated delinquent of an offense as a juvenile that required level 3 sexual offender registration
 23 and the sexual offender has maintained a clean record for 25 consecutive years.

24 (5) For the purposes of this section, the sexual offender has a clean record if, during the period of
 25 time in which the sexual offender was required to register as a sexual offender:

- 26 (a) the sexual offender was not convicted of any felony offense;
- 27 (b) the sexual offender was not convicted of any sexual offense;
- 28 (c) the sexual offender successfully completed, without revocation, any period of supervised

1 release, probation, or parole; and

2 (d) the sexual offender has successfully completed an appropriate sexual offender treatment
3 program.

4 (6) The offender may move that all or part of the proceedings in a hearing under subsections (2)(e)
5 and (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under
6 subsections (2)(e) and (3) is closed to the public, the judge shall permit a victim of the offense to be present
7 unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or
8 the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an
9 individual to provide support to the victim unless the judge determines that exclusion of the individual is
10 necessary to protect the offender's right to privacy.

11 (7) Subsection (3) does not apply to an offender who was convicted of:

12 (a) a violation of 45-5-503 if:

13 (i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or
14 another; or

15 (ii) at the time the offense occurred, the victim was under 12 years of age;

16 (b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age
17 and the offender was 3 or more years older than the victim;

18 (c) a second or subsequent sexual or violent offense that requires registration; or

19 (d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

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