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To: Connecticut Sentencing Commission

Re: Sex Offender Registry Removal Mechanism

Date: November 8, 2021

Introduction

Special Act 15-2 charged the Connecticut Sentencing Commission to research and develop proposals for reforming Connecticut's policies for people convicted of sex offenses, including sentencing, registration, the collateral consequences of registration, and the utility of the sex offender registry to law enforcement and the public.

In 2017, the Commission published a comprehensive [report](#) on sex offender registration and management. The Commission also introduced legislation to reform the registry from a charge-based system to a risk-based system.

The current registry creates no positive incentives for registrants who comply with all their requirements. Moreover, aside from imposing a Class D felony for failing to report a change of address, current law does not sanction registrants for inappropriate behavior. Registration requirements also fail to differentiate between high- and low-risk individuals, subjecting all registrants to the same penalties and stigma, while making it difficult for the public to understand the level of risk an individual poses.

The Commission recognizes that placement on the public registry can impede the registrant's successful reentry into society by making it more difficult to find housing or employment. The Commission further recognizes a need to reform the sex offender registry to focus on high-risk individuals and provide long-term benefits to victims, law enforcement, low-risk individuals, and the public.

From 2018 through 2021, the Commission introduced a comprehensive reform proposal addressing many of the problems identified above. The General Assembly's Judiciary Committee did not raise the bill in 2020 or 2021. Given this history, Commission members have discussed introducing a narrower proposal comprising a subset of the Commission's recommendations, including a removal mechanism from the registry. The lack of a removal mechanism in our state's registry system places in a minority of just fifteen other jurisdictions.

This memo provides a proposal for the Commission to consider. Broadly, the proposal would penalize a registrant's inappropriate behavior and incentivize appropriate behavior. All registrants under the proposal would have an opportunity to petition for removal from the public registry. To successfully petition, registrants must show by their conduct that they have reduced their risk to the community.

Current Law

Under current state law, judges have limited ability to exempt people convicted of sexual offenses from the public registry. In a small subset of cases, if a court finds that public dissemination of an offender's registration information is not required for public safety, the court can limit dissemination of that information to law enforcement. This option is available only to two categories of individuals: (1) persons who committed second-degree sexual assault in a spousal or cohabiting relationship, CGS § 54-255(a), and (2) persons who committed sexual offenses against a minor who is a relative. CGS § 54-255(b).

Select categories of individuals convicted of sex offenses are exempt from registration entirely. Specifically, a court may order an exemption if registration is not required for public safety, and the person was (1) under age 19 at the time of the offense and (2) convicted of having sexual intercourse with a victim aged 13 to 15 (second-degree sexual assault). CGS § 54-251(b).

A court may also exempt registration requirements for a person convicted of sexual contact with another person without consent or nonconsensual voyeuristic recording of a person. In both cases, the court must find registration of the person is not required for public safety. CGS § 54-251(c).

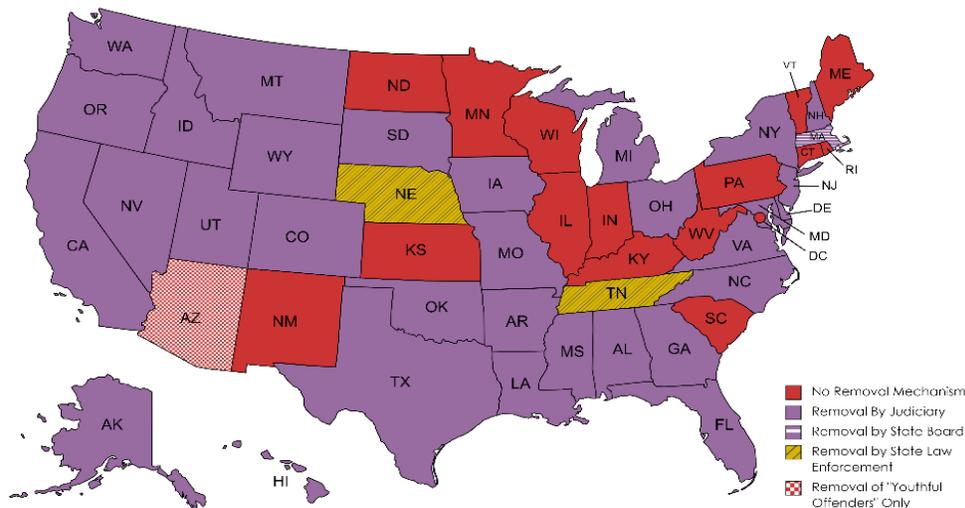
Removal Mechanisms in Other States

Thirty-five states provide a mechanism for removal from the state's registry. These include nearby states in the region, such as Massachusetts, New York, New Jersey, and New Hampshire. In these states, certain registrants—typically those individuals convicted of less serious offenses or those classified at a lower risk tier—may petition for removal from the registry. Usually, registrants must have spent a certain number of years on the registry to be eligible to petition, and courts may grant the petition only upon evidence showing the registrant is not likely to reoffend. Some states additionally require the registrant to complete any required behavioral programming or supervised release terms before a court may grant a petition.

Although nearly all states' removal mechanisms are established by statute, in Alaska, the removal mechanism exists by virtue of the Alaska Supreme Court's interpretation of the state's due process clause.

Connecticut is one of only 15 states to provide no early termination or pathway to removal from the sex offender registry.¹

¹ The other fourteen states without a removal mechanism are Arizona (except for juvenile registrants, who may petition for removal), Indiana, Illinois, Kansas, Kentucky, Maine, Minnesota, New Mexico, North Dakota, Pennsylvania, Rhode Island, South Carolina, Vermont, and West Virginia. Although Rhode Island does not allow for removal from the registry, registrants may petition to modify their community notification requirements.



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Proposal: Fully retroactive removal mechanism; expanded ability for judges to issue exemptions.

- All lifetime registrants can petition the Superior Court for removal from the public registry after being on the public registry for 10 years.
- All 10-year registrants can petition the Superior Court for removal from the public registry after being on the public registry for 5 years.
- The Superior Court shall hold a hearing for a petitioner eligible for removal. The court shall notify the Office of Victim Services and the Court Support Services Division (if applicable) within the Judicial Branch, the Board of Pardons and Paroles, the Victim Services Unit within the Department of Correction, the Office of the Chief Public Defender, and the appropriate state’s attorney of the hearing date.
- The Office of the Chief Public Defender shall assign counsel for an indigent petitioner.
- If the petitioner is under the supervision of the Judicial Branch’s Court Support Services Division, the division shall submit a supervision progress report to the court before the hearing.
- At the hearing, the court shall permit the petitioner and the state’s attorney to present evidence and allow the victim to make a statement. The victim shall also be permitted to submit a statement in writing.
- The court may order a petitioner’s removal from the registry if, in the court’s opinion, such removal will assist the individual in reintegration into the community and be consistent with public safety. In making this determination, the court shall consider the

nature of the offense and the petitioner's conduct since the offense, including (1) the individual's history of sex offender or behavioral health treatment; (2) the results of any relevant evaluations by behavioral health professionals; (3) the individual's history of employment and education; (4) the individual's compliance with the terms of parole, probation, and the requirements of the sex offender registry; (5) the results of a risk assessment; and (5) any other factors bearing on the individual's reintegration into the community. The petitioner shall have the burden of proof by a preponderance of the evidence. Instead of removing the petitioner from the registry entirely, the court may also move the individual to the law enforcement registry for the remainder of the registration period.

- If the court orders petitioner removed from the registry, the court shall notify DESPP; the Judicial Branch's Court Support Services Division (if applicable); the Office of Victim Services within the Judicial Branch; the Parole and Community Services Division, if applicable; the Victim Services Unit within the Department of Correction; and the police department or the state police troop having jurisdiction over the individual's address.
- The petitioner and the state's attorney shall have the right to appeal the decision of the Superior Court. The decision of the court shall be subject to review for abuse of discretion.
- If the petition is denied, the petitioner may not reapply for removal from the registry for 5 years.
- The proposal applies retroactively to individuals currently on the registry.
- The proposal would amend Sec. 54-25: In the event that a registrant fails to return the address verification form, the Department of Emergency Services and Public Protection shall notify the local police department or the state police troop having jurisdiction over the registrant's last reported address, and that agency [shall] may apply for a warrant to be issued for the registrant's arrest under section 4 of 1125 this act or section 54-251, as amended by this act, 54-252, as amended 1126 by this act, 54-253, as amended by this act, or 54-254, as amended by this act, as the case may be.
- The proposal would also expand eligibility for courts to exempt registration requirements for people convicted of misdemeanors.