

AN ACT CONCERNING THE RECOMMENDATIONS OF THE CONNECTICUT SENTENCING COMMISSION WITH RESPECT TO THE SEX OFFENDER REGISTRY

The proposal to amend Chapter 969 of the Connecticut General Statutes both strengthens and focuses the Connecticut sex offender registry. Under current law, the crime that the offender was convicted of determines the requirement to register and the length of time the person will be on the registry.

Under this proposal, the categories of sex offenders who must register with the Department of Emergency Services and Public Protection (DESPP) based on the crime for which they were convicted remain the same. However, the length of time on the registry and whether it is a public registry or a law enforcement-only registry will be determined by evaluating the registrant's risk of reoffending.

This proposal will eventually result in fewer offenders on the public sex offender registry; those higher-risk offenders who warrant the focused attention of probation and parole, law enforcement, and the public. Validated actuarial risk assessment instruments will be used to determine a person's likelihood of reoffending.

The current registry has no reward for a registrant's appropriate behavior and no sanction for a registrant's inappropriate behavior, other than the failure to report a change of address, which is a class D felony. Changes to the registry are based on the recognition 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. This proposal will penalize registrant's inappropriate behavior and reward appropriate behavior. All registrants will have an opportunity to petition to shorten their registration period or apply for removal from the public registry. In order to do so, registrants will have to show, by their conduct, that they have reduced their risk to the community.

Under the new system, some registrants will be on the registry for shorter periods than under the current system, and others will be on for longer periods. However, that determination will be based on the registrant's risk to the community. The registrants will have an opportunity to lower their risk profile by participating in programming for behavioral health, vocational training, and other services designed to enhance community reintegration and by avoiding rearrest for any new criminal activity.

1. Current Law

Under current law, certain categories of sex offenders must register for a specified period following their release into the community. The requirement applies to persons convicted, or acquitted by reason of mental disease or defect, of three types of offenses, including persons convicted or acquitted by reason of mental disease or defect of a similar offense in another jurisdiction, for the duration stated below:

- criminal offenses against a victim who is a minor: generally 10 years for a first conviction or lifetime for a subsequent conviction;
- nonviolent sex offenses: generally 10 years for a first conviction or lifetime for a subsequent conviction; and
- sexually violent offenses: lifetime.

In addition, the court may require registration for 10 years for an offender convicted, or acquitted by reason of a mental disease or defect, of any felony that the court determines was committed for a sexual purpose.

Connecticut is one of the few jurisdictions that does not permit removal from the registry.

Under current state law, if a court finds that public dissemination of a sex offender's registration information is not required for public safety, access is limited to law enforcement agencies. This applies to only a small group of individuals. The court may grant this access restriction to persons who committed second-degree sexual assault in a spousal or cohabiting relationship (CGS § 54-255(a)). Similarly, if a court finds that public dissemination is not required for public safety, it may restrict registry dissemination for persons who committed offenses against a minor, nonviolent sex offenses, or sexually violent offenses, where the victim was a relative of the person (CGS § 54-255(b)).

Select categories of sex offenders are exempt from registration requirements. Specifically, a court may exempt a person if registration is not required for public safety and the person was (1) convicted of having sexual intercourse with a victim age 13 to 15 (second-degree sexual assault) and (2) under age 19 when the crime was committed (CGS § 54-251(b)).

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

2. Prospective Changes to the Registry

The following changes would apply prospectively to individuals who are convicted on or after the effective date of legislation. The registration requirement would be based on an assessment of the risk an individual poses to reoffend, rather than on the current system based on the offense.

i. *Sex Offender Registration Board*

- An independent Sex Offender Registration Board of experts would be authorized to determine whether an offender who is required to register should be placed on the public registry or law enforcement registry. Specifically:
 - The lowest-risk offenders, based on an actuarial risk assessment, shall presumptively be placed on the law enforcement registry for 10 years.
 - The moderate-risk offenders, based on an actuarial risk assessment, shall be placed on either the public registry for life or the law enforcement registry for 20 years, based on the Board's decision rather than a presumption (see below).
 - The highest-risk offenders, based on an actuarial risk assessment, shall presumptively be placed on the public registry for life.
- In making such a classification, the Board shall use the scoring from validated actuarial risk assessment instruments, with the exception of moderate risk scoring. In addition, the Board may override the tier classification based on other factors including the nature and circumstance of the offense, any other aggravating or mitigating factors, and the impact to the victim, if known, and the community.
- The Board is within the executive branch.
- The Board's decision to place an offender on the law enforcement registry is not subject to appeal.
- The Board's decision to place an offender on the public registry may be appealed when the registrant requests a hearing before the Board.
- There shall be a presumption that an offender who scored high risk on the actuarial assessment will be placed on the public registry.
- For any offender who scored moderate risk on the actuarial assessment, the Board shall determine placement on the public or law enforcement registry by considering the factors set forth above in addition to the actuarial assessment. Given the extremely wide range of individuals who fall into a moderate range of risk (from just slightly above low risk to just slightly below high risk) and the extensive research on decision-making bias when there are no specific standards and guidelines in place, the registration board shall develop a set of evidence-based criteria to utilize a structured decision-making tool that takes into account the factors relevant to determine whether a moderate level individual would be best placed on the public or the law enforcement registry. There would be no statutory presumption of assignment to either the public registry for life or the law enforcement registry for 20 years.
- There shall be a presumption that an offender who scored low on the actuarial assessment will be placed on the law enforcement registry.

- After ten years on the public registry, an offender may petition the Board to be moved to the 20-year law enforcement registry.
- Victims shall be notified and may provide input when an offender petitions the Board for reclassification from the public registry to the law enforcement registry.
- An offender requesting a change in registration requirements shall be in compliance with the registry at the time of the request. A probation or parole officer or the state's attorney may make a recommendation at the time of the request regarding an offender who is or has been under probation or parole supervision.
- At any time, a probation or parole officer or the state's attorney may request that an offender on the law enforcement registry be moved to the public registry because of the registrant's failure to meet conditions of parole or probation or new criminal activity.

ii. *Removal Mechanism*

- After 10 years on the law enforcement registry for 20-year registrants, an offender may petition the Superior Court to be removed from the registry.
- After five years on the law enforcement registry for 10-year registrants, an offender may petition the Superior Court to be removed from the registry.
- An offender is not eligible for removal directly from the public registry, but must be placed on the law enforcement registry first.
- A registrant would not be eligible to petition the court for removal sooner than (1) five years after the conviction for a felony offense not requiring registration, (2) three years after the conviction for a class A misdemeanor offense not requiring registration, or (3) one year after conviction for any other misdemeanor offense not requiring registration.
- The Superior Court shall hold a hearing for a petitioning offender eligible for removal. The court shall notify the Office of Victim Services within the Judicial Branch, 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 offender.
- The Superior Court shall order that a risk assessment be conducted unless the requirement is waived for good cause. The Superior Court may also refer the case to the Sex Offender Registration Board for assessment and recommendation.
- At the hearing, the court shall permit the registrant and the state's attorney to present evidence and allow the victim to make a statement. The victim shall also be allowed to submit a statement in writing.

- The court may order an offender's removal from the registry if, in the opinion of the court, such removal shall assist the offender in reintegration into the community and shall 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 offender's history of sex offender and/or behavioral health treatment; (2) the results of any relevant risk assessments and evaluations by behavioral health professionals; (3) the offender's history of employment and education; (4) the offender's compliance with the terms of parole, probation, and the requirements of the sex offender registry; and (5) any other factors bearing on the offender's reintegration into the community. The registrant shall have the burden of proof by a preponderance of the evidence.
- If the court orders an offender removed from the registry, the court shall notify the DESPP; the Court Support Services Division, if applicable; and the Office of Victim Services within the Judicial Branch; the Parole and Community Services Division, if applicable; and the Victim Services Unit within the Department of Correction; and the local police department or the state police troop having jurisdiction over the registrant's address.
- The registrant and the state's attorney shall have the right to appeal the decision of the Superior Court and the decision of the court shall be subject to review for abuse of discretion.

3. Retroactive Changes to the Registry

i. "Grandfathered" Registrants

Offenders who were retroactively placed on the registry at the time the registry went into effect (i.e., offenders who were convicted prior to January 1, 1998, without knowledge that they would be subject to a registry) shall be eligible to petition the Superior Court for removal. Also eligible to petition the court for removal are offenders who would no longer be required to register but for the retroactive changes in law (i.e., the increase in the length of time an offender is required to register for an offense).

Victims shall be notified and have the opportunity to provide a statement as set forth above.

The Superior Court shall hold a hearing according to the procedures and criteria for removal set forth above. After the hearing, the court may (1) completely remove an offender from the registry or (2) move the offender to the law enforcement registry. In making such a determination, the court may refer the case to the Sex Offender Registration Board for assessment and recommendation.

If a request for removal is denied after a hearing, subsequent petitions may be filed 10 years after such a decision. For good cause shown, the Superior Court may permit a subsequent petition to be filed before the 10-year period.

ii. Other Offenders Currently on the Registry

Other offenders currently on the registry (i.e., those who were convicted after the creation of the registry) shall not be eligible to petition the court for removal from the registry. However, these offenders would be eligible to petition the Sex Offender Registration Board to move from the public to the law enforcement registry. The Board would use the criteria set forth above to determine whether to grant the request. If moved to the law enforcement registry, registrants shall continue to serve the remainder of their registration term as they are not eligible for removal. Victims shall be notified and have the opportunity to provide a statement if a registrant petitions to be moved to the law enforcement registry.

Offenders required to register for 10 years may petition the Board to move to the law enforcement registry after five years. Those required to register for life may petition after 10 years.

4. Further Details

Entities making classification decisions

- Sex Offender Registration Board
- Superior Court

Sex Offender Registration Board Membership

The Sex Offender Registration Board shall be comprised of eight members. The members of the Board shall be appointed as follows:

1. The Governor shall appoint two people with substantial experience in providing sexual assault victims with victim advocacy services.
2. Three clinicians who meet the criteria for clinical membership in the Connecticut Association for the Treatment of Sexual Offenders (CATSO) or the Association for the Treatment of Sexual Abusers (ATSA) and who have at least five years of experience in the assessment of sex offenders, nominated by the Chief Court Administrator and appointed by the Governor.
3. Three persons with at least five years of experience in sex offender management and supervision who have received training in evidence-based supervision of sex offenders, nominated by the Chief Court Administrator and appointed by the Governor.

Members of the Sex Offender Registration Board shall serve on a part-time per diem basis.

A panel consisting of three members of the Board, at least one of whom shall be from each of the above categories, shall meet to review and determine the classification of each registrant or make a recommendation for removal for each applicant.

Registry Tiers

- Public registry (High Risk)
- Law enforcement registry or public registry (Moderate Risk)
- Law enforcement registry (Low Risk)

Length of Registration Requirement

- Lifetime public registration
- 20 year law enforcement registration
- 10 year law enforcement registration

Residence Address Verification

- Quarterly for offenders on the public registry, plus an annual in-person verification of residence address by law enforcement or a probation or parole officer.
- Semiannually for offenders on the law enforcement registry for 20 years
- Annually for offenders on the law enforcement registry for 10 years.

Victim Notification

Victims would receive notification of (1) placement on the registry whether public or law enforcement and (2) the registrant's address for the law enforcement registry.

Victims shall be permitted to provide input (1) when an offender petitions the Board or the Superior Court for reclassification from the public registry to the law enforcement registry and (2) when an offender petitions the Superior Court for removal from the registry.

The process for victim notification shall be developed in collaboration with victim advocacy services.

Table 1: Proposed Changes to Connecticut's Registration of Sex Offenders Law

<i>Tier</i>	<i>Access to the Registration</i>	<i>Duration on the Registry</i>	<i>Address Verification Requirement</i>	<i>Victim Notification*</i>	
				Initial Placement	Offender's Address
High Risk	Public	Lifetime	Quarterly	Yes	Public
Moderate Risk	Law enforcement only or public	20 years	Semiannually	Yes	Upon request
Low Risk	Law enforcement only	10 years	Annually	Yes	Upon request

*A victim may provide input to the Board when an offender petitions for reclassification from the public registry to the law enforcement registry or petitions the Superior Court for removal from the registry.