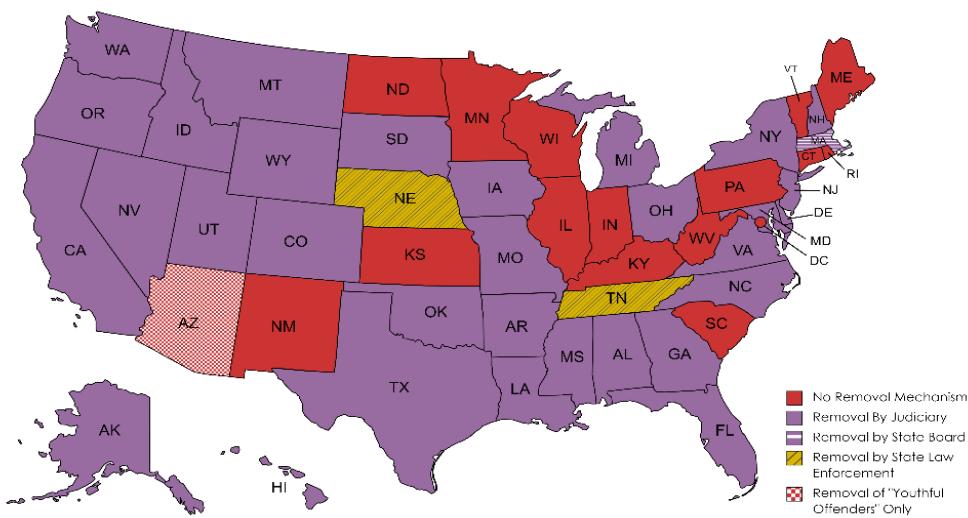


To: Incarceration and Collateral Consequences Subcommittee,
Connecticut Sentencing Commission
From: Joshua Zucker and Sarah Russell, Civil Justice Clinic,
Quinnipiac University School of Law
Re: Registry Removal for Individuals Convicted of Sex Offenses in Connecticut and
Other States
Date: September 28, 2021

I. Background

Connecticut's lack of a removal process from the sex offender registry places the state in a minority of fifteen other states. A majority of states have a removal mechanism that certain tiers or classes of individuals convicted of sex offenders can utilize. In many states, individuals convicted of sexually violent offenses or persons that were convicted of a sex crime against a minor are ineligible to petition for removal from a sex offender registry. In Arizona, only "youthful offenders", which are juvenile registrants, may petition the state court for removal.

A vast majority of the thirty-five states, thirty-one in total, use a judicial mechanism, which frequently involves the individual convicted of a sex crime petitioning the district court or a specific sentencing court. Massachusetts is the only state which features a removal mechanism that is adjudicated by a state board. However, board decisions in Massachusetts are subject to judicial review. Two states, Nebraska and Tennessee, vest removal authority from the sex offender registry with their state police, the Nebraska State Patrol and the Tennessee Bureau of Investigations, respectively.



Created with mapchart.net

II. Sex Offender Registry and Removal Process in Connecticut:

Under current law, Connecticut lacks a removal process for people convicted of sexual offenses who are placed on the public registry. Judges have limited discretion to exempt registration, which can only occur if the court finds that placing the offender's information on the public registry is not required for public safety. However, this option is available only to individuals in two categories: (1) individuals who committed second-degree sexual assault in a spousal or cohabitating context, CGS § 54-255(a), and (2) individuals who committed sexual offenses against a minor who is also a relative. CGS § 54-255(b).

Certain categories of individuals convicted of sexual offenses are exempt from registration, though this functionally applies only to youth. A court may exempt an individual from registration if registration is not required for public safety, and the person was (1) convicted of having sexual intercourse with a victim between the ages of 13 to 15 (second-degree sexual assault) and (2) under age 19 at the time of the offense. CGS § 54-251(c).

III. Models in Other States

Below are examples of removal procedures in three states:

A. New Hampshire

In New Hampshire, the duration to register requirement for tier I offenders is 10 years from the later of conviction/release, while tier II and tier III have a requirement to register for life. N.H. Rev. Stat. § 651-B:6(I),(II). Tier I offenders may petition the superior court for removal after 5 years, while Tier II offenders may petition the superior court for removal after 15 years. *Id.* § 651-B:6 (III)(a).

To be eligible to petition the superior court, an individual must successfully complete a period of supervised release, probation, or parole, and participate in a treatment program, along with a risk assessment at the individual's expense. *Id.* § 651-B:6(III)(a). A court must find that, for a person to be eligible for removal, that removal from the registry will assist the individual's rehabilitation, and will be consistent with the public welfare. *Id.* § 651 B:6 (III)(b).

B. Colorado

All individuals in Colorado on the registry are required for life to register. However, depending on the offense, the individual may petition a court for relief after 20/10/5 years from the date of discharge from the Department of Corrections. Col. Rev. Stat. § 16-22-103(1)(a)-(d). Relief, however, is not available for certain serious violent offenses and persons designated as sexually violent person. *Id.* § 16-22-113(3). A court must determine if the petitioner is likely to commit a subsequent offense of or involving unlawful sexual behavior. *Id.* § 16-22-113(e). The court bases its decision on recommendations from the individual's parole officer, treatment provider, and the prosecuting attorney for the jurisdiction in which the individual was tried. *Id.* § 16-22-113(e).

Individuals with a qualifying physical or intellectual disability may petition the court at any time for removal from the registry. *Id.* § 16-22-113(2.5). The court must find that “the petitioner suffers from a severe physical or intellectual disability to the extent that the petitioner is permanently incapacitated, does not present an unreasonable risk to public safety, and is not likely to commit a subsequent offense of or involving unlawful sexual behavior.” *Id.* § 16-22-113(2.5). In this context, the court may consider any relevant information presented by the petitioner or district attorney. *Id.* § 16-22-113(2.5) (f).

C. *Idaho*

All individuals in Idaho on the registry are required for life to register. However, an individual may petition the court for full relief after 10 years if they are not designated an aggravated offender or violent sexual predator. Idaho Code § 18-8310(1). An individual on the registry may also petition for relief from any bars on employment with child care facilities after 10 years as well, though this requires testimony from a licensed physician or psychologist about petitioner’s chance of reoffending. *Id.* § 18-8328. For full relief, there must be no pending charges and there cannot be another conviction for an offense that requires registration. *Id.* § 18-8310(4).

For full relief, courts apply a clear and convincing evidence standard that it is highly probable or reasonably certain the petitioner is not a risk to commit a new violation for any violent crime, sex offense, or certain crimes against minors. *Id.* § 18-8310(4)(c). All registrants are required to complete sentence and treatment programs as well. *Id.* § 18-8310(a)(a).