



Governor Michael J. Dunleavy
STATE OF ALASKA

January 24, 2020

The Honorable Cathy Giessel
Senate President
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Giessel:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill redefining registration periods for sex offenders and child kidnappers and allowing for a sex offender or child kidnapper to have their information removed from an Internet registry.

In June of 2019, the Alaska Supreme Court issued an opinion regarding the registration requirements imposed by Alaska's Sex Offender Registration Act (ASORA). *Doe v. Department of Public Safety*, 2019 WL 2480282 (Alaska 2019). In essence, the court held that ASORA is overbroad because it imposes lengthy registration requirements on all persons convicted of registerable sex offenses without affording them a hearing in which they might show that they are no longer dangerous and, therefore, should not be required to continue to register. The court stopped short of invalidating the entire ASORA. However, individuals on the registry may now petition the court for an opportunity to demonstrate that they are not dangerous and should be removed. There are virtually no guidelines in case law or statute to guide the court through this process. Therefore, the bill establishes the framework for these hearings in statute.

Under the bill, sex offenders and child kidnappers will be categorized into three different tiers based on the type of offense they have been convicted of. The tier will determine the length of the registration period. Tier I offenders will need to register for 10 years, Tier II offenders will need to register for 15 years, and Tier III offenders will need to register for life. An offender who is no longer on probation or parole may petition the court to have their information removed from the Internet registry. Before an offender may petition the court, they must have first registered with the Department of Public Safety for the previous five years for a Tier I offender, 10 years for a Tier II offender, and 15 years for a Tier III offender. In addition, the offender must have completed all treatment programs required by the court or the parole board and cannot have

been convicted of an offense, attempt, solicitation, or conspiracy of any of the following offenses since being convicted for the offense that has required the person to register:

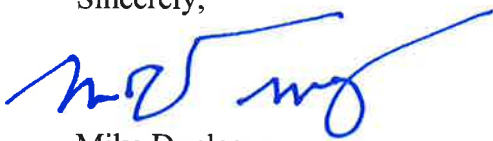
- (i) a crime against a person under AS 11.41;
- (ii) a violation by sex offender of condition of probation under AS 11.56.759;
- (iii) sending an explicit image of a minor under AS 11.61.116;
- (iv) cruelty to animals under AS 11.61.140;
- (v) misconduct involving weapons under AS 11.61.190 – 11.61.250;
- (vi) a sex offense or child kidnapping as defined in AS 12.63.100; or
- (vii) a crime of domestic violence under AS 18.66.990.

In order to issue an order requiring the Department of Public Safety to remove the offender's information from the Internet registry, the court must find by clear and convincing evidence that (1) the registration and compliance requirements outlined in statute have been satisfied; (2) the sex offender or child kidnapper is unlikely to commit another sex offense or child kidnapping; and (3) continued registration on a registry, that is published on the Internet, is not necessary for the protection of the public. The bill only allows an offender to be removed from an Internet registry. The offender must continue to register with the Department of Public Safety, which means law enforcement will continue to have the registration information in order to protect the public.

Without this legislation, the parameters for removal will be established slowly by the courts through an enormous amount of litigation. By establishing parameters in statute and only allowing the offender's information to be removed from an Internet registry, this bill can effectuate the holding in *Doe* in a way that continues to protect the public.

I urge your prompt and favorable action on this measure.

Sincerely,



Mike Dunleavy
Governor

Enclosure