

**HB 228 –  
SECTIONAL ANALYSIS**

January 27, 2020

**Summary:** This legislation is in response to *Doe v. Department of Public Safety*, 2019 WL 2480282 (Alaska 2019) in which the court held that Alaska’s sex offender registry 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 legislation breaks sex offenders and child kidnappers into three different tiers depending on the offense that the offender has been convicted of. It also establishes a procedure which allows sex offenders and child kidnappers to be removed from a registry that is published on the internet. In essence, a sex offender or child kidnapper must have been unconditionally discharged for a period of 5, 10, or 15 years depending on which tier the offender falls into. They must have completed all required treatment programs and not have been convicted of a disqualifying offense since being convicted of the underlying sex offense or child kidnapping. If they are able to satisfy these criteria, they may petition the court for removal from a registry that is published on the Internet. If the petition is granted they must continue to register with the Department of Public Safety, however, their information will not be made available on the Internet.

**Sections 1 and 2** require a victim to be notified of the filing of a petition for removal from a registry that is published on the Internet and of their right to participate in the subsequent hearing.

**Sections 3, 4, and 5** add to the list of information that a sex offender or child kidnapper must provide to the Department of Public Safety upon registering to include such things as if they intend to leave the state or intend to travel internationally.

**Section 6** of the bill creates a third tier of sex offenders and child kidnappers. The tier will determine the length of the registration period. Tier I offenders will need to register for 10 years after unconditional discharge, tier II offenders will need to register for 15 years after unconditional discharge, and tier III offenders will need to register for life after unconditional discharge.

**Section 7** of the bill clarifies that the period of registration is tolled if the sex offender or child kidnapper is not in compliance with the registration requirements or is incarcerated. The period tolled would be equal to the amount of time that the person was out of compliance or was incarcerated.

**Section 8** outlines the criteria that must be satisfied before a sex offender or child kidnapper may be removed from an Internet registry. The sex offender or child kidnapper must have

(1) successfully completed all treatment programs ordered by the court or required by the parole board;

(2) within the previous year, been assessed as low-risk by a treatment provider approved by the Department of Corrections under AS 44.28.020;

(3) since being convicted of the offense for which the person is registering, has not been convicted of an offense, attempt, solicitation, or conspiracy to commit any of the following offenses:

(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 addition, the person must not have been convicted of failure to register as a sex offender or child kidnapper for the previous 15 years for a tier III offender, 10 years for a tier II offender, or five years for a tier I offender. These time periods must not include the period prior to unconditional discharge.

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. Even if the person's information is removed from an Internet registry, the person must still register with the Department of Public Safety for law enforcement purposes.

This section also requires the Department of Corrections to pay for the risk assessments required under this section if the court determines that the person petitioning for removal from a registry that is published on the Internet is indigent.

Finally, this section makes clear that the court must allow the victim of the offense which required the sex offender or child kidnapper to register to submit comments to the court about whether the person should be removed from the registry that is published on the Internet.

**Section 9** of the bill makes sexual conduct with animals a registerable sex offense.

**Section 10** of the bill defines “registry that is published on the Internet” and “tier I,” “tier II,” and “tier III” sex offenses.

**Section 11** is a conforming change.

**Section 12** of the bill allows the public defender to represent an indigent person in their petition for removal from an Internet registry.

**Section 13** gives the Court of Appeals jurisdiction to hear appeals regarding removal from an Internet registry.

**Section 14** requires the Department of Corrections adopt standards for the administration of risk assessments for sex offenders and child kidnappers.

**Section 15** establishes a court rule which mirrors the requirements in section 8 of the bill.

**Section 16** amends the applicability of the requirements for an out-of-state sex offender to register in Alaska when that person is present in the state (ch.4 FSSLA 2016 (HB 49)) to apply to offenses committed before, on, or after July 9, 2019.

**Section 17** repeals AS 12.63.100(1), the definition of aggravated sex offense under AS 11.41.100(a)(3) or similar law of another jurisdiction since the bill moves from the aggravated sex offense classification to the tier system established in section 6.

**Section 18** is the applicability section. Most of the bill is retroactive and will apply to sex offenders and child kidnappers who have already been convicted and are on the registry.

**Section 19** is the conditional effect section for the court rule.

**Section 20** establishes the effective date of the bill as July 1, 2020.