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1 A bill to be entitled
2 An act relating to sexual offender registration; amending
3 ss. 943.0435 and 944.607, F.S.; providing that certain
4 young adults and older minors who are sexual offenders may
5 petition a court for removal of the requirement to
6 register as sexual offenders; specifying how the court
7 makes its determination to grant or deny the petition;
8 requiring the Department of Law Enforcement to remove the
9 offender from classification as a sexual offender for
10 purposes of registration and notification if the offender
11 provides to the department a certified copy of the court's
12 written findings or order granting the petition; providing
13 an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. Subsection (11) of section 943.0435, Florida
18 Statutes, is amended to read:

19 943.0435 Sexual offenders required to register with the
20 department; penalty.--

21 (11) (a) A sexual offender must maintain registration with
22 the department for the duration of his or her life, unless the
23 sexual offender has received a full pardon or has had a
24 conviction set aside in a postconviction proceeding for any
25 offense that meets the criteria for classifying the person as a
26 sexual offender for purposes of registration. However, as
27 provided in this subsection, a sexual offender may petition a

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28 court for removal of the requirement to register as a sexual
29 offender.+

30 (b) As provided in paragraph (c), a sexual offender may
31 petition a court for the removal of the requirement to register
32 as a sexual offender if the offender meets all of the following
33 criteria:

34 1. The offender was convicted of a violation of s. 800.04,
35 regardless of the date of the conviction.

36 2. On the date of the conviction described in subparagraph
37 1., the offender had no record of an arrest for an offense
38 described in subsection (1) or s. 775.21(4) other than the
39 arrest that resulted in the conviction.

40 3. The offender has not been arrested for any felony or
41 misdemeanor offense since the date of the conviction described
42 in subparagraph 1.

43 4. On the date the offender committed the offense
44 resulting in the conviction described in subparagraph 1., the
45 offender was not older than 19 years of age or younger than 15
46 years of age and the victim was 15 years of age.

47 5. The offender is not currently required to register as a
48 sexual offender or other similar designation in another state or
49 jurisdiction for a violation of the laws of that state or
50 jurisdiction.

51 (c)1. A sexual offender described in paragraph (b) may
52 petition the criminal division court of the circuit in which the
53 offender was sentenced for the conviction described in
54 subparagraph (b)1. for the purpose of removing the requirement
55 to register as a sexual offender.

56 2.a. The court may grant or deny the petition if the
57 offender demonstrates to the court that he or she meets the
58 criteria in paragraph (b); the requested relief complies with
59 the provisions of the federal Jacob Wetterling Act, as amended,
60 and any other federal standards applicable to the removal of
61 registration requirements for a sexual offender or required to
62 be met as a condition for the receipt of federal funds by the
63 state; and the court is otherwise satisfied that the offender is
64 not a current or potential threat to public safety.

65 b. In determining whether to grant or deny the petition,
66 the court may consider any information or record submitted to
67 the court at the hearing on the petition. However, the court
68 shall consider any information or record submitted to the court
69 at the hearing on the petition regarding whether the offender
70 engaged in the act in violation of s. 800.04 by means or use of
71 force or coercion, as defined in s. 800.04(1)(c), and whether
72 the victim was found to have been an initiator, willing
73 participant, aggressor, or provoker of the incident as a factor
74 in mitigation of the offender's sentence for such conviction, if
75 such sentence was mitigated.

76 c. The state attorney for the circuit must be given notice
77 of the petition at least 3 weeks before the hearing on the
78 matter. The state attorney may present evidence in opposition to
79 the requested relief or may otherwise demonstrate the reasons
80 the petition should be denied.

81 3. If the court grants the petition, the department shall
82 remove the offender from classification as a sexual offender for
83 purposes of registration and notification if the offender

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84 provides to the department a certified copy of the court's
85 written findings or order granting the petition, which must
86 indicate that, pursuant to this subsection, the court has
87 determined that the offender is not required to comply with
88 requirements for registration as a sexual offender. If the court
89 denies the petition, the sexual offender may only petition for
90 removal of the requirement to register as a sexual offender as
91 provided in paragraph (d).

92 (d)1.(a) A sexual offender who has been lawfully released
93 from confinement, supervision, or sanction, whichever is later,
94 for at least 20 years and has not been arrested for any felony
95 or misdemeanor offense since release; ~~or~~

96 ~~(b) Who was 18 years of age or under at the time the~~
97 ~~offense was committed and the victim was 12 years of age or~~
98 ~~older and adjudication was withheld for that offense, who is~~
99 ~~released from all sanctions, who has had 10 years elapse since~~
100 ~~having been placed on probation, and who has not been arrested~~
101 ~~for any felony or misdemeanor offense since the date of~~
102 ~~conviction of the qualifying offense~~

103
104 may petition the criminal division of the circuit court of the
105 circuit in which the sexual offender resides for the purpose of
106 removing the requirement for registration as a sexual offender.

107 2. The court may grant or deny such relief if the offender
108 demonstrates to the court that he or she has not been arrested
109 for any crime since release; the requested relief complies with
110 the provisions of the federal Jacob Wetterling Act, as amended,
111 and any other federal standards applicable to the removal of

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112 registration requirements for a sexual offender or required to
113 be met as a condition for the receipt of federal funds by the
114 state; and the court is otherwise satisfied that the offender is
115 not a current or potential threat to public safety.

116 3. The state attorney in the circuit in which the petition
117 is filed must be given notice of the petition at least 3 weeks
118 before the hearing on the matter. The state attorney may present
119 evidence in opposition to the requested relief or may otherwise
120 demonstrate the reasons why the petition should be denied.

121 4. If the court denies the petition, the court may set a
122 future date at which the sexual offender may again petition the
123 court for relief, subject to the standards for relief provided
124 in this subsection.

125 5. The department shall remove an offender from
126 classification as a sexual offender for purposes of registration
127 if the offender provides to the department a certified copy of
128 the court's written findings or order that indicates that the
129 offender is no longer required to comply with the requirements
130 for registration as a sexual offender.

131 (e)-(e) As defined in subparagraph (1)(a)3., a sexual
132 offender must maintain registration with the department for the
133 duration of his or her life until the person provides the
134 department with an order issued by the court that designated the
135 person as a sexual predator, as a sexually violent predator, or
136 by another sexual offender designation in the state or
137 jurisdiction in which the order was issued which states that
138 such designation has been removed or demonstrates to the
139 department that such designation, if not imposed by a court, has

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140 | been removed by operation of law or court order in the state or
141 | jurisdiction in which the designation was made, and provided
142 | such person no longer meets the criteria for registration as a
143 | sexual offender under the laws of this state.

144 | Section 2. Subsection (14) is added to section 944.607,
145 | Florida Statutes, to read:

146 | 944.607 Notification to Department of Law Enforcement of
147 | information on sexual offenders.--

148 | (14) (a) As provided in paragraph (b), a sexual offender
149 | may petition a court for the removal of the requirement to
150 | register as a sexual offender if the offender meets all of the
151 | following criteria:

152 | 1. The offender was convicted of a violation of s. 800.04,
153 | regardless of the date of the conviction.

154 | 2. On the date of the conviction described in subparagraph
155 | 1., the offender had no record of an arrest for an offense
156 | described in subsection (1) or s. 775.21(4) other than the
157 | arrest that resulted in the conviction.

158 | 3. The offender has not been arrested for any felony or
159 | misdemeanor offense since the date of the conviction described
160 | in subparagraph 1.

161 | 4. On the date the offender committed the offense
162 | resulting in the conviction described in subparagraph 1., the
163 | offender was not older than 19 years of age or younger than 15
164 | years of age and the victim was 15 years of age.

165 | 5. The offender is not currently required to register as a
166 | sexual offender or a sexual predator or other similar
167 | designation in another state or jurisdiction for a violation of

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168 the laws of that state or jurisdiction.

169 (b)1. A sexual offender described in paragraph (a) may
170 petition the court that is sentencing or has sentenced the
171 offender for the conviction described in subparagraph (a)1. to
172 remove the requirement to register as a sexual offender,
173 regardless of whether the offender is in the control or custody
174 of, or under the supervision of, the department or is in the
175 custody of a private correctional facility or a local detention
176 facility.

177 a. If the offender was sentenced on or after October 1,
178 2006, for conviction described in subparagraph (a)1., the
179 offender must petition for removal of the requirement to
180 register as a sexual offender at the time of sentencing for the
181 conviction.

182 b. If the offender was sentenced before October 1, 2006,
183 for conviction described in subparagraph (a)1. and the offender
184 is still serving the sentence, the offender may petition the
185 court that imposed such sentence for removal of the requirement
186 to register as a sexual offender while the offender is still
187 serving the sentence.

188 2.a The court may grant or deny the petition if the
189 offender demonstrates to the court that he or she meets the
190 criteria in paragraph (a); the requested relief complies with
191 the provisions of the federal Jacob Wetterling Act, as amended,
192 and any other federal standards applicable to the removal of
193 registration requirements for a sexual offender or required to
194 be met as a condition for the receipt of federal funds by the
195 state; and the court is otherwise satisfied that the offender is

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196 not a current or potential threat to public safety.

197 b. In determining whether to grant or deny the petition,
198 the court may consider any information or record submitted to
199 the court at the hearing on the petition. However, the court
200 shall consider any information or record submitted to the court
201 at the hearing on the petition regarding whether the offender
202 engaged in the act in violation of s. 800.04 by means or use of
203 force or coercion, as defined in s. 800.04(1)(c), and whether
204 the victim was found to have been an initiator, willing
205 participant, aggressor, or provoker of the incident as a factor
206 in mitigation of the offender's sentence for such conviction, if
207 such sentence was mitigated.

208 c. The state attorney may present evidence in opposition
209 to the requested relief or may otherwise demonstrate the reasons
210 the petition should be denied.

211 3. If the court grants the petition, the Department of Law
212 Enforcement shall remove the offender from classification as a
213 sexual offender for purposes of registration and notification if
214 the offender provides to the Department of Law Enforcement a
215 certified copy of the court's written findings or order granting
216 the petition, which must indicate that, pursuant to this
217 subsection, the court has determined that the offender is not
218 required to comply with requirements for registration as a
219 sexual offender. If the court denies the petition, the offender
220 may only petition for removal of the requirement to register as
221 a sexual offender pursuant to s. 943.0435(11).

222 Section 3. This act shall take effect October 1, 2006.