

By Senator Lynn

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A bill to be entitled

An act relating to sexual offenders; amending ss. 943.0435 and 944.607, F.S.; providing that certain sexual offenders who were young adults or older minors at the time the sexual offense was committed may petition a court for removal of the requirement to register as sexual offenders; providing requirements for the court in making its determination to grant or deny the petition; requiring the Department of Law Enforcement to remove the offender from classification as a sexual offender for purposes of registration and notification if the offender provides to the department a certified copy of the court's written findings or order granting the petition; providing an effective date.

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

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

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

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

1 court for the purpose of removing the requirement to register  
2 as a sexual offender.+

3 (b) As provided in paragraph (c), a sexual offender  
4 may petition a court for the purpose of removing the  
5 requirement to register as a sexual offender if the offender  
6 meets all of the following criteria:

7 1. The offender was convicted of a violation of s.  
8 800.04, regardless of the date of such conviction.

9 2. On the date of such conviction, the offender had no  
10 record of an arrest for an offense described in subsection (1)  
11 or s. 775.21(4) other than the arrest that resulted in such  
12 conviction.

13 3. The offender has not been arrested for any felony  
14 or misdemeanor offense since the date of such conviction.

15 4. On the date the offender committed the offense  
16 applicable to such conviction, the offender and the victim  
17 were not older than 19 years of age or younger than 15 years  
18 of age.

19 5. The offender is not required to register as a  
20 sexual offender or other similar designation in another state  
21 or jurisdiction for a violation of the laws of that state or  
22 jurisdiction.

23 (c) A sexual offender described in paragraph (b) may  
24 petition the criminal court of the circuit in which the  
25 offender was sentenced for the conviction described in  
26 subparagraph (b)1. for the purpose of removing the requirement  
27 to register as a sexual offender. The court may grant or deny  
28 the petition if the offender demonstrates to the court that he  
29 or she meets the criteria in paragraph (b); if the requested  
30 relief complies with the provisions of the federal Jacob  
31 Wetterling Act, as amended, and any other federal standards

1 applicable to the removal of registration requirements for a  
2 sexual offender or required to be met as a condition for the  
3 receipt of federal funds by the state; and if the court is  
4 otherwise satisfied that the offender is not a current or  
5 potential threat to public safety. In determining whether to  
6 grant or deny the petition, the court may consider any  
7 information or record submitted to the court at the hearing on  
8 the petition. However, the court shall consider any  
9 information or record submitted to the court at the hearing on  
10 the petition regarding whether the offender engaged in the act  
11 in violation of s. 800.04 by means or use of force or coercion  
12 as defined in s. 800.04(1)(c), and whether s. 921.0016(4)(f)  
13 or s. 921.0026(2)(f) was found to be a factor in mitigating  
14 the offender's sentence, if such sentence was mitigated. If  
15 the court determines that the offender engaged in the act in  
16 violation of s. 800.04 by means or use of force or coercion,  
17 the court must deny the petition. The state attorney for the  
18 circuit must be given notice of the petition at least 3 weeks  
19 before the hearing on the matter. The state attorney may  
20 present evidence in opposition to the requested relief or may  
21 otherwise demonstrate reasons why the petition should be  
22 denied. If the court grants the petition, the department shall  
23 remove the offender from classification as a sexual offender  
24 for purposes of registration and notification if the offender  
25 provides to the department a certified copy of the court's  
26 written findings or order granting the petition, which must  
27 indicate that, pursuant to this subsection, the court has  
28 determined that the offender is not required to comply with  
29 requirements for registration as a sexual offender. If the  
30 court denies the petition, the sexual offender may petition  
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1 only for removal of the requirement to register as a sexual  
2 offender as provided in paragraph (d).

3 (d)(a) A sexual offender who has been lawfully  
4 released from confinement, supervision, or sanction, whichever  
5 is later, for at least 20 years and has not been arrested for  
6 any felony or misdemeanor offense since release; ~~or~~

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

14  
15 may petition the criminal division of the circuit court of the  
16 circuit in which the sexual offender resides for the purpose  
17 of removing the requirement for registration as a sexual  
18 offender. The court may grant or deny such relief if the  
19 offender demonstrates to the court that he or she has not been  
20 arrested for any crime since release; the requested relief  
21 complies with the provisions of the federal Jacob Wetterling  
22 Act, as amended, and any other federal standards applicable to  
23 the removal of registration requirements for a sexual offender  
24 or required to be met as a condition for the receipt of  
25 federal funds by the state; and the court is otherwise  
26 satisfied that the offender is not a current or potential  
27 threat to public safety. The state attorney in the circuit in  
28 which the petition is filed must be given notice of the  
29 petition at least 3 weeks before the hearing on the matter.  
30 The state attorney may present evidence in opposition to the  
31 requested relief or may otherwise demonstrate the reasons why

1 the petition should be denied. If the court denies the  
2 petition, the court may set a future date at which the sexual  
3 offender may again petition the court for relief, subject to  
4 the standards for relief provided in this subsection. The  
5 department shall remove an offender from classification as a  
6 sexual offender for purposes of registration if the offender  
7 provides to the department a certified copy of the court's  
8 written findings or order that indicates that the offender is  
9 no longer required to comply with the requirements for  
10 registration as a sexual offender.

11 ~~(e)(e)~~ A sexual offender as defined in subparagraph  
12 (1)(a)3. must maintain registration with the department for  
13 the duration of his or her life until the person provides the  
14 department with an order issued by the court that designated  
15 the person as a sexual predator, as a sexually violent  
16 predator, or by another sexual offender designation in the  
17 state or jurisdiction in which the order was issued which  
18 states that such designation has been removed or demonstrates  
19 to the department that such designation, if not imposed by a  
20 court, has been removed by operation of law or court order in  
21 the state or jurisdiction in which the designation was made,  
22 and provided such person no longer meets the criteria for  
23 registration as a sexual offender under the laws of this  
24 state.

25 Section 2. Subsection (14) is added to section  
26 944.607, Florida Statutes, to read:

27 944.607 Notification to Department of Law Enforcement  
28 of information on sexual offenders.--

29 (14)(a) As provided in paragraph (b), a sexual  
30 offender may petition a court for the purpose of removing the  
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1 requirement to register as a sexual offender if the offender  
2 meets all of the following criteria:

3 1. The offender was convicted of a violation of s.  
4 800.04, regardless of the date of such conviction.

5 2. On the date of such conviction, the offender had no  
6 record of an arrest for an offense described in subsection (1)  
7 or s. 775.21(4) other than the arrest that resulted in such  
8 conviction.

9 3. The offender has not been arrested for any felony  
10 or misdemeanor offense since the date of such conviction.

11 4. On the date the offender committed the offense  
12 applicable to such conviction, the offender and the victim  
13 were not older than 19 years of age or younger than 15 years  
14 of age.

15 5. The offender is not required to register as a  
16 sexual offender or other similar designation in another state  
17 or jurisdiction for a violation of the laws of that state or  
18 jurisdiction.

19 (b) A sexual offender described in paragraph (a) may  
20 petition the court that is sentencing or has sentenced the  
21 offender for the conviction described in subparagraph (a)1.  
22 for the purpose of removing the requirement to register as a  
23 sexual offender, regardless of whether the offender is in the  
24 control or custody of, or under the supervision of, the  
25 department or is in the custody of a private correctional  
26 facility or a local detention facility. If the offender was  
27 sentenced on or after October 1, 2006, for such conviction,  
28 the offender must petition for removal of the requirement to  
29 register as a sexual offender at the time of sentencing. If  
30 the offender was sentenced before October 1, 2006, for such  
31 conviction and the offender is still serving that sentence,

1 the offender may petition the court that imposed the sentence  
2 for removal of the requirement to register as a sexual  
3 offender. The court may grant or deny the petition if the  
4 offender demonstrates to the court that he or she meets the  
5 criteria in paragraph (a); if the requested relief complies  
6 with the provisions of the federal Jacob Wetterling Act, as  
7 amended, and any other federal standards applicable to the  
8 removal of registration requirements for a sexual offender or  
9 required to be met as a condition for the receipt of federal  
10 funds by the state; and if the court is otherwise satisfied  
11 that the offender is not a current or potential threat to  
12 public safety. In determining whether to grant or deny the  
13 petition, the court may consider any information or record  
14 submitted to the court at the hearing on the petition.  
15 However, the court shall consider any information or record  
16 submitted to the court at the hearing on the petition  
17 regarding whether the offender engaged in the act in violation  
18 of s. 800.04 by means or use of force or coercion, as defined  
19 in s. 800.04(1)(c), and whether s. 921.0016(4)(f) or s.  
20 921.0026(2)(f) was found to be a factor in mitigating the  
21 offender's sentence, if such sentence was mitigated. If the  
22 court determines that the offender engaged in the act in  
23 violation of s. 800.04 by means or use of force or coercion,  
24 the court must deny the petition. The state attorney may  
25 present evidence in opposition to the requested relief or may  
26 otherwise demonstrate the reasons why the petition should be  
27 denied. If the court grants the petition, the Department of  
28 Law Enforcement shall remove the offender from classification  
29 as a sexual offender for purposes of registration and  
30 notification if the offender provides to the Department of Law  
31 Enforcement a certified copy of the court's written findings

1 or order granting the petition, which must indicate that,  
2 pursuant to this subsection, the court has determined that the  
3 offender is not required to comply with requirements for  
4 registration as a sexual offender. If the court denies the  
5 petition, the offender may petition only for removal of the  
6 requirement to register as a sexual offender pursuant to s.  
7 943.0435(11).

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

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11 SENATE SUMMARY

12 Provides that a sexual offender may petition the court  
13 for removal of the requirement to register as a sexual  
14 offender if certain specified conditions are met.  
15 Provides that the offender and the victim may not have  
16 been older than 19 or younger than 15 at the time the  
17 offense was committed. Provides requirements for the  
18 court in considering such a petition. Authorizes the  
19 state attorney to present evidence in opposition to the  
20 petition. (See bill for details.)  
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