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SENATE BILL NO. 1504

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 1, 2023)

(Patron Prior to Substitute—Senator Petersen)

A BILL to amend and reenact § 9.1-910 of the Code of Virginia, relating to Sex Offender and Crimes Against Minors Registry; removal of name and identifying information.

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-910 of the Code of Virginia is amended and reenacted as follows:

§ 9.1-910. Removal of name and information from Registry.

A. Any person required to register, other than a person who has been convicted of any (i) Tier III offense, (ii) two or more offenses for which registration is required, (iii) a violation of former § 18.2-67.2:1, or (iv) murder, may either petition the circuit court in which he was convicted or the circuit court in the jurisdiction where he then resides for removal of his name and all identifying information from the Registry or submit a formal removal request to the State Police on such form required by the State Police if such person is required to register for a single Tier I or Tier II misdemeanor offense.

A person who is required to register for a single Tier I offense may petition the court or submit a removal request form along with a criminal history record check processed within the previous 45 days of the form submission to the State Police, provided that such person is required to register for a single Tier I misdemeanor offense, no earlier than 15 years and one day from the later of the date of initial registration or the date of his last conviction for (a) a single violation of § 18.2-472.1 or (b) any felony. If the potential applicant has been convicted of a misdemeanor or felony offense, or more than one violation of § 18.2-472.1 within the previous 15 years and one day, then such person shall not submit a removal request form but may petition the court pursuant to subsection B.

A person who is required to register for a single Tier II offense may petition the court or submit a removal request form along with a criminal history record check processed within the previous 45 days of the form submission to the State Police, provided that such person is required to register for a single Tier II misdemeanor offense, no earlier than 25 years and one day from the later of the date of initial registration or the date of his last conviction for (1) a single violation of § 18.2-472.1 or (2) any felony. If the potential applicant has been convicted of a misdemeanor or felony offense, or more than one violation of § 18.2-472.1 within the previous 25 years and one day, then such person shall not submit a removal request form but may petition the court pursuant to subsection B.

B. A petition may not be filed until all court ordered treatment, counseling, and restitution has been completed. The court shall obtain a copy of the petitioner's complete criminal history and registration, reregistration, and verification of registration information history from the Registry and then hold a hearing on the petition at which the applicant and any interested persons may present witnesses and other evidence. The Commonwealth shall be made a party to any action under this section. If, after such hearing, the court is satisfied that such person no longer poses a risk to public safety, the court shall grant the petition. In the event the petition is not granted, the person shall wait at least 24 months from the date of the denial to file a new petition for removal from the Registry.

C. The State Police shall remove from the Registry the name of any person and all identifying information upon receipt of an order granting a petition pursuant to subsection B.

D. The State Police shall remove from the Registry the name of any person and all identifying information within 30 days of receipt of the removal request form upon determining that such person has met the requirements pursuant to subsection A.

2. That the State Police shall develop a form for requesting removal from the Sex Offender and Crimes Against Minors Registry (the Registry) and make such form available on its website on or before October 1, 2023. Such form shall also include information on how to obtain a criminal history record check, the link to the criminal history record check form, the cost of the criminal history record check, and the address to which the removal request form shall be submitted. The State Police shall send a letter on or before October 1, 2023, by first-class mail notifying every person currently on the Registry of the provisions of this act relating to removal from the Registry.