

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 117

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

AN ACT

RELATING TO SEXUAL OFFENDER REGISTRATION; AMENDING SECTION 18-8310, IDAHO CODE, TO REVISE A PROVISION REGARDING RELEASE FROM REGISTRATION REQUIREMENTS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Section 18-8310, Idaho Code, be, and the same is hereby amended to read as follows:

18-8310. RELEASE FROM REGISTRATION REQUIREMENTS -- EXPUNGEMENT. (1) Registration under this act is for life; however, any offender, other than a recidivist, an offender who has been convicted of an aggravated offense, or an offender designated as a violent sexual predator, may, after a period of ten (10) years from the date the offender was released from incarceration or placed on parole, supervised release or probation, whichever is greater, petition the district court for a show cause hearing to determine whether the offender shall be exempted from the duty to register as a sexual offender. If the offender was convicted in Idaho, the offender shall file his or her petition in the county in which he or she was convicted. If the offender was convicted in a jurisdiction other than Idaho, then the offender shall file his or her petition in the county in which he or she resides. In the petition the petitioner shall:

(a) Provide clear and convincing evidence that the petitioner has completed any all periods of supervised release, probation, or parole for the conviction requiring registration without revocation;

(b) Provide an affidavit indicating that the petitioner does not have a criminal charge pending nor is the petitioner knowingly under criminal investigation for any violent crime or crime identified in section 18-8304, Idaho Code;

(c) Provide proof of service of such petition and supporting documents upon the county prosecuting attorney for the county in which the application is made and upon the central registry;

(d) Provide a certified copy of the judgment of conviction which caused the petitioner to report as a sexual offender;

(e) Provide clear and convincing evidence that the petitioner has successfully completed a sexual offender treatment program;

(f) Provide an affidavit demonstrating that the petitioner has no felony convictions during the period for which the petitioner has been registered; and

(g) Provide an affidavit demonstrating that the petitioner has committed no sex offenses during the period for which the petitioner has been registered.

(2) The county prosecuting attorney and the central registry may submit evidence, including by affidavit, rebutting the assertions contained within

1 the offender's petition, affidavits or other documents filed in support of
2 the petition.

3 (3) The district court may grant a hearing if it finds that the petition
4 is sufficient. The court shall provide at least sixty (60) days' prior no-
5 tice of the hearing to the petitioner, the county prosecuting attorney and
6 the central registry. The central registry may appear or participate as a
7 party.

8 (4) The court may exempt the petitioner from the registration require-
9 ment only after a hearing on the petition in open court and only upon proof by
10 clear and convincing evidence and upon written findings of fact and conclu-
11 sions of law by the court that:

12 (a) The petitioner has complied with the requirements set forth in sub-
13 section (1) of this section;

14 (b) The court has reviewed the petitioner's criminal history and has
15 determined that the petitioner is not a recidivist, has not been con-
16 victed of an aggravated offense or has not been designated as a violent
17 sexual predator; and

18 (c) It is highly probable or reasonably certain the petitioner is not a
19 risk to commit a new violation for any violent crime or crime identified
20 in section 18-8304, Idaho Code.

21 (5) Concurrent with the entry of any order exempting the petitioner
22 from the registration requirement, the court may further order that any in-
23 formation regarding the petitioner be expunged from the central registry.

24 SECTION 2. An emergency existing therefor, which emergency is hereby
25 declared to exist, this act shall be in full force and effect on and after
26 July 1, 2023.