Georgia's Sex Offender Registry. Part II: Petitions for Removal from the Registry

Although Georgia's sex offender registration statute requires registration for life, there are several instances in which a person will be eligible to petition the court to be removed from the registry.

Who May Petition for Release from Registration Requirements

O.C.G.A. § 42-1-19 provides that a person may petition for removal from the sex offender registry in any of the following circumstances:

a. People with Disabilities

If the individual has completed all prison, parole, supervised release, and probation for the offense and is confined to a hospice, elderly care, or nursing facility, is totally and permanently disabled, or is otherwise seriously incapacitated due to injury.

b. Crimes Later Deemed Misdemeanors

When registration was for a crime later determined to be a misdemeanor (after July 1, 2006) if the individual meets the following criteria:

- No prior convictions for a sexual offense or offense against a minor;
- No weapon used during the offense;
- There was no evidence of any similar transaction or crime;
- The victim did not suffer any intentional physical harm during the offense;
- No transportation of the victim was involved in the offense;
- No physical restraint of the victim was involved in the offense.

c. False Imprisonment/Kidnapping

When the conviction requiring registration was only false imprisonment or kidnapping of a minor without any additional sexual offense or attempted sexual offense.

d. Completion of Sentence

If the individual has completed all prison, parole, supervised release, and probation for the offense and either 1) ten years have passed; or 2) the individual is classified as a Level I risk offender. Additionally, the individual must meet the following criteria:

- No prior convictions for a sexual offense or offense against a minor;
- No weapon used during the offense;
- There was no evidence of any similar transaction or crime;
- The victim did not suffer any intentional physical harm during the offense;
- No transportation of the victim was involved in the offense;
- No physical restraint of the victim was involved in the offense.

The petition must be filed in the superior court of the county where the conviction was entered. Petitioners with out-of-state convictions may file the petition in their county of residence.

In considering the petition, the court may hear evidence presented by the petitioner as well as the district attorney. The petitioner has the burden of proving by a preponderance of the evidence that he or she "does not pose a substantial risk of perpetrating any future dangerous sexual offense…"