

## HOUSE BILL No. 2173

By Committee on Judiciary

Requested by Representative Schreiber

1-30

1 AN ACT concerning the Kansas offender registration act; relating to relief  
2 from registration requirements; authorizing certain offenders to petition  
3 for such relief; amending K.S.A. 22-4908 and repealing the existing  
4 section.  
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 22-4908 is hereby amended to read as follows: 22-  
8 4908. (a) (1) Except as provided in subsection (b), a drug offender who is  
9 required to register under the Kansas offender registration act may file a  
10 verified petition for relief from registration requirements if the offender  
11 has registered for a period of at least five years after the date of parole,  
12 discharge or release, whichever date is most recent, or, if not confined, five  
13 years from the date of conviction or adjudication.

14 (2) *Except as provided in subsection (b), an offender described in this*  
15 *paragraph who is required to register under the Kansas offender*  
16 *registration act may file a verified petition for relief from registration*  
17 *requirements if the offender has registered for a period of at least 10 years*  
18 *after the date of parole, discharge or release, whichever date is most*  
19 *recent, or, if not confined, 10 years from the date of conviction or*  
20 *adjudication:*

21 (A) *An offender who was convicted or adjudicated of an offense prior*  
22 *to July 1, 2011, that, at the time of conviction or adjudication, did not*  
23 *require such offender to register under the Kansas offender registration*  
24 *act, but is required to register because of the retroactive application of*  
25 *section 6 of chapter 95 of the 2011 Session Laws of Kansas; and*

26 (B) *an offender who was originally required to register under the*  
27 *Kansas offender registration act for 10 years for an offense committed*  
28 *prior to July 1, 2011, but is required to register for a longer period*  
29 *because of the retroactive application of section 6 of chapter 95 of the*  
30 *2011 Session Laws of Kansas.*

31 (b) An offender who is required to register pursuant to K.S.A. 22-  
32 4906(k), and amendments thereto, because of an out-of-state conviction or  
33 adjudication may not petition for relief from registration requirements in  
34 this state if the offender would be required to register under the law of the  
35 state or jurisdiction where the conviction or adjudication occurred. If the

1 offender would no longer be required to register under the law of the state  
2 or jurisdiction where the conviction or adjudication occurred, the offender  
3 may file a verified petition pursuant to subsection (a).

4 (c) Any period of time during which an offender is incarcerated in  
5 any jail or correctional facility or during which the offender does not  
6 substantially comply with the requirements of the Kansas offender  
7 registration act shall not count toward the duration of registration required  
8 in subsection (a).

9 (d) (1) A verified petition for relief from registration requirements  
10 shall be filed in the district court in the county where the offender was  
11 convicted or adjudicated of the offense requiring registration. If the  
12 offender was not convicted or adjudicated in this state of the offense  
13 requiring registration, such petition shall be filed in the district court of  
14 any county where the offender is currently required to register. The docket  
15 fee shall be as provided in K.S.A. 60-2001, and amendments thereto.

16 (2) The petition shall include:

17 (A) The offender's full name;

18 (B) the offender's full name at the time of conviction or adjudication  
19 for the offense or offenses requiring registration, if different than the  
20 offender's current name;

21 (C) the offender's sex, race and date of birth;

22 (D) the offense or offenses requiring registration;

23 (E) the date of conviction or adjudication for the offense or offenses  
24 requiring registration;

25 (F) the court in which the offender was convicted or adjudicated of  
26 the offense or offenses requiring registration;

27 (G) whether the offender has been arrested, convicted, adjudicated or  
28 entered into a diversion agreement for any crime during the period the  
29 offender is required to register; and

30 (H) the names of all treatment providers and agencies that have  
31 treated the offender for mental health, substance abuse and offense-related  
32 behavior since the date of the offense or offenses requiring registration.

33 (3) The judicial council shall develop a petition form for use under  
34 this section.

35 (4) When a petition is filed, the court shall set a date for a hearing on  
36 such petition and cause notice of the hearing to be given to the county or  
37 district attorney in the county where the petition is filed. Any person who  
38 may have relevant information about the offender may testify at the  
39 hearing.

40 (5) The county or district attorney shall notify any victim of the  
41 offense requiring registration who is alive and whose address is known or,  
42 if the victim is deceased, the victim's family if the family's address is  
43 known. The victim or victim's family shall not be compelled to testify or

1 provide any discovery to the offender.

2 (6) The county or district attorney shall have access to all applicable  
3 records, including records that are otherwise confidential or privileged.

4 (e) (1) The court may require a drug offender who is petitioning for  
5 relief under this section to undergo a risk assessment.

6 (2) Any risk assessment ordered under this subsection shall be  
7 performed by a professional agreed upon by the parties or a professional  
8 approved by the court. Such risk assessment shall be performed at the  
9 offender's expense.

10 (f) The court shall order relief from registration requirements if the  
11 offender shows by clear and convincing evidence that:

12 (1) The offender has not been convicted or adjudicated of a felony,  
13 other than a felony violation or aggravated felony violation of K.S.A. 22-  
14 4903, and amendments thereto, within the five years immediately  
15 preceding the filing of the petition, and no proceedings involving any such  
16 felony are presently pending or being instituted against the offender;

17 (2) the offender's circumstances, behavior and treatment history  
18 demonstrate that the offender is sufficiently rehabilitated to warrant relief;  
19 and

20 (3) registration of the offender is no longer necessary to promote  
21 public safety.

22 (g) If the court denies an offender's petition for relief, the offender  
23 shall not file another petition for relief until three years have elapsed,  
24 unless a shorter time period is ordered by the court.

25 (h) If the court grants relief from registration requirements, the court  
26 shall order that the offender be removed from the offender registry and that  
27 the offender is no longer required to comply with registration  
28 requirements. Within 14 days of any order, the court shall notify the  
29 Kansas bureau of investigation and any local law enforcement agency that  
30 registers the offender that the offender has been granted relief from  
31 registration requirements. The Kansas bureau of investigation shall remove  
32 such offender from any internet website maintained pursuant to K.S.A. 22-  
33 4909, and amendments thereto.

34 (i) An offender may combine a petition for relief under this section  
35 with a petition for expungement under K.S.A. 21-6614, and amendments  
36 thereto, if the offense requiring registration is otherwise eligible for  
37 expungement.

38 Sec. 2. K.S.A. 22-4908 is hereby repealed.

39 Sec. 3. This act shall take effect and be in force from and after its  
40 publication in the Kansas register.