



South Carolina Law Enforcement Division

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SLED GUIDANCE ON HOW TO APPLY FOR REMOVAL FROM THE SEX OFFENDER REGISTRY FOR TIER I and TIER II ADULT OFFENDERS

On May 23, 2022, Governor Henry D. McMaster signed Act former House Bill 4075 into law. This Act affords all sex offenders in South Carolina a mechanism to seek removal from South Carolina's lifetime sex offender registry in response to the South Carolina Supreme Court's decision in *Powell v. Keel*. This bill creates state tiers for offenders and provides reasonable avenues for removal based on the offender's applicable state tier.

For Adult **Tier I** Offenders:

The offender may file a request for termination of the requirement of registration with SLED, in a form and process established by SLED **AFTER HAVING BEEN REGISTERED FOR AT LEAST FIFTEEN YEARS**.

For Adult **Tier II** Offenders:

The offender may file a request for termination of the requirement of registration with SLED, in a form and process established by SLED **AFTER HAVING BEEN REGISTERED FOR AT LEAST TWENTY-FIVE YEARS**.

Currently, SLED is only able to accept paper applications, which are available on SLED's website. Once completed, these applications must be mailed to:

**Application for Sex Offender Registry Removal
SLED SOR Unit
P.O. Box 21398
Columbia, SC 29221**

The following information must accompany the request:

1. Completed **SLED APPLICATION**. (Available on SLED's website www.sled.sc.gov).
2. **2 sets of fingerprints** from the applicant for SLED to conduct a fingerprint-based state and a federal criminal history check on the applicant.

***For SLED to proceed, the applicant "must not have been convicted of failure to register within the previous ten years" and "must not have been convicted of any additional sexual offense after being placed on the registry." See S.C. Code Ann. § 23-3-462(A)(4), (5).**



An Accredited Law Enforcement Agency



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**** Fingerprints can be obtained at any of the following locations <https://sc.ibtfingerprint.com/>.**

3. A filing fee of **\$250.00**, which can only be paid via money order or cashier's check. (SLED does not accept personal checks).
4. Proof that the applicant **“successfully completed all sex offender treatment programs that were required.”** This proof must be official documentation acknowledging successful completion.

Upon receipt of all the above required documents and information, SLED will review the documentation provided by the offender, and will notify the original prosecuting agency for approval. If all the requirements of this section are verified, SLED shall, within one hundred twenty days of receipt of the request for termination, remove an offender's name from the registry and notify the offender that the offender is no longer required to comply with the registry requirements of this article. **If it is determined that the offender has been convicted of any prohibiting offenses during the applicable period, has not substantially complied with this section, or an objection has been filed by the original prosecuting agency, SLED shall not remove the offender's name from the sex offender registry and shall notify the offender that the offender has not been relieved of the provisions in this article.**

Challenging SLED's Determination – For **Adult Tier I** or **Tier II** Offenders who are denied by SLED:

THERE IS NO APPEAL TO SLED. Rather, an offender whose request for termination of registration requirements is denied by SLED is entitled to appeal the denial **to the general sessions court pursuant to the requirements of Section 23-3-463** for the county in which the conviction occurred if the conviction occurred within the State, or if not, the county in which the offender resides. Individuals placed on the registry as a juvenile should petition the family court that adjudicated them delinquent.

In accordance with S.C. Code Ann. § 23-3-463, the State of South Carolina must be named as the respondent to the action and shall be represented by the prosecution office that obtained the underlying conviction for which the offender is required to register, or, if the conviction occurred outside of the State, the Attorney General. All requirements of the Victim's Rights Act, including reasonable notice, must be observed. **SLED is not a party to such action and should not be named.** The appeal must be filed in the county in which the underlying conviction occurred if the conviction occurred within the State, or if the conviction occurred outside of the State, the county in which the offender resides.

Re-applying After Denial – For **Adult Tier I** and **Tier II** Offenders:

If the offender is denied a termination request by SLED, the offender may petition again for termination with SLED **NO SOONER THAN FIVE YEARS AFTER THE PREVIOUS DENIAL.** If an offender is denied a termination request based on conviction of any additional sexual offenses or violent sexual offenses, the offender may not submit a petition to SLED for termination unless the subsequent conviction is overturned or a pardon granted.

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Other Avenues of Removal – For **Adult Tier I** and **Tier II** Offenders:

While not a part of the updates in House Bill 4075, S.C. Code Ann. § 23-3-430(E), (F), and (G) also provide statutory mechanisms of removal for adult Tier I Offenders in South Carolina.

S.C. Code Ann. § 23-3-430(E) - SLED shall remove a person's name and any other information concerning that person from the sex offender registry immediately upon notification by the Attorney General that the person's adjudication, conviction, guilty plea, or plea of nolo contendere for an offense listed in subsection (C) was reversed, overturned, or vacated on appeal and a final judgment has been rendered.

S.C. Code Ann. § 23-3-430(F) - If an offender receives a pardon for the offense for which he was required to register, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

- (1) as provided by the provisions of subsection (E); or
- (2) **if the pardon is based on a finding of not guilty specifically stated in the pardon.**

S.C. Code Ann. § 23-3-430(G) - If an offender files a petition for a writ of habeas corpus or a motion for a new trial pursuant to Rule 29(b), South Carolina Rules of Criminal Procedure, based on newly discovered evidence, the offender must reregister as provided by Section 23-3-460 and may not be removed from the registry except:

- (1) as provided by the provisions of subsection (E); or
- (2) (a) if the circuit court grants the offender's petition or motion and orders a new trial; and
(b) a verdict of acquittal is returned at the new trial or entered with the state's consent.