

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 105
HOUSE BILL 2539

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3826; RELATING TO SEX OFFENDER REGISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 38, article 3, Arizona Revised Statutes,
3 is amended by adding section 13-3826, to read:

4 13-3826. Petition to terminate sex offender registration:
5 hearing; notice

6 A. A DEFENDANT WHO IS CONVICTED OF A VIOLATION OF SECTION 13-1405, WHO
7 IS REQUIRED TO REGISTER PURSUANT TO SECTION 13-3821 AND WHO SUCCESSFULLY
8 COMPLETES A TERM OF PROBATION MAY PETITION THE COURT FOR AN ORDER TO
9 TERMINATE ANY DUTY TO REGISTER AND SHALL SERVE A COPY OF THE PETITION ON THE
10 PROSECUTOR. IN THE PETITION, THE DEFENDANT SHALL AVOW, UNDER PENALTY OF
11 PERJURY, ALL OF THE FOLLOWING:

12 1. THE DEFENDANT WAS UNDER TWENTY-TWO YEARS OF AGE AT THE TIME THE
13 OFFENSE WAS COMMITTED.

14 2. THE VICTIM WAS FIFTEEN, SIXTEEN OR SEVENTEEN YEARS OF AGE AT THE
15 TIME OF THE OFFENSE.

16 3. THE SEXUAL CONDUCT WAS CONSENSUAL.

17 4. THE DEFENDANT DID NOT VIOLATE ANY OF THE SEX OFFENDER TERMS OF THE
18 DEFENDANT'S PROBATION.

19 5. THE DEFENDANT HAS NOT SUBSEQUENTLY COMMITTED ANOTHER FELONY OFFENSE
20 OR ANY OFFENSE INCLUDED IN CHAPTER 14 OR 35.1 OF THIS TITLE.

21 6. A COURT HAS NOT DETERMINED THAT PROBABLE CAUSE EXISTS TO BELIEVE
22 THE DEFENDANT IS A SEXUALLY VIOLENT PERSON PURSUANT TO TITLE 36, CHAPTER 37
23 OR THAT A SEXUALLY VIOLENT PERSON PROCEEDING PURSUANT TO TITLE 36, CHAPTER 37
24 IS NOT CURRENTLY PENDING.

25 7. THE VIOLATION DID NOT INVOLVE MORE THAN ONE VICTIM.

26 8. THE DEFENDANT WAS NOT SENTENCED TO A TERM OF IMPRISONMENT IN THE
27 STATE DEPARTMENT OF CORRECTIONS FOR THE OFFENSE FOR WHICH THE DEFENDANT WAS
28 REQUIRED TO REGISTER.

29 B. ON RECEIPT OF THE PETITION, THE COURT SHALL SET A HEARING AND
30 PROVIDE SUFFICIENT NOTICE TO THE STATE TO ALLOW VICTIM NOTIFICATION. THE
31 STATE HAS THE BURDEN OF ESTABLISHING BY A PREPONDERANCE OF THE EVIDENCE THAT
32 A FACTOR LISTED IN SUBSECTION A OF THIS SECTION HAS NOT BEEN MET. AT THE
33 HEARING, ANY PARTY MAY INTRODUCE ANY RELIABLE AND RELEVANT EVIDENCE,
34 INCLUDING HEARSAY EVIDENCE. BEFORE RULING ON THE PETITION, THE COURT MUST
35 PROVIDE ALL PARTIES, INCLUDING THE VICTIM, WITH THE OPPORTUNITY TO BE HEARD.

36 C. THE COURT SHALL DENY THE PETITION IF THE COURT FINDS THAT ANY
37 FACTOR LISTED IN SUBSECTION A OF THIS SECTION IS NOT MET.

38 D. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, THE COURT MAY DENY A
39 PETITION IF THE COURT FINDS THAT A DENIAL IS IN THE BEST INTERESTS OF JUSTICE
40 OR TENDS TO ENSURE THE SAFETY OF THE PUBLIC.

APPROVED BY THE GOVERNOR APRIL 5, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 6, 2016.