

Forms MC 406a and MC 406b

PETITION TO DISCONTINUE SEX OFFENDER REGISTRATION AND ORDER

Use these forms if you want to ask the court to grant you permission to discontinue the requirement to register with a Sex Offender Registration authority.

PETITION CHECKLIST

Use the following checklist to make sure you have done all the steps that are needed.

DID YOU...

1. Determine your eligibility to have your registration requirement discontinued? See pages 3, 4, and 5. YES ☐
2. Complete the petition form? See page 9 for instructions. YES ☐
3. File the petition with the court? See page 6. YES ☐
4. Mail (serve) a copy of the petition to the prosecuting official? See page 6. YES ☐
5. Complete and file the proof of service with the clerk's office after you mailed the petition? See page 6 YES ☐
6. Keep one copy of the petition packet for yourself? YES ☐

If you cannot answer "yes" to all the above steps, a hearing on your petition may be delayed or your petition may be dismissed.

By using this form packet you are representing yourself in a court action to try to discontinue your requirement to register with a Sex Offender Registration authority. You must follow the instruction in this packet. If you fail to do even one of the required steps, the order you get from the court may not give you what you want.

If you have questions about any steps in the process, refer to pages 3 through 8 of this booklet for details. You may wish to consult an attorney.

**INSTRUCTIONS FOR USING FORM MC 406a
FILING AND SERVING A PETITION**

»»DEFINITION: Discontinuing Sex Offender Registration

An order discontinuing sex offender registration removes the obligation of an individual, who has been convicted or adjudicated of a listed offense as defined in MCL 28.722, to register and update information about himself or herself as required by the Sex Offenders Registration Act. An order discontinuing sex offender registration also deletes that individual's registration information from the Michigan State Police sex offender registry database and the public sex offender website. **An order discontinuing sex offender registry does not remove a conviction from the individual's criminal history record.**

»»FILING A PETITION

1. Do You Qualify to File a Petition?

A person who petitions to discontinue sex offender registration must meet certain conditions. To find out if you qualify to have your registration requirement discontinued, read the following directions. Also, if you already filed a petition to discontinue sex offender registration and it was denied after a court hearing, you cannot file another petition. Michigan law outlines five circumstances describing when an individual is eligible to petition to discontinue sex offender registration:

- If you were convicted as an adult and are a Tier I offender, you may be eligible to petition the court. To determine what Tier you have been classified in, you can look for your name on the Michigan Sex Offender Registry Website, www.mipsor.state.mi.us. The definition of Tier I offender can be found in MCL 28.722(q). If you were convicted as an adult and are a Tier I offender, answer the questions in Box A on page 4.
- If you were adjudicated when you were a juvenile (less than 17 years of age) and are a Tier III offender, you may be eligible to petition the court. To determine what Tier you have been classified in, contact your registering authority. The definition of Tier III offender can be found in MCL 28.722(u). If you were adjudicated as a juvenile and are a Tier III offender, answer the questions in Box B on page 4.
- If you were convicted of an offense listed in MCL 28.722(r), (t), or (v) that was the result of a consensual sexual act between you and the victim, you may be eligible to petition the court. Answer the questions in Box C on page 5.
- If you were registered under the Sex Offenders Registration Act before July 1, 2011 for an offense that required registration but that registration is no longer required on or about July 1, 2011, continue to item 2 on page 5. The Michigan State Police may have made the determination that you are no longer required to register. Before filing a petition with the court to discontinue your registration requirements, contact your registering authority to find out if your sex offender registration requirement was already discontinued.
- If you were adjudicated as a juvenile for an offense listed in MCL 28.722(r), (t), or (v) and you were less than 14 years of age at the time of the offense, continue to item 2 on page 5. The Michigan State Police may have made the determination that you are no longer required to register. Before filing a petition with the court to discontinue your registration requirements, contact your registering authority to find out if your sex offender registration requirement was already discontinued.

A: Convicted as an Adult (If a statement is true, check "Yes." If a statement is not true, check "No.")

It has been 10 or more years since the date of my conviction,
or if I was confined, it has been more than 10 years since I was arrested. ☐ Yes ☐ No

I have not been convicted of any felony since the date of my conviction,
or if I was confined, since the date I was released. ☐ Yes ☐ No

I have not been convicted of any offense listed
in MCL 28.722(r), (t), or (v) since the date of my conviction,
or if I was confined, since the date I was released. ☐ Yes ☐ No

I have successfully completed my assigned period of
supervised release, probation, or parole without revocation
at any time of that supervised release, probation, or parole. ☐ Yes ☐ No

If ordered, I have successfully completed a sex offender treatment program
certified by the United States Attorney General under 42 USC 16915(B)(1)
or another appropriate sex offender treatment program. ☐ Yes ☐ No

If all the above statements are checked **yes**, you may be eligible to have your registration requirement discontinued. Continue to item 3 on page 5. If any box is checked no, you are not eligible to have your registration requirement discontinued under MCL 28.728c(1). However, you may still be eligible if you were convicted of an offense in MCL 28.722(r), (t), or (v) that was the result of a consensual act between you and the victim. If so, continue to Box C on page 5. If you are unsure if you are eligible, you should consult an attorney.

MCL 28.728c(1), (12)

B: Adjudicated as a Juvenile (If a statement is true, check "Yes." If a statement is not true, check "No.")

I was required to register based on an order of disposition that is
open to the public under MCL 712A.28 ☐ Yes ☐ No

It has been 25 or more years since the date of my adjudication,
or if I was confined, it has been more than 25 years since I was released. ☐ Yes ☐ No

I have not been convicted of any felony since the date of my adjudication,
or if I was confined, since the date I was released. ☐ Yes ☐ No

I have not been convicted of any offense listed
in MCL 28.722(r), (t), or (v) since the date of my adjudication,
or if I was confined, since the date I was released. ☐ Yes ☐ No

I have successfully completed my assigned period of
supervised release, probation, or parole without revocation
at any time of that supervised release, probation, or parole. ☐ Yes ☐ No

If ordered, I have successfully completed a sex offender treatment program
certified by the United States Attorney General under 42 USC 16915(B)(1)
or another appropriate sex offender treatment program. ☐ Yes ☐ No

If all the above statements are checked **yes**, you may be eligible to have your registration requirement discontinued. Continue to item 3 on page 5. If any box is checked no, you are not eligible to have your registration requirement discontinued under MCL 28.728c(2). However, you may still be eligible if you were convicted of an offense in MCL 28.722(r), (t), or (v) that was the result of a consensual act between you and the victim. If so, continue to Box C on page 5. If you are unsure if you are eligible, you should consult an attorney.

MCL 28.728c(2), (13)

C: Consensual Sexual Act (If a statement is true, check “Yes.” If a statement is not true, check “No.”)

I was convicted of an offense listed in MCL 28.772(r), (t), or (v) and the offense was the result of a consensual sexual act between me and the victim.

☐ Yes ☐ No

If you checked **no**, you are not eligible to have your registration requirement discontinued. If the above statement is checked **yes**, answer the following three questions.

The victim was 13 years of age or older but less than 16 years of age at the time of the offense and I was not more than 4 years older than the victim. ☐ Yes ☐ No

I was convicted of a violation of MCL 750.158, 750.338, 750.338a, or 750.338b and the victim was 13 years of age or older but less than 16 years of age at the time of the violation and I was not more than 4 years older than the victim. ☐ Yes ☐ No

I was convicted of a violation of MCL 750.158, 750.338, 750.338a, 750.338b, or 750.520c(1)(i) and the victim was 16 years of age or older and not under my custodial authority at the time of the violation. ☐ Yes ☐ No

If one of the above three statements is checked **yes**, you may be eligible to have your registration requirement discontinued. Continue to item 3 below. If all boxes are checked no, you are not eligible to have your registration requirement discontinued under MCL 28.728c(3). If you are unsure if you are eligible, you should consult an attorney.

MCL 28.728c(3), (14), (15)

2. Do You Need An Attorney?

In order to ask the court to discontinue your requirement to register with a sex offender registration authority, you must file a petition with the court in which you were convicted or adjudicated. You can either hire an attorney or you can represent yourself. If you can follow all the steps outlined in this packet, you may not need an attorney. However, if after reading this packet you think you need assistance, you should call an attorney.

If you decide to represent yourself, complete the checklist on page 2 to make sure you have done everything that is required.

3. Complete Form MC 406a, Petition to Discontinue Sex Offender Registration

Print form MC 406a, Petition to Discontinue Sex offender Registration, from the website. Use the information from the copy of your conviction or adjudication to fill in the blanks on the petition form. Follow the instructions on page 9.

4. Signing the Petition Under Oath

Now that the petition (form MC 406a) is completed, you must sign your petition under oath in front of a notary public (you can find a notary at a bank) or the clerk of the court. Bring your photo identification with you when you sign the petition.

If you sign your petition in front of a notary public, you can sign one petition form (see item 5a for details) and make three additional copies of your petition after it is notarized. If you go to the court in person, make four copies of your petition beforehand and sign all four copies of the petition form (see items 5b for details). Either way is acceptable; however, it is a good idea to file your petition in person with the court. That way, if you have forgotten something or need to change something, you can take care of it right away. If you decide to sign your petition in front of a notary public, you can still file your petition in person with the court.

4a Signing Before a Notary Public: Take the petition (form MC 406a) that you prepared as directed in item 4 and your photo identification to a notary public. Sign the petition in front of the notary public. There may be a fee for this.

4b Signing Before the Clerk of the Court: Make four copies of the petition (form MC 406a). Take all four copies and your photo identification to the clerk of the court where you were convicted. Sign all four copies of the petition in front of the clerk of the court.

5. Filing the Petition with the Court

You can file your petition (form MC 406a) in person with the court or by mailing it to the court. If you file by mail, you must include a postage-paid envelope in order for the court to return three forms to you after the clerk of the court records the filing of your petition. At the time of filing, the clerk of the court will write the name of the judge assigned to your case on all four copies of your petition.

The clerk of the court will set a hearing date at the time of filing. The clerk of the court will complete the **Notice of Hearing** section on all four copies of your petition (form MC 406a) and return the remaining three copies of the petition to you.

»»SERVING THE PETITION

When you receive the three remaining copies of the petition (form MC 406a) from the court, serve one copy on (mail it to) the prosecuting official by first-class mail no later than 30 days before the hearing date on the petition. Get the address from the clerk or see www.michiganprosecutor.org.

6. Fill Out the Proof of Service and File With the Court

You should have two copies of the petition left. One of these copies is for you to keep for your records. The other copy is for filing proof of service with the court.

On both copies of the petition, fill out the **Certificate of Mailing** at the bottom of the form. Write in the date that you mailed the petition to the prosecuting official. Then date and sign the **Certificate of Mailing**.

After you fill out and sign the **Certificate of Mailing**, mail one of the remaining petitions (form MC 406a) with the completed **Certificate of Mailing** to the court. This shows the court that you mailed a copy to the prosecuting official.

»»INFORMATION ABOUT THE PETITION PROCESS

The prosecuting official will review your petition and also has the opportunity to participate in the hearing and to seek appellate review of any decision on the petition. The prosecuting official may or may not appear at the hearing. In addition, the prosecuting official is required to notify the victim when a petition has been filed to discontinue sex offender registration. The victim has the right to appear at the hearing on the petition and to make a written or an oral statement.

»»PREPARING FOR THE HEARING

On the hearing date, any of the following may happen:

- The prosecuting official may attend the hearing to contest the petition. In that case, the court will hear what the prosecuting official has to say before making its decision.
- If the prosecuting official does not attend the hearing to contest the petition, the court will make its decision based on the court's own records, as well as any response that may have been filed on behalf of the prosecuting official.
- If the victim attends the hearing and/or provides an oral or a written statement, the court will consider that statement before making its decision.
- You will have the opportunity to speak to the court at the hearing. If you do not appear, your petition may be dismissed.

When you go to court for the hearing, take your copy of the petition (form MC 406a) with you.

»»INFORMATION ABOUT ATTENDING THE HEARING

The hearing will usually take place at the court where the petition was filed. It is important for you to arrive at court on time; if you file a petition and are not in court when your case is called, the petition may be dismissed or denied. Bring your petition.

1. If you are representing yourself, you are expected to conduct yourself as an attorney and to follow the same general rules as an attorney.
2. Go to the judge's courtroom on the scheduled day and time. Dress neatly. Arrive 10 or 15 minutes early.
3. Go into the courtroom, take a seat, and wait for your case to be called. Do not interrupt any hearing in progress.
4. The court clerk will call the case and you will have the opportunity to explain your request to the judge.
5. When your case is called by the clerk or the judge, go to the front of the courtroom and clearly state:

- 1) your name.
- 2) that you are representing yourself.
- 3) that you are seeking to have the court discontinue your sex offender registration requirement.
- 4) the facts or reasons for your request.

Answer the judge's questions clearly and directly.

6. The judge will ask the prosecuting official, if present, to state any objections.
7. If the judge determines that your circumstances warrant discontinuing sex offender registration, the court will prepare an order.

»»GETTING YOUR ORDER

The court prepares and signs an order after the hearing. The court will provide you and the Michigan State Police with a copy of the order. After the Michigan State Police receives a copy of the order discontinuing sex offender registration, your registration information will be removed from the department's computerized law enforcement database pursuant to MCL 28.728d and from the public sex offender website pursuant to MCL 28.728(6). If the court denies your request to discontinue registration, your registration will remain public. An order discontinuing sex offender registry does not remove a conviction or adjudication from the individual's criminal history record.

**INSTRUCTIONS FOR COMPLETING
“PETITION TO DISCONTINUE SEX OFFENDER REGISTRATION”**

Please print neatly. After filling in the form, you will need to print four copies of the form.

Items A through F must be completed before your petition can be filed with the court. Please read the instructions for each item. Fill in the correct information for that item on the form.

- Ⓐ Before you fill in the Case No., get the court papers of your conviction and copy the Case No. from those court papers onto this form.
- Ⓑ Use your court papers to write in the ORI Number, if available. You do not need to fill in the court address and telephone number.
- Ⓒ Use your court papers to fill in the boxes for the plaintiff and defendant or for “In the matter of.” Copy the names from these court papers onto this form. Provide your date of birth on form MC 97a as instructed.
- Ⓓ Use your court papers to write in the date of your conviction/adjudication and the offense for which you were convicted/adjudicated. If you were not confined for this offense, check the first box. If you were confined for this offense, check the second box and write in the date you were released from confinement.
- Ⓔ Check the box that best describes your situation. Make sure that the statement you check is true.
- Ⓕ **DO NOT SIGN YOUR NAME** until you are standing in front of a notary or the clerk of the court.
- Ⓖ **DO NOT WRITE IN THIS SECTION.** The notary public or clerk of the court will complete this section.
- Ⓗ File your application with the court. The clerk of the court will complete the Notice of Hearing. See page 6 of this packet for details.
- Ⓘ Read page 6 of this packet for details about mailing this form to the prosecuting official. On the date you mail the copies, write in the date and sign your name on the remaining two copies. Mail or take one copy to the clerk of the court.

You must read this booklet for directions on the legal process.