**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

SJ-19-6A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR AUTOMATIC REMOVAL FROM VIOLENT OFFENDER REGISTRY AFTER 10 YEARS AND VACATING CONVICTIONS FOR FAILURE TO REGISTER AFTER 10 YEARS; AMENDING SECTIONS 46-23-506 AND 46-23-507, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 46-23-506, MCA, is amended to read:

"**46-23-506. Duration of registration.** (1) A sexual offender required to register under this part shall register for the remainder of the offender's life, except as provided in subsection (3) or during a period of time during which the offender is in prison.

(2) A violent offender required to register under this part shall register:

(a) for the 10 years following release from confinement or, if not confined following sentencing, for the 10 years following the conclusion of the sentencing hearing~~, but~~ and;

(b) the offender is ~~not~~ automatically relieved of the duty to register ~~until a petition is granted under subsection (3)(a); or~~ after 10 years.

~~(b) if convicted during the 10-year period provided in subsection (2)(a) of failing to register or keep registration current or of a felony, for the remainder of the offender's life unless relieved of the duty to register as provided in subsection (3)(b).~~

(c) When an offender is relieved of the obligation to register under subsection (2)(b) the department of justice shall remove the offender from the registry.

(3) (a) An offender required to register for 10 years under subsection (2)(a) may, after the 10 years have passed, petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. The petition must be granted if the defendant has not been convicted under subsection (2)(b).

(b) Except as provided in subsection (5), at any time after 10 years of registration for a level 1 sexual offender and at any time after 25 years of registration for a level 2 sexual offender, an offender may petition the sentencing court or the district court for the judicial district in which the offender resides for an order relieving the offender of the duty to register. The petition must be served on the county attorney in the county where the petition is filed. Prior to a hearing on the petition, the county attorney shall mail a copy of the petition to the victim of the last offense for which the offender was convicted if the victim's address is reasonably available. The court shall consider any written or oral statements of the victim. The court may grant the petition upon finding that:

(i) the offender has remained a law-abiding citizen; and

(ii) continued registration is not necessary for public protection and that relief from registration is in the best interests of society.

(4) The offender may move that all or part of the proceedings in a hearing under subsection (3) be closed to the public, or the judge may close them on the judge's own motion. If a proceeding under subsection (3)(b) is closed to the public, the judge shall permit a victim of the offense to be present unless the judge determines that exclusion of the victim is necessary to protect the offender's right of privacy or the safety of the victim. If the victim is present, the judge, at the victim's request, shall permit the presence of an individual to provide support to the victim unless the judge determines that exclusion of the individual is necessary to protect the offender's right to privacy.

(5) Subsection (3) does not apply to an offender who was convicted of:

(a) a violation of 45-5-503 if:

(i) the victim was compelled to submit by force, as defined in 45-5-501, against the victim or another; or

(ii) at the time the offense occurred, the victim was under 12 years of age;

(b) a violation of 45-5-507 if at the time the offense occurred the victim was under 12 years of age and the offender was 3 or more years older than the victim;

(c) a second or subsequent sexual offense that requires registration; or

(d) a sexual offense and was designated as a sexually violent predator under 46-23-509."

Section 2. Section 46-23-507, MCA, is amended to read:

"**46-23-507. Penalty.** (1) A sexual or violent offender who knowingly fails to register, verify registration, or keep registration current under this part may be sentenced to a term of imprisonment of not more than 5 years or may be fined not more than $10,000, or both.

(2) For violent offenders the sentencing court shall on its own motion vacate the conviction 10 years from the date of conviction.

(a) When the court vacates a conviction under this section, the court shall:

(i) send a copy of the order vacating the conviction to the prosecutor and the department of justice; and

(ii) order the expungement of all records of arrest, investigation, and detention, and any court proceedings that may be held by the court, the investigating law enforcement agency; or the department of justice related to the conviction.

(3) The prosecutor and the department of justice shall inform the person whose conviction has been vacated under this section that the conviction is vacated."

- END -

DRAFT