

## CHAPTER 692A.128 MODIFICATION

Request to be removed from the registry or to modify some/all restrictions/requirements

**This process is handled through the courts**

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### Checklist for Modification:

- Not incarcerated
  - Registered (2 years Tier I; 5 years Tier II & III)
  - Sex Offender Treatment Programs completed
  - Risk Assessment - low risk to reoffend
  - Judicial District Stipulation (if the person is on supervision)
  - Filed in county of principal residence
  - Notice of application to county of conviction (for subsequent notification to victim if available)
  - Notice of application to Sex Offender Registry
  - Final Orders to Sheriff's Office, Sex Offender Registry, County Attorney of conviction to be forwarded to victim if address is known
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Please note: While the court may modify the registration requirements in this modification process, the **court IS NOT granted authority** to modify registration requirements **at time of initial sentence** (except for Juvenile Court Judges issuing final orders). Additionally registration requirements cannot be "plea bargained".

### 692A.128 Modification.

1. A sex offender who is on probation, parole, work release, special sentence, or any other type of conditional release may file an application in district court seeking to modify the registration requirements under this chapter.
2. An application shall not be granted unless all of the following apply:
  - a. The date of the commencement of the requirement to register occurred at least two years prior to the filing of the application for a tier I offender and five years prior to the filing of the application for a tier II or III offender.
  - b. The sex offender has successfully completed all sex offender treatment programs that have been required.
  - c. A risk assessment has been completed and the sex offender was classified as a low risk to reoffend. The risk assessment used to assess an offender as a low risk to reoffend shall be a validated risk assessment approved by the department of corrections.
  - d. The sex offender is not incarcerated when the application is filed.
  - e. The director of the judicial district department of correctional services supervising the sex offender, or the director's designee, stipulates to the modification, and a certified copy of the stipulation is attached to the application.
3. The application shall be filed in the sex offender's county of principal residence.
4. Notice of any application shall be provided to the county attorney of the county of the sex offender's principal residence, the county attorney of any county in this state where a conviction requiring the sex offender's registration occurred, and the department. The county attorney where the conviction occurred shall notify the victim of an application if the victim's address is known.
5. The court may, but is not required to, conduct a hearing on the application to hear any evidence deemed appropriate by the court. The court may modify the registration requirements under this chapter.
6. A sex offender may be granted a modification if the offender is required to be on the sex offender registry as a result of an adjudication for a sex offense, the offender is not under the supervision of the juvenile court or a judicial district judicial department of correctional services, and the department of corrections agrees to perform a risk assessment on the sex offender. However, all other provisions of this section not in conflict with this subsection shall apply to the application prior to an application being granted except that the sex offender is not required to obtain a stipulation from the director of a judicial district department of correctional services, or the director's designee.
7. If the court modifies the registration requirements under this chapter, the court shall send a copy of the order to the department, the sheriff of the county of the sex offender's principal residence, any county attorney notified in subsection 4, and the victim, if the victim's address is known.

2009 Acts, ch 119, §28 Referred to in §692A.106