

Use these instructions and forms to petition to be relieved of registering as a sex offender.

These forms cannot take the place of advice from a lawyer. Contact a lawyer if you have any questions.

Follow the instructions below to fill out and file forms with the District Court.

### **What forms will I need to petition the court for relief of registering?**

- Petition to Relieve Sex Offender of the Duty to Register
- Order Setting Hearing for Relief from Designation

The Petition asks the court to relieve you of registering as a sex offender and schedule a hearing.

The Order setting Hearing will be filled out by the judge and will tell you when and where your hearing will be held.

### **What words do I need to know?**

**Petitioner-** A Petitioner is someone who files an action in court. If you are asking the court to relieve you of registering as a sex offender, you are the Petitioner.

**Force-** The infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a forcible felony by the offender; or the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

**Sexually Violent Predator-** An Offender who has been convicted of or, in youth court, found to have committed or been adjudicated for a sexual offense and who suffers from a mental abnormality or a personal disorder that makes the person likely to engage in predatory sex offenses; OR has been convicted of a sexual offense against a victim 12 years of age or younger and the offender is 18 years of age or older.

### **Who can petition (46-23-506)?**

- No Tier Designation – after 10 years of registration
- Tier Level 1 – after 10 years of registration
- Tier Level 2 – after 25 years of registration

EXCEPT :

- If Convicted of Sexual Intercourse Without Consent where:
  - The victim was compelled to submit by force against the victim or another, OR
  - Victim was under 12 years of age at the time of the offense
- If Convicted of Incest and at the time of the offense the victim was less than 12 and the offender was 3 or more years older than the victim.
- If Convicted of a second sexual offense that requires registration
- If Convicted of a sexual offense and was designated a Sexually Violent Predator

## What do I do with the forms?

### 1. Fill out the Forms

- Fill out all the blanks on the Petition to Relieve Sex Offender of the Duty to Register.
- Sign and date your Petition to Relieve Sex Offender of the Duty to Register.
- Fill out the Judicial District, County, and caption on the Order Setting Hearing for Relief from Designation. Highlighted in example below:

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT,  
*(number of district in which your county is located)*  
\_\_\_\_\_ COUNTY  
*(name of your county)*

<p>_____ <i>(Your full name)</i></p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>State of Montana,</p> <p style="text-align: right;">Respondent.</p>	<p>Cause No. _____</p> <p><b>ORDER SETTING HEARING ON PEITITON FOR RELIEF FROM DESIGNATION</b></p>
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### 2. Make Copies

- Make one copy of each form after you have filled them out.

### 3. File Forms at the Courthouse

- Go to the Clerk of District Court's office where you currently reside or where you were sentenced. File the original Petition to Relieve Sex Offender of the Duty to Register and Order Setting Hearing for Relief from Designation
- Give the Clerk of Court a self-addressed stamped envelope. Ask for a copy of the Order Setting Hearing for Relief from Designation to be mailed to you after the judge signs it.  
  
Give the Clerk of Court a stamped envelope addressed to the County Attorney where the petition is filed.  
  
\*\*Note- there are filing fees and possibly fees for copies, this will vary by county. For assistance with filing fees, file the *Affidavit of Inability to Pay* form.
- Give your copies to the Clerk of Court and ask to have them stamped as "Filed". Keep the copies in a safe place.

### 4. Go to your Hearing

- Bring your stamped copies of the documents you filed with the court.

- Arrive at the courthouse at least 15 minutes before your scheduled hearing. Dress like you were going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. Go to that courtroom and wait for the judge to call your name and case number. Remember to address the judge as "Your Honor."
- Important:** After you receive your signed Order Relieving you of registering as a sexual offender, take the order to your local registering agency.

[Redacted]

(Your full name)

(Your mailing address)

[Redacted]

(Your telephone number)

MONTANA [Redacted] JUDICIAL DISTRICT COURT,  
(number of district in which your county is located)  
[Redacted] COUNTY  
(name of your county)

<p>[Redacted] (Your full name)</p> <p>Petitioner,</p> <p>v.</p> <p>State of Montana,</p> <p>Respondent.</p>	<p>Cause No. _____</p> <p><b>PETITION TO RELIEVE SEX OFFENDER OF THE DUTY TO REGISTER</b></p>
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[Redacted] petitions this Court to enter an order relieving  
(Your full name)

him / her of the duty to register pursuant to Mont. Code Ann. § 46-23-506(3)(b) on the  
(circle one)  
basis that:

- I am a Tier I sex offender and I have been registered for at least 10 years.
- I am a Tier II sex offender and I have been registered for at least 25 years.
- I have no Tier designation, but I have been registered for at least 10 years.

Furthermore, none of the following exceptions, found in Mont. Code Ann. § 46-23-506(5), which would prohibit me from petitioning for this relief apply to my case:

I was **not** convicted of a violation of Sexual Intercourse without Consent, in violation of Mont. Code Ann. § 45-5-503, where the victim was either under 12 years of age or compelled to submit by force against the victim or another. I understand that force is defined as the infliction, attempted infliction, or threatened infliction of bodily injury or the commission of a

forcible felony by the offender; or the threat of substantial retaliatory action that causes the victim to reasonably believe that the offender has the ability to execute the threat.

I was **not** convicted of Incest, in violation of Mont. Code Ann. § 45-5-507, where at the time the offense occurred the victim was under 12 years of age and I was 3 or more years older than the victim.

Since I was first required to register, I have **not** been convicted of a second or subsequent offense that requires registration.

I have **not** been designated as a sexually violent predator under Mont. Code Ann. § 46-23-509.

#### **PROCEDURAL AND FACTUAL HISTORY**

The following factual and procedural history is offered in support of this petition:

*Petitioner's Name:* \_\_\_\_\_

*Petitioner's Date of Birth:* \_\_\_\_\_

*Crime(s) for which Petitioner is registered as a Sexual Offender:*

\_\_\_\_\_  
\_\_\_\_\_

*Date of Conviction:* \_\_\_\_\_

*Date of Sentencing:* \_\_\_\_\_

*Sentencing Judge:* \_\_\_\_\_

*Tier Level Designation:* \_\_\_\_\_

*Date First Registered as Sex Offender:* \_\_\_\_\_

*Other:* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I have attached the written Judgment wherein I am designated as a sex offender.

I have also attached the following: \_\_\_\_\_

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**APPLICABLE LEGAL AUTHORITY**

Montana Code Annotated § 46-23-506(3)(b) provides:

“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.”

**ARGUMENT**

The Petitioner requests that this Court find that he/she is a law abiding citizen because:


The Petitioner requests that this Court find that continued registration is not necessary for public protection and that relief from registration is in the best interests of society because:

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[Redacted]

Pursuant to Mont. Code Ann. § 46-23-506(4), Petitioner moves that all or part of the proceedings in a hearing for this matter be closed to the public for the following reason(s):

*(Complete if applicable)*

[Redacted]

**CONCLUSION**

[Redacted]  
*(Your full name)* requests that this Court hold a hearing on this matter, find that the Petitioner has remained a law-abiding citizen, find that continued registration is not necessary for public protection and that relief from registration is in the best interests of society, and grant the Petitioner relief from further registration as a sex Offender.

DATED this [Redacted] day of [Redacted], 20[Redacted].

[Redacted]  
*(Petitioner Signature)*

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**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing Petition to Relieve Sex Offender from the Duty to Register to be mailed, first class postage prepaid, to:

[Redacted]

*(County Attorney in the County where Petition is Filed)*

Dated: [Redacted]

[Redacted]

*(Petitioner/Sex Offender)*

MONTANA \_\_\_\_\_ JUDICIAL DISTRICT COURT,  
*(number of district in which your county is located)*  
\_\_\_\_\_ COUNTY  
*(name of your county)*

<p>_____ <i>(Your full name)</i></p> <p>Petitioner,</p> <p>v.</p> <p>State of Montana,</p> <p>Respondent.</p>	<p>Cause No. _____</p> <p><b>ORDER SETTING HEARING ON PEITITON FOR RELIEF FROM DESIGNATION</b></p>
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Upon the Petitioner's Motion for Relief of Duty to Register, and good cause appearing, this Court hereby sets a hearing on the merits of the petition to be heard on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at the hour of \_\_\_\_ a.m./p.m.

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.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
DISTRICT COURT JUDGE

CC: COUNTY ATTORNEY  
PETITIONER