

# A big win for South Carolina registrants – a “true miracle”

written by DonT | May 13, 2022



By Don T . . . We reported earlier on the bills that had been introduced in the South Carolina legislature in answer to last year’s SC Supreme Court decision that our arbitrary lifetime registration, without due process, was unconstitutional. Now, we can happily report on May 12<sup>th</sup>, “It’s a great day in South Carolina!” The effort has taken a somewhat tortured path, but it is now all but over, with only the governor’s signature remaining.

Two parallel bills were originally filed in the House and Senate. After multiple sub-committee meetings in both houses and a considerable amount of testimony, which was almost totally in our favor, the subcommittees reported the bills favorably back to their respective judiciary committees. So far, so good. Then, unexpectedly, both judiciary committees tabled their respective bills on the same day, leaving everyone a bit perplexed. A new strategy for streamlining the

legislative process was revealed at the next meeting of the Senate committee.

Our bill was attached as an amendment to another bill that had already passed the House and was sent to the Senate floor. The Senate subsequently approved the bill 42-0. (We are not used to getting that kind of result!) The amended bill went back to the House with four days remaining in the session. That seemed like no problem until two days in a row members voted to table the bill. Panic began to set in for us. Then, midday, on the last day of the session, the bill was brought up and a minor amendment to the Senate amendment was offered. The House approved the amended bill 80-0, but that caused it to be sent back to the Senate!

Every once in a while, you get to witness a true miracle. It seems that if some legislators really want to get something done, they can. Late that same afternoon, the Senate took the bill up again and passed it, gaining final approval. It now needs only the governor's signature to become law.

So what did we get? For the first time, there is now clear definition of the tiers to which people are assigned. Much like the federal law, specific offenses will result in classification to the tiers. The really good news is that many offenses have been put in lower tiers than are currently being utilized. This will result in many people being moved to a lower tier than they are currently in. Especially helpful is that many Tier III registrants will move to Tier II and will now only have to register twice a year.

The bill also provides systems to be removed from the registry, patterned, at least partially, after the Adam Walsh Act. The details are too complex to list them all here, but generally, Tier I and Tier II registrants can petition the State Law Enforcement Division (SLED), which operates the registry, after 15 or 25 years, respectively. If they have remained offense-free for that time, completed all the terms

of their sentence and completed any required treatment program, SLED is to remove them, though the solicitor can oppose the removal with cause. If the SLED removal process is denied, the registrant can then petition the court for removal and must show by clear and convincing evidence that he or she is not a risk to reoffend. In addition, Tier III registrants can petition the court in this manner after 30 years, but cannot be removed automatically by SLED.

The final benefit granted by this bill is significant relief for juveniles, for which we have been fighting for years. Children under 14 can no longer be placed on the registry unless they have committed a Tier III offense and then only at the discretion of the family court judge. Children under 12 cannot be placed on the registry for any reason. Family court judges will also have discretion over registration for juveniles 14 and over who were guilty (adjudicated delinquent) of Tier I or Tier II offenses.

Of course, it seems like someone always has to throw in a "gotcha" when good things are happening. There is one provision in the bill that people will not like so much. It will now be illegal for registrants who were guilty of one of five listed offenses against minors to "operate, work for, be employed by, or volunteer for a child-oriented business." Fortunately, there is little to no penalty for violating this unless one does it repeatedly.

After several years of wrapping up the legislative session with the assessment, "Well, at least nothing bad happened," it is with the greatest satisfaction that we report this excellent progress in the great state of South Carolina!