

# **Senate Bill 10**

## **Reclassification Challenge Hearing**

### ***Pro Se Packet***

This packet contains the forms you can file to request a hearing to challenge your reclassification under Senate Bill 10. The forms are: (1) Petition to Contest Reclassification; (2) Affidavit of Indigency; and (3) Motion for Appointment of Counsel.

## **STEP ONE: FILL OUT THE FORMS**

You must file these forms within 60 days of the day you receive the reclassification letter from the Ohio Attorney General's office. The forms should be self-explanatory. Here are some tips for filling them out:

### **THE PETITION:**

- The petition must be filed in the county in which you live. If you live in the same county in which you were convicted, fill in your original criminal case number at the top of your pleadings. If your conviction was in a different county than the county where you currently live, write that county's name on the line that says "County of Conviction" on the petition. *Attach a copy of the notice you received from the attorney general to your petition.*

### **AFFIDAVIT OF INDIGENCY**

- This is the only document that must be notarized. *Do not sign the affidavit until you see the notary; it must be signed in the notary's presence.* You may be able to find a notary at your local bank, post office, or bureau of motor vehicles (BMV).

### **MOTION FOR APPOINTMENT OF COUNSEL & ENTRY**

- The court may appoint counsel to represent you. You should file this motion and entry with your petition so that you will be appointed counsel if the court is willing to do so.

## **STEP TWO: MAKE COPIES**

When the forms are completed, make three (3) copies of each form.

## **STEP THREE: MAIL THE FORMS**

Mail the forms as follows:

### **TO THE CLERK OF COURTS:**

- Mail the original of all three forms, plus two (2) copy of all three forms.
- Mark the one (1) copy of each form "time-stamp and return." **Do not** mark the original forms.
- **Do not** mail anything directly to the judge.

### **TO THE PROSECUTOR:**

- Mail one (1) copy of each form.

IN THE COURT OF COMMON PLEAS

\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Respondent, :  
 :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, : County of Conviction: \_\_\_\_\_  
 :  
 Defendant-Petitioner. : HEARING REQUESTED

**PETITION TO CONTEST RECLASSIFICATION**

Petitioner, \_\_\_\_\_, petitions this Court for a hearing to contest reclassification pursuant to R.C. 2950.031(E) or R.C. 2950.032(E).

1. Petitioner was convicted of [offense] \_\_\_\_\_  
 \_\_\_\_\_  
 in a judgment entered on [date] \_\_\_\_\_ in \_\_\_\_\_  
 County, [state] \_\_\_\_\_.

2. Petitioner resides in \_\_\_\_\_ County and registers with the sheriff of that county pursuant to R.C. chapter 2950.

3. Petitioner received a Notice of New Classification and Registration Duties from the Office of the Ohio Attorney General on [date] \_\_\_\_\_. A copy of the Notice is attached to this petition.

4. Pursuant to R.C. 2950.031(E) and R.C. 2950.032(E), Petitioner requests, as a matter of right, a hearing to contest the application of the new registration requirements to Petitioner.

Respectfully submitted,

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DEFENDANT-PETITIONER, *pro se*

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ADDRESS

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CITY, STATE & ZIP CODE

## MEMORANDUM OF LAW

Reclassification of the petitioner violates multiple provisions of the Ohio and United States Constitutions:

The retroactive reclassification of the Petitioner abrogates final judicial orders adjudicating and classifying the Petitioner under former R.C. Chapter 2950. This violates the separation of powers principle inherent in Ohio's constitutional framework.

The retroactive reclassification of the Petitioner impairs vested rights and imposes new obligations and additional substantial burdens on the Petitioner by requiring more frequent registration, a longer period of registration, and more disclosure at registration. It therefore violates Section 28, Article II of the Ohio Constitution, which prohibits retroactive laws.

By imposing registration duties based on the offense committed, rather than on an individualized assessment of dangerousness, the Petitioner's new classification became part and parcel of the underlying sentence for the offense committed. Because reclassification increases the Petitioner's sentence, it violates the Ex Post Facto Clause of the United States Constitution. This additional punishment also violates the Double Jeopardy Clauses of the Ohio and United States Constitutions.

The Petitioner may have entered a plea in exchange for favorable registration and community notification provisions, and a plea agreement is a contract that binds the State. If the Petitioner entered a plea, reclassification constitutes an impairment of an obligation of contract prohibited by Section 28, Article II of the Ohio Constitution and Article I, Section 10, Clause 1 of the United States Constitution.

The following special circumstances about Petitioner and/or Petitioner's case further support the Petitioner's claims: \_\_\_\_\_

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

WHEREFORE, Petitioner respectfully requests that this petition be granted, and that the court issue an order pursuant to R.C. 2950.031(E) or R.C. 2950.032(E) that the new registration and notification requirements do not apply to the Petitioner, and that the Court order that a copy of said order be served on the Sheriff of this County, upon the Bureau of Criminal Identification and Investigation, and upon the office of the Attorney General of the State of Ohio.

Respectfully submitted,

\_\_\_\_\_  
PETITIONER, *pro se*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing PETITION TO CONTEST RECLASSIFICATION was forwarded by regular U.S. mail to the office of the \_\_\_\_\_ County Prosecutor, [address] \_\_\_\_\_

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

\_\_\_\_\_  
PETITIONER, *pro se*

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Respondent, :  
 :  
 vs. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 :  
 Defendant-Petitioner. :

**AFFIDAVIT OF INDIGENCY**

I, \_\_\_\_\_, do hereby solemnly swear that I have presently this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, no means of financial support and no assets of any value and, therefore, cannot afford to pay for any legal services, fees, or costs in the above-styled case.

\_\_\_\_\_  
DEFENDANT-PETITIONER, *pro se*

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE & ZIP CODE

Sworn to and subscribed in my presence this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Respondent, :  
 :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 :  
 Defendant-Petitioner. :

**MOTION FOR APPOINTMENT OF COUNSEL**

Petitioner moves this Court for an order appointing counsel to represent Petitioner on the Petition to Contest Reclassification. A memorandum in support is attached.

Respectfully submitted,

\_\_\_\_\_  
PETITIONER, *pro se*

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE & ZIP CODE

**MEMORANDUM IN SUPPORT**

Petitioner lacks the skill or knowledge to adequately pursue and protect Petitioner’s rights without the assistance of counsel. Counsel is essential to ensure that Petitioner’s rights are fully protected and all issues reviewed. As attested by the Affidavit of Indigency filed with the petition, Petitioner is without funds to hire an attorney. Because the instant challenged reclassification has a punitive impact, the Petitioner is entitled to counsel at state expense.

The following special circumstances about Petitioner and/or Petitioner’s case further support this request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, Petitioner respectfully requests that counsel be appointed.

Respectfully submitted,

\_\_\_\_\_  
PETITIONER, *pro se*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing MOTION FOR APPOINTMENT OF COUNSEL was forwarded by regular U.S. mail to the office of the \_\_\_\_\_  
County Prosecutor, [address] \_\_\_\_\_

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

\_\_\_\_\_  
PETITIONER, *pro se*

IN THE COURT OF COMMON PLEAS  
\_\_\_\_\_ COUNTY, OHIO

STATE OF OHIO, :  
 :  
 Plaintiff-Respondent, :  
 :  
 v. : Case No. \_\_\_\_\_  
 :  
 \_\_\_\_\_, :  
 :  
 Defendant-Petitioner. :

**ENTRY**

For good cause shown, the Court hereby finds the Petitioner to be indigent, and further finds that the Petitioner is entitled to appointed counsel. The Court appoints attorney \_\_\_\_\_ to represent Petitioner relating to the Petition to Contest Reclassification. Counsel is directed to obtain from the Petitioner an OPD-206R financial disclosure form and file it with the Court.

IT IS SO ORDERED.

\_\_\_\_\_  
Judge