**[Sex offender removed from Maryland registry; could be first of many](http://congress-courts-legislation.blogspot.com/2013/06/sex-offender-removed-from-maryland.html%22%20%5Ct%20%22_blank)**

**6-22-2013 Maryland:**

by Aaron C. Davis

Maryland officials in recent weeks quietly removed the mug shot of convicted child molester Robert M. Haines Jr. from the state’s sex-offender registry.

They also deleted the Internet link to the former middle school teacher’s guilty plea to charges he abused a 13-year-old student decades ago. Haines’s physical description, the address of the cottage he lives in near Annapolis, the make and model of the car he drives: Everything the state had tracked for years to keep him from anonymity was erased.

Haines was removed not because he was exonerated of his crime. His information was taken down because of a recent ruling by the state’s Court of Appeals declaring sex-offender registration unconstitutional punishment for those who committed crimes before the registry began in 1995.

Under the ruling, Haines may be the first of almost one in four registered sex offenders who Maryland could be forced to scrub from its online database. Maryland officials are now bracing for the possibility that a wave of lawsuits following his case could require the state to delist roughly 1,800 of its 8,000 registered sex offenders, state records, e-mails and interviews show. State officials say they’ll forcefully challenge each suit.

And the fallout could go further. The state’s second-highest court is now weighing whether the Haines case should be applied to a broader group, beginning with a Montgomery County man who pleaded guilty in 2001 to preying on a 12-year-old Pennsylvania girl over the Internet.

Even though Maryland’s registry existed then, the legislature did not decide until after he was convicted that his particular crime should merit listing on the Web site, which allows people to search by name or Zip code to find details on released sex offenders. Last month, the site was checked by nearly 12,000 people.

At least five similar cases brought by registered sex offenders are expected to reach Maryland’s Court of Special Appeals by September.

If the court continues to apply the same logic that benefited Haines, the series of cases would effectively unravel Maryland’s [tightening of sex-offender rules in 2009 and 2010](http://www.washingtonpost.com/wp-dyn/content/article/2010/03/18/AR2010031805182.html) — changes that made the state among the toughest on sex-offender registration and that Gov. Martin O’Malley (D) hailed as one of his administration’s most important accomplishments on public safety.

“The attorney general and the governor’s office are going to have to decide how far they want to take this battle,” said David Wolinski, the outgoing assistant director of Maryland’s Criminal Justice Information System, the office that administers Maryland’s registry.

“There’s always a concern when you’ve removed data from a system that was previously there. One of these individuals — probably more than one of these individuals — will be a problem again,” said Wolinski, a retired Baltimore County police officer.

“That’s the scary part, you don’t know what they are capable of — and that’s really the whole point,” he said. “If we knew better, we’d have a whole different system than registration.”

Nancy Forster, Haines’s attorney and the state’s former top public defender, said that the Haines decision would begin to rein in a Maryland sex-offender registry that has expanded to include people who are far less dangerous than many ex-convicts but are stigmatized nonetheless as the worst kind of criminals.

“Many [registrants] are not pedo­philes. I know, because several of them are my clients,” Forster said. “One is a 19-year-old who had a consensual relationship with someone who was one year younger. It waters down the entire reason for having the registry. . . . I mean, murderers are probably a danger, but there’s no list for murderers.”

n the court filings, Forster was able to shield Haines’s identity as “John Doe,” but in an interview she verified the identity of her client.

Haines, 54, was charged with raping a 13-year-old student and exposing himself to others when he was a middle school teacher near Hagerstown in 1983. He resigned following a school investigation, but he was not criminally charged until more than two decades later, when the victim contacted police, according to court papers.

Haines pleaded guilty to child abuse in 2006 but was able to keep his name off the registry through a series of legal challenges. Citing a clean record since the incident, a judge sentenced him to a 10-year term with all but 41 / 2 years suspended. He was released early in 2008.

In 2009, Haines’s success at staying off the list was among cases cited by lawmakers in Annapolis as a rationale for tightening Maryland’s sex-offender registry.

That law, and additional restrictions the legislature added a year later, forced Haines to register and then reclassified his crime as one that requires lifetime registration. It also scooped up hundreds of other convicts. And it extended the length of registration for many other types of crimes to make Maryland one of just 16 states considered fully compliant with the federal Adam Walsh Child Protection and Safety Act.

But in a plurality opinion in March, Maryland’s high court said the changes acted to “disadvantage” Haines by violating his ex post facto, or double jeopardy, protections.

It was a decision that put Maryland at odds with the U.S. Supreme Court and all but a handful of other states’ courts, which have generally ruled that state and federal sex-offender registries are civil systems designed to protect the public, not after-the-fact or add-on criminal punishments for offenders.

The issue is before the Supreme Court in a separate case that could be decided as early as Monday.

That ruling is unlikely to immediately affect Maryland, however, because the state’s high court called the violation of Haines’s civil rights an affront to Maryland’s Declaration of Independence, not the U.S. Constitution. By basing its ruling on the state document and not the federal one, it “essentially put the decision beyond the reach of the Supreme Court,” said David Gray, a criminal law professor at the University of Maryland.

David Paulson, a spokesman for Maryland Attorney General Douglas F. Gansler, said that because of that, the office had determined it was highly unlikely the Supreme Court would hear the case on appeal. The office decided not to ask it to do so.

O’Malley’s corrections department and its staff attorneys, who answer to Gansler (D), instead fought for months to put off the order delisting Haines.

They relented in recent weeks, Forster, Haines’s attorney, said. She said officials faced a Sunday deadline that could have led to O’Malley’s secretary of corrections, Gary D. Maynard, being held in contempt.

“I wanted Gary Maynard to be put in the Baltimore City Detention Center — I thought it would have been just punishment,” she said, referring to another simmering public safety problem for O’Malley — the recent scandal over widespread corruption at the state-run jail.

Forster said the state should proactively remove all sex offenders who committed crimes before 1995 from the registry. “The state’s highest court has spoken, and yet [the O’Malley administration] is going to force each individual to spend money on a lawyer,” she said.

In a court appearance this month in the first case to follow Haines’s, Gansler’s office argued otherwise. The state said the decision should not apply to Thomas H. Quispe del Pino. The Montgomery County man’s crime of soliciting a young girl over the Internet in Pennsylvania was made a registerable offense in Maryland after his conviction. His term on the registry was also subsequently extended by the changes made by the legislature.

Thomas M. DeGonia, an attorney for Quispe Del Pino, said the broad question that his and other follow-up cases will answer is whether Maryland courts truly see the state’s sex-offender registry as criminal punishment, which must be set in law before a person commits his crime and is convicted and sentenced for it. Or is it a civil system, with rules that can be changed after the fact?

“I think the court should call it what it is,” said DeGonia. “People have tried to say it really isn’t criminal, but the implications are criminal.”

The court itself, however, will be different by the time the final appeal is heard in Quispe del Pino’s case. Maryland Court of Appeals Chief Judge Robert M. Bell, who signed onto the Haines ruling, must retire this year under state law. O’Malley will appoint his successor. [..Source..](http://www.washingtonpost.com/local/sex-offender-removed-from-md-registry-could-be-first-of-many/2013/06/21/abdc1bae-d9f4-11e2-9df4-895344c13c30_story.html)