


 KeyCite Yellow Flag - Negative Treatment

Unconstitutional or Preempted Prior Version Held Unconstitutional by [People v. Tirey](#), Cal.App. 4 Dist.,  
Nov. 15, 2013

 KeyCite Yellow Flag - Negative Treatment Proposed Legislation

West's Annotated California Codes

Penal Code ([Refs & Annos](#))

Part 1. Of Crimes and Punishments ([Refs & Annos](#))

Title 9. Of Crimes Against the Person Involving Sexual Assault, and Crimes Against  
Public Decency and Good Morals ([Refs & Annos](#))

Chapter 5.5. Sex Offenders ([Refs & Annos](#))

West's Ann.Cal.Penal Code § **290.5**

§ **290.5**. Termination of mandated minimum registration period; petition for termination  
from sex offender registry; time for repetition after denial of petition

Effective: July 1, 2021

[Currentness](#)

<Section operative July 1, 2021. See, also, § **290.5** operative until July 1, 2021.>

(a)(1) A person who is required to register pursuant to [Section 290](#) and who is a tier one or tier two offender may file a petition in the superior court in the county in which the person is registered for termination from the sex offender registry on or after their next birthday after July 1, 2021, following the expiration of the person's mandated minimum registration period, or if the person is required to register pursuant to [Section 290.008](#), the person may file the petition in juvenile court on or after their next birthday after July 1, 2021, following the expiration of the mandated minimum registration period. The petition shall contain proof of the person's current registration as a sex offender.

(2) The petition shall be served on the registering law enforcement agency and the district attorney in the county where the petition is filed and on the law enforcement agency and the district attorney of the county of conviction of a registerable offense if different than the county where the petition is filed. The registering law enforcement agency shall report receipt of service of a filed petition to the Department of Justice in a manner prescribed by the department. The registering law enforcement agency and the law enforcement agency of the county of conviction of a registerable offense if different than the county where the petition is filed shall, within 60 days of receipt of the petition, report to the district attorney and the superior or juvenile court in which the petition is filed regarding whether the person has met the requirements for termination pursuant to [subdivision \(e\) of Section 290](#). If an offense which may require registration pursuant to [Section 290.005](#) is identified by the registering law enforcement agency which has not previously been assessed by the Department of Justice, the registering law enforcement agency

shall refer that conviction to the department for assessment and determination of whether the conviction changes the tier designation assigned by the department to the offender. If the newly discovered offense changes the tier designation for that person, the department shall change the tier designation pursuant to [subdivision \(d\) of Section 290](#) within three months of receipt of the request by the registering law enforcement agency and notify the registering law enforcement agency. If more time is required to obtain the documents needed to make the assessment, the department shall notify the registering law enforcement agency of the reason that an extension of time is necessary to complete the tier designation. The registering law enforcement agency shall report to the district attorney and the court that the department has requested an extension of time to determine the person's tier designation based on the newly discovered offense, the reason for the request, and the estimated time needed to complete the tier designation. The district attorney in the county where the petition is filed may, within 60 days of receipt of the report from either the registering law enforcement agency, the law enforcement agency of the county of conviction of a registerable offense if different than the county where the petition is filed, or the district attorney of the county of conviction of a registerable offense, request a hearing on the petition if the petitioner has not fulfilled the requirement described in [subdivision \(e\) of Section 290](#), or if community safety would be significantly enhanced by the person's continued registration. If no hearing is requested, the petition for termination shall be granted if the court finds the required proof of current registration is presented in the petition, provided that the registering agency reported that the person met the requirement for termination pursuant to [subdivision \(e\) of Section 290](#), there are no pending charges against the person which could extend the time to complete the registration requirements of the tier or change the person's tier status, and the person is not in custody or on parole, probation, or supervised release. The court may summarily deny a petition if the court determines the petitioner does not meet the statutory requirements for termination of sex offender registration or if the

petitioner has not fulfilled the filing and service requirements of this section. In summarily denying a petition the court shall state the reason or reasons the petition is being denied.

(3) If the district attorney requests a hearing, the district attorney shall be entitled to present evidence regarding whether community safety would be significantly enhanced by requiring continued registration. In determining whether to order continued registration, the court shall consider: the nature and facts of the registerable offense; the age and number of victims; whether any victim was a stranger at the time of the offense (known to the offender for less than 24 hours); criminal and relevant noncriminal behavior before and after conviction for the registerable offense; the time period during which the person has not reoffended; successful completion, if any, of a Sex Offender Management Board-certified sex offender treatment program; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if available. Any judicial determination made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is reliable, material, and relevant.

(4) If termination from the registry is denied, the court shall set the time period after which the person can repetition for termination, which shall be at least one year from the date of the denial, but not to exceed five years, based on facts presented at the hearing. The court shall state on the record the reason for its determination setting the time period after which the person may repetition.

(5) The court shall notify the Department of Justice, California Sex Offender Registry, when a petition for termination from the registry is granted, denied, or summarily denied, in a manner prescribed by the department. If the petition is denied, the court shall also notify the Department of Justice, California Sex Offender Registry, of the time period after which the person can file a new petition for termination.

(b)(1) A person required to register as a tier two offender, pursuant to [paragraph \(2\) of subdivision \(d\) of Section 290](#), may petition the superior court for termination from the registry after 10 years from release from custody on the registerable offense if all of the following apply: (A) the registerable offense involved no more than one victim 14 to 17 years of age, inclusive; (B) the offender was under 21 years of age at the time of the offense; (C) the registerable offense is not specified in [subdivision \(c\) of Section 667.5](#), except [subdivision \(a\) of Section 288](#); and (D) the registerable offense is not specified in [Section 236.1](#).

(2) A tier two offender described in paragraph (1) may file a petition with the superior court for termination from the registry only if the person has not been convicted of a new offense requiring sex offender registration or an offense described in [subdivision \(c\) of Section 667.5](#) since the person was released from custody on the offense requiring registration pursuant to [Section 290](#), and has registered

for 10 years pursuant to [subdivision \(e\) of Section 290](#). The court shall determine whether community safety would be significantly enhanced by requiring continued registration and may consider the following factors: whether the victim was a stranger (known less than 24 hours) at the time of the offense; the nature of the registerable offense, including whether the offender took advantage of a position of trust; criminal and relevant noncriminal behavior before and after the conviction for the registerable offense; whether the offender has successfully completed a Sex Offender Management Board-certified sex offender treatment program; whether the offender initiated a relationship for the purpose of facilitating the offense; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if known. If the petition is denied, the person may not repetition for termination for at least one year.

(3) A person required to register as a tier three offender based solely on the person's risk level, pursuant to [subparagraph \(D\) of paragraph \(3\) of subdivision \(d\) of Section 290](#), may petition the court for termination from the registry after 20 years from release from custody on the registerable offense, if the person (A) has not been convicted of a new offense requiring sex offender registration or an offense described in [subdivision \(c\) of Section 667.5](#) since the person was released from custody on the offense requiring registration pursuant to [Section 290](#), and (B) has registered for 20 years pursuant to [subdivision \(e\) of Section 290](#); except that a person required to register for a conviction pursuant to [Section 288](#) or an offense listed in [subdivision \(c\) of Section 1192.7](#) who is a tier three offender based on the person's risk level, pursuant to [subparagraph \(D\) of paragraph \(3\) of subdivision \(d\) of Section 290](#), shall not be permitted to petition for removal from the registry. The court shall determine whether community safety would be significantly enhanced by requiring continued registration and may consider

the following factors: whether the victim was a stranger (known less than 24 hours) at the time of the offense; the nature of the registerable offense, including whether the offender took advantage of a position of trust; criminal and relevant noncriminal behavior before and after the conviction for the registerable offense; whether the offender has successfully completed a Sex Offender Management Board-certified sex offender treatment program; whether the offender initiated a relationship for the purpose of facilitating the offense; and the person's current risk of sexual or violent reoffense, including the person's risk levels on SARATSO static, dynamic, and violence risk assessment instruments, if known. If the petition is denied, the person may not re-petition for termination for at least three years.

(c) This section shall become operative on July 1, 2021.

## Credits

(Added by [Stats.2017, c. 541 \(S.B.384\), § 12, eff. Jan. 1, 2018](#), operative July 1, 2021. Amended by [Stats.2020, c. 29 \(S.B.118\), § 11, eff. Aug. 6, 2020](#), operative July 1, 2021.)

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West's Ann. Cal. Penal Code § 290.5, CA PENAL § 290.5

Current with urgency legislation through Ch. 78 of 2020 Reg.Sess. Some statute sections may be more current, see credits for details.

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