
UNFINISHED BUSINESS

Bill No: SB 384
Author: Wiener (D) and Anderson (R), et al.
Amended: 9/8/17
Vote: 21

PRIOR SENATE VOTES NOT RELEVANT

[NOTE: This bill is nearly identical to SB 421 (Weiner, 2017), which passed the Senate Floor 27-9 on 5/31/17: SB 421 roll call:

SENATE FLOOR VOTES ON SB 421: 27-9, 5/31/17

AYES: Allen, Anderson, Atkins, Beall, Bradford, De León, Dodd, Galgiani, Hernandez, Hertzberg, Hill, Hueso, Jackson, Leyva, McGuire, Mendoza, Mitchell, Monning, Moorlach, Pan, Roth, Skinner, Stern, Vidak, Wieckowski, Wiener, Wilk

NOES: Bates, Berryhill, Cannella, Fuller, Gaines, Glazer, Morrell, Newman, Nguyen, Nielsen, Stone

NO VOTE RECORDED: Lara, Portantino]

ASSEMBLY FLOOR: 42-22, 9/15/17
(ROLL CALL NOT AVAILABLE)

SUBJECT: Sex offenders: registration: criminal offender record information systems

SOURCE: CALCASA

Los Angeles District Attorney's Office
Sex Offender Management Board

DIGEST: This bill creates a tiered registry for sex offenses so that people will be required to register for 10 years, 20 years, or lifetime depending on the conviction offense.

Assembly Amendments delete the contents of the bill as it left the Senate and insert the contents of SB 421(Weiner) which passed the Senate 27-9 on May 31st. In

addition, the amendments to this bill slightly narrowed SB 421 by moving a number of offenses involving children or force from the 20-year registration requirement to the lifetime registration requirement.

ANALYSIS:

Existing law:

- 1) Requires persons convicted of specified sex offenses to register for life, or reregister if the person has been previously registered, upon release from incarceration, placement, commitment, or release on probation. States that the registration shall consist of all of the following:
 - a) A statement signed in writing by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment, if different from the employer's main address;
 - b) Fingerprints and a current photograph taken by the registering official;
 - c) The license plate number of any vehicle owned by, regularly driven by or registered in the name of the registrant;
 - d) Notice to the person that he or she may have a duty to register in any other state where he or she may relocate; and,
 - e) Copies of adequate proof of residence, such as a California driver's license or identification card, recent rent or utility receipt or any other information that the registering official believes is reliable. (Penal Code Section 290.015(a))
- 2) States every person who is required to register, as specified, who is living as a transient shall be required to register for the rest of his or her life as specified. (Penal Code § 290.011(a) to (d).)
- 3) Provides that willful violation of any part of the registration requirements constitutes a misdemeanor if the offense requiring registration was a misdemeanor, and constitutes a felony if the offense requiring registration was a felony or if the person has a prior conviction of failing to register. (Penal Code § 290.018(a)(b).)

- 4) Provides that within three days thereafter, the registering law enforcement agency or agencies shall forward the statement, fingerprints, photograph, and vehicle license plate number, if any, to the DOJ. (Penal Code § 290.015(b).)
- 5) States that a misdemeanor failure to register shall be punishable by imprisonment in a county jail not exceeding one year, and a felony failure to register shall be punishable in the state prison for 16 months, 2 or 3 years. (Penal Code Section 290.018(a)(b).)
- 6) Requires DOJ to make information about registered sex offenders available to the public via an Internet Web site, as specified. (Penal Code § 290.46.) Requires people who are registered sex offender registrants to disclose this status to the licensee of a community care facility before becoming a client of that facility. (Health and Safety Code § 1522.01.)
- 7) Imposes specified restrictions on persons registered as sex offenders with respect to employment in certain areas.
- 8) Provides that the "Department of Corrections shall develop and, at the discretion of the director, and subject to an appropriation of the necessary funds, may implement a plan for the implementation of relapse prevention treatment programs, and the provision of other services deemed necessary by the department, in conjunction with intensive and specialized parole supervision, to reduce the recidivism of high-risk sex offenders." (Id.)
- 9) Provides that "(n)otwithstanding any other law, an inmate who is released on parole for any violation of Section 288 or 288.5 shall not be placed or reside, for the duration of his or her period of parole, within one-quarter mile of any school including any public or private school including any or all of kindergarten and grades 1 to 8, inclusive." (Penal Code § 3003(g) (emphasis added).)
- 10) Creates the Sex Offender Management board to address any issue, concerns and problem related to the community management of adult sex offenders. (Penal Code § 9000 et seq)

This bill:

- 1) Creates three tiers of sex offender registration; a person will be required to register for 10 years, 20 years or life.

- 2) Provides that a person convicted of the specified misdemeanor and non-violent offenses shall be required to register for 10 years or 5 years if they were adjudicated as a juvenile.
- 3) Provides that a person convicted of more serious specified sex offenses, shall be required to register for 20 years or 10 years if they were adjudicated as a juvenile.
- 4) Provides that a person convicted of the most serious sex offenses shall be required to register for life.
- 5) Provides that out of state offenders, with an offense which is equivalent to a California registerable offense will be placed in the corresponding tier to that offense and if there is no equivalent California offense, the person will be placed in tier two (20 years.).
- 6) Provides that a person shall register as a tier one offender for a period of ten years unless the court states on the record reasons for requiring tier two or tier three registration.
- 7) Provides the list of factors that the court must consider in determining whether to require tier two or tier three registration including, age and number of victims; whether the victim was a stranger and whether the person has previously been arrested or convicted of a sexually motivated offense.
- 8) Provides that included in information disseminated to the public regarding a registered sex offender should also include the person's current risk of sexual or violent re-offense, including but not limited to their static dynamic violence risk levels on the SARATSO risk tools.
- 9) Provides that all tier three registrants will be posted on a public Web site with full address. All tier two registrants, except for juvenile offenders, will be posted on the public Web site with the ZIP Code for the registered address displayed. If a tier two registrant successfully completes the first 10 years of the 20-year tier and has not been convicted of a registerable offense or a serious or violent offense during the tiering period, he or she may petition the DOJ for exclusion from the public Web site for the last 10 years of the tier.
- 10) Retains the current ability for specified registrants who received probation for an offense against a specified family member to apply for exclusion for the

Web site. The person must be assessed as below average risk or very low risk to reoffend in order to be excluded from the public Web site.

- 11) Provides that persons who were previously granted exclusion for offenses but will no longer qualify for exclusion shall receive 30-days notice from DOJ before being re-posted on the public Megan's Law Web site.
- 12) Sets for a procedure for a registrant who is either in tier one or tier two to petition to be removed from the sex offender registry following the expiration of his or her tier.
- 13) Sets up a procedure for a tier three registrant to be removed from the requirement of registration after 20 years under specified circumstances.
- 14) Provides that it will automatically clear the registry of offenders who would have been placed in tier one or two, but whose convictions are 30 years or older, who have never reoffended and who has registered for at least 10 years.

Background

California is one of the few states that requires lifetime registration with no discernment for the type of offense. Florida, South Carolina and Alabama are the only other states without some form of tiering. While this allows the public to see a majority of offenders, the public and local law enforcement have no way of differentiating between higher and lower risk sex offenders.

Sex offender registry counts for some larger states as of March 31, 2016: California 84,315; Florida 68,845; Illinois 23,755; Michigan 38,753; New Jersey 15,645; New York 30,968; Ohio 17,683; Oregon 28,736; Pennsylvania 19,257; Texas 87,149; and, Virginia 22,299. (<https://www.parentsformeganslaw.org/public/meganReportCard.html>)

In a 2010 report, the California Sex Offender Management Board made the following recommendations regarding a tiered registration system in California: "Recommended Changes to California Law on Sex Offender Registration and Internet Notification. It's recommended that California amend its law on duration of registration, which should depend on individual risk assessment, history of violent convictions, and sex offense recidivism. The proposed changes to California law take into consideration the seriousness of the offender's criminal history, the empirically assessed risk level of the offender, and whether the

offender is a recidivist or has violated California's sex offender registration law. Duration of registration would range from ten (10) years to lifetime (10/20/life). For purposes of the tiering scheme.” (<http://www.casomb.org/docs/CASOMB%20Report%20Jan%202010_Final%20Report.pdf.)

This bill creates a tiered registry in California. Sex offenders will be required to register for 10 years, 20 years, or for life or 5 or 10 years for juvenile offenders, depending on their offense.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee analysis of SB 421 (Weiner):

- DOJ: Major one-time costs, in the range of \$10 million (General Fund) over a three-year period, for major IT changes to existing data bases, as well as automated and manual record review. Significant ongoing costs, in the range of \$1 million (General Fund).
- Local law enforcement: Minor to moderate cost savings, potentially in the tens of thousands of dollars (local funds) to local law enforcement agencies completing monthly and annual paperwork for less people as people in tier one and tier two would be eligible to be removed from the registry.
- State incarceration: Potential unknown out-year savings (General Fund) in the realignment from state prison to county jail of any person who was on the registry but is removed and later is convicted for committing a realigned felony offense. If one person who would have served time in state prison because of the lifetime registry serves the sentence at the local level, the state would save over \$75,000 annually in detention costs.

[NOTE: The following Support and Opposition list are based upon SB 421]

SUPPORT: (Verified 9/14/17)

CALCASA (co-source)

Los Angeles District Attorney's Office (co-source)

Sex Offender Management Board (co-source)

Alameda County District Attorney

Alameda County Board of Supervisors

Alliance for Constitutional Sex Offense Laws

American Civil Liberties Union of California

Asian American Drug Abuse Program, Inc.

Association of Deputy District Attorneys
California Association of Code Enforcement Officers
California College and University Police Chiefs Association
California District Attorneys Association
California State Association of Counties
California Police Chiefs Association
California Narcotic Officers Association
California Public Defenders Association
California State Association of Counties
Courage Campaign
East Bay Community Law Center
Equality California
Family Safety Foundation
Friends Committee on Legislation of California
Legal Services for Prisoners with Children
Immigrant Legal Resource Center
Lawyers' Committee for Civil Rights of the San Francisco Bay Area
Los Angeles County Professional Peace Officers Association
Los Angeles Police Protective League
National Employment Law Project
National Housing Law Project
Returning Home Foundation
Root & Rebound
Rubicon Programs
Voices for Progress Education Fund
Numerous individuals

OPPOSITION: (Verified 9/14/17)

None received

ARGUMENTS IN SUPPORT: According to the Los Angeles District Attorney's Office:

Based on a survey of several municipal law enforcement agencies in California, it is estimated that local law enforcement agencies spend between 60-66% of their resources dedicated for sex offender supervision on monthly or annual registration paperwork because of the large numbers of registered sex offenders on our registry. If we can remove low risk offenders from the registry it will free up law enforcement officers to monitor the high risk offenders living in our communities. Law enforcement cannot protect the community effectively when

they are in the office doing monthly or annual paperwork for low risk offenders, when they could be out in the community monitoring high risk offenders.

Furthermore, the public is overwhelmed by the number of offenders displayed online in each neighborhood and do not know which offenders are considered low risk and which offenders are considered high risk and therefore truly dangerous.

In order to address these issues with California's Sex Offender Registry, [this bill] would abolish California's mandatory lifetime registration and replace it with a system in which registrants are placed into one of three tiers based on the seriousness of the underlying offense. The lowest tier, Tier One, would require the offender to register for a minimum of 10 years; Tier Two would require registration for a minimum of 20 years; and Tier Three would still require lifetime registration. Sexually Violent Predators (see Welf. & Inst. Code §§ 6600 et seq.) would also be required to register for life.

The tiers that would be created by [this bill] are based on seriousness of crime, risk of sexual reoffending, and criminal history. Tier One is comprised of registrants convicted of a misdemeanor or non-serious, non-violent felony (exception: all high risk offenders are Tier 3). Tier Two is comprised of registrants convicted of a serious or violent sex offense (exception: all high risk offenders are Tier 3). Tier Three is comprised of registrants ever found to be a sexually violent predator, habitual sexual offender, repeat violent offender, or if convicted of murder or kidnap with intent to commit a sexual offense, designated forcible sexual offenses, any sex offense requiring a life term, or two child molest convictions brought and tried separately, or if the person's score on the static risk assessment instrument for sex offenders is high risk.

Under [this bill], the minimum registration periods would begin to run upon release from custody, and would be tolled during any periods of subsequent incarceration, and restart after any subsequent conviction for failing to register, or a strike offense, or after committing a new sex offense.

Prepared by: Mary Kennedy / PUB. S. /
9/15/17 19:12:02

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