AB 625 (Ammiano) – Sex Offender Registration

Introduced February 16, 2011, Amended March 31, 2011

Existing law, the Sex Offender Registration Act, requires a person convicted of certain crimes, as specified, for the rest of his or her life while residing in California, or while attending school or working in California, as specified, to register with law enforcement as a sex offender.

This bill would express the intent of the Legislature to enact legislation to establish a tiered sex offender registration law. This bill would instead establish 3 tiers of registration based on specified criteria, for periods of 10 years, 20 years, and life, respectively, as specified.

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 625

Introduced by Assembly Member Ammiano

February 16, 2011

An act *to amend Sections 290 and 290.006 of the Penal Code,* relating to sex offender registration.

LEGISLATIVE COUNSEL'S DIGEST

AB 625, as amended, Ammiano. Sex offender registration.

Existing law, the ~~"Sex~~ *Sex* Offender Registration ~~Act,"~~ *Act,* requires a person convicted of certain crimes, as specified, for the rest of his or her life while residing in California, or while attending school or working in California, as specified, to register with law enforcement as a sex offender.

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This bill would instead establish 3 tiers of registration based on specified criteria, for periods of 10 years, 20 years, and life, respectively, as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 290 of the Penal Code is amended to*
2 *read:*
3 290. (a) Sections 290 to 290.023, inclusive, shall be known
4 and may be cited as the Sex Offender Registration Act. All

references to "the Act" in those sections are to the Sex Offender Registration Act.

(b) Every person described in subdivision (c), for the ~~rest of his or her life~~ *period specified in subdivision (d)* while residing in California, or while attending school or working in California, as described in Sections 290.002 and 290.01, shall be required to register with the chief of police of the city in which he or she is residing, or the sheriff of the county if he or she is residing in an unincorporated area or city that has no police department, and, additionally, with the chief of police of a campus of the University of California, the California State University, or community college if he or she is residing upon the campus or in any of its facilities, within five working days of coming into, or changing his or her residence within, any city, county, or city and county, or campus in which he or she temporarily resides, and shall be required to register thereafter in accordance with the Act.

(c) The following persons shall be required to register:

Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 187 committed in the perpetration, or an attempt to perpetrate, rape or any act punishable under Section 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286, 288, 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned offenses.

(d) (1) For purposes of this subdivision, the following definitions apply:

(A) "Registerable offense" means an offense or punishable act described in subdivision (c).

(B) "Initial registration date" means either the date the person was released from prison after incarceration for conviction of a registerable offense, or the date of conviction for a registerable offense for a person who was not sentenced to prison.

(C) "Violent felony" means a felony described in subdivision (c) of Section 667.5.

(D) "Violent registerable offense" means an offense that is both a registerable offense and a violent felony.

(E) "SARATSO" means the State-Authorized Risk Assessment Tool for Sex Offenders as described in Section 290.04.

(2) Every person described in subdivision (c), and every person who is otherwise required to register pursuant to the Act, shall be required to register as a tier one, tier two, or tier three offender, and for a period commencing on that person's initial registration date, except as otherwise provided in this section, of 10 years, 20 years, or life, depending on which of the three tiers the offender is placed, pursuant to paragraphs (3) to (5), inclusive.

(3) A tier one offender shall be subject to the registration requirements of the Act for a period of 10 years. A person is a tier one offender if all of subparagraphs (A) to (D), inclusive, apply, or if subparagraph (E) applies:

(A) The person was convicted of a registerable offense that is not a violent offense.

(B) The person's score on the SARATSO is low, low-moderate, or moderate, or the person is not eligible for assessment under the applicable coding rules, pursuant to Section 290.06.

(C) For a period of 10 years, commencing with the person's initial registration date, the person is not convicted of a registerable offense or for a violent felony.

(D) For a period of 10 years, commencing with the person's initial registration date, the person is not convicted of more than one felony violation of the Act.

(E) The person is required by the court to register as a tier one offender, pursuant to Section 290.006.

(4) A tier two offender shall be subject to the registration requirements of the Act for a period of 20 years. A person is a tier two offender if subparagraphs (A) to (C), inclusive, all apply, or

if subparagraphs (D) to (F), inclusive, all apply, or if subparagraph (G) applies:

(A) The person's score on the SARATSO is moderate-high risk, the person was convicted of a violent registerable offense, or the person was convicted of a violation of Section 647.6.

(B) For a period of 20 years, commencing with the person's initial registration date, the person is not convicted of a violent registerable offense.

(C) For a period of 20 years, commencing with the person's initial registration date, the person is not convicted of more than one felony violation of the Act.

(D)The person was a tier one offender, but was convicted of more than one felony violation of the Act, or was convicted of a registerable offense or a violent felony, within 10 years from the person's initial registration date.

(E) For a period of 20 years, commencing with the person's conviction described in subparagraph (D), the person is not convicted of a violent registerable offense.

(F) For a period of 20 years, commencing with the person's conviction described in subparagraph (D), the person is not convicted of a violation of the Act.

(G) The person is required by the court to register as a tier two offender, pursuant to Section 290.006.

(5) A tier three offender shall be subject to the registration requirements of the Act for life. A person is a tier three offender if any of the following apply:

(A) The person's score on the SARATSO is high risk.

(B) Within 20 years of the person's initial registration date, the person is convicted of a violent registerable offense.

(C) The person has at any time been committed to a state mental hospital as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(D) The person was a tier two offender, and subsequently was convicted of more than one felony violation of the Act, or the person is convicted of any violation of the Act after becoming a tier two offender, and having previously been a tier one offender.

(E) The person is required to register pursuant to Section 290.004.

(F) The person is required by the court to register as a tier three offender, pursuant to Section 290.006.

(6) Persons required to register pursuant to Section 290.005 shall be placed in the appropriate tier if the offense is assessed as equivalent to a registerable offense. If the person's duty to register pursuant to Section 290.005 is based solely on the requirement of registration in another jurisdiction, the person shall be placed in tier two, except that the person shall be placed in tier three if any of the following apply:

(A) The person's score on the SARATSO is high risk.

(B) Within 20 years of the person's initial registration date, the person is convicted of a violent registerable offense.

(C) The person has at any time been committed to a state mental hospital or mental health facility in a proceeding similar to civil commitment as a sexually violent predator pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(7) A person required to register as a tier two offender may, by filing an application on a form approved by the Department of Justice, petition the department for tier one status if the person was convicted of a registerable offense, or adjudicated for an offense described in subdivision (c) of Section 290.008, against no more than one victim 12 to 17 years of age, inclusive; the person was not more than 10 years older than the victim; and the act was illegal due solely to the age of the minor. If the department determines that the person meets the requirements for tier one status, the department shall grant the petition. The petitioner bears the burden of proving the facts that make the petitioner eligible for tier one status.

SEC. 2. Section 290.006 of the Penal Code is amended to read:

290.006. Any person ordered by any court to register pursuant to the Act for any offense not included specifically in subdivision (c) of Section 290, shall so register, if the court finds at the time of conviction or sentencing that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. The court shall state on the record the reasons for its findings and the reasons for requiring registration. *The person shall register as a tier one offender pursuant to Section 290, unless the court states on the record the reasons for requiring the person*

1 *to register as a tier two or tier three offender pursuant to Section*
2 *290.*
3 ~~SECTION 1. It is the intent of the Legislature to enact~~
4 ~~legislation to establish a tiered sex offender registration law.~~

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SF lawmaker urges tiered registration of sex offenders

By **Malcolm Maclachlan** | 02/23/11 1:00 AM PST

"Sex offender" is a scary term. But in California, it can mean anyone from a multiple-count rapist of children to, at least in some cases according to the way the laws are written, someone who exposed themselves once while drunk or even consensual sex.

Assemblyman Tom Ammiano, D-San Francisco, wants to change that. The chair of the Assembly Public Safety Committee has introduced legislation that would create a tiered system for registering and monitoring sex offenders.

So far, AB 625, also known as the "Sex Offender Registration Act," is just a placeholder that announces the intention "to establish a tiered sex offender registration law." Ammiano argues that the bill will increase public safety while saving the state money.

"With the skyrocketing costs of corrections in California, we need to base our management and enforcement of sex offenders on the research and data available rather than emotion," Ammiano said in a written statement. "This means focusing our efforts and resources on the most dangerous offenders to ensure that the registry achieves its primary goal – to keep our children and communities safe."

Indeed, California has been a leader in tracking sex offenders. It has one of the first and most extensive websites showing where sex offenders live, and bars them from living within 2,000 feet of a school or park.

But critics note that when the residency restrictions are combined with the large number of sex offenders being tracked, the database shows clusters of sex offenders living in certain areas. Furthermore, they note there is a huge burden on law enforcement to track so many people, some of whom may pose little risk to public safety.

Ammiano's bill builds on the results of a January 2010 report from the California Sex Offender Management Board. This 17-member body includes both law enforcement and mental health professionals, and makes recommendations on how to handle these offenders once they are released back into society.

The report states that "California should concentrate state resources on more closely monitoring high and moderate risk sex offenders" and "identify a more efficient method of determining when a parole violation is related to re-offense risk." Ammiano's office points out this report was approved by a board staffed with former district attorneys, detectives and parole agents.

It goes on to indentify the most worrisome offenders: those with violent offenses, those who preyed on children, multiple offenders, and those who are classified as sexually violent predators (SVPs). This last group consists of people with multiple violent sexual offenses and a confirmed psychiatric disorder that makes it disproportionately likely they will re-offend. Only about 1,700 of the 88,000 sex offenders currently being tracked by the state hit the SVP level.

There are about 200 crimes that can land an offender on the state's lifetime monitoring list. Most of these are serious and relate to forced sexual behavior.

But there are other crimes on the list that fall into a gray area for some, including indecent exposure. While no one is suggesting legalizing these practices, many question whether they warrant lifetime monitoring. Of particular importance are laws against having sex with someone under 18, which some say are enforce unequally between different jurisdictions or between straight and gay offenders.

While few people question laws punishing 40-years-olds for having sex with minors, others point out that 19 year-olds who have consensual sex with 17-year-old romantic partners have also been pulled in.

California is also one of only four states — Alabama, Florida and South Carolina are the others — that require lifetime registration and monitoring for all sex offenders, regardless of offense.

The office of Assemblyman Nathan Fletcher, R-San Diego, said they were "keeping an eye" on the bill, but declined to comment until they see more details. Fletcher was the author of Chelsea's Law, AB 1844, which passed easily last year. It puts new penalties and post-release restrictions on numerous sex offenses. The law was named for 17-year-old Chelsea King, a San Diego girl who was raped and murdered a year ago.

Her killer, John Albert Gardiner III, was a convicted sex offender, but was not classified as a sexually violent predator. He was convicted of molesting a 13-year-old girl when he was 21. He also committed another widely-reported-on murder, the 2009 slaying of 14 year-old-Amber Dubois, (the "Amber Alert" was named after a different case).

In a letter to Fletcher last year in reference to Chelsea's law, the Sex Offender Management Board asked for some amendments to his bill that essentially would have created similar legislation to what Ammiano is now asking for.

"Not all sex offenders post the same risk over their lifetimes," the letter stated. "In light of the state's fiscal situation, California needs to be smart about allocating our state's scarce resources."