AB 625 (Ammiano) – Sex Offender Registration

Introduced February 16, 2011, Amended May 27, 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 instead establish 3 tiers of registration based on specified criteria, for periods of 10 years, 20 years, and life, respectively, as specified.

This bill would define the following terms:

- Defines "SARATSO" as the static State-Authorized Risk Assessment Tool for Sex Offenders.
- Defines "violent registerable offense" as an offense that is both a registerable offense as a sex offense and a violent felony as defined in "Three Strikes" law.
- Defines "initial registration date" as 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.
- Provides that every sex offender registrant shall be required to register as tier one, tier two or tier three. For a period commencing on that person's initial registration date, the person shall remain a registrant for a period of 10 years, 20 years, or life, depending on which of the three tiers the offender is placed.

  a) A tier one registrant shall be subject to registration requirements for a period of 10 years. Tier one registrants meet the following requirements:
     i) Tier one registrants were convicted of a registerable offense that is not a violent offense, nor the molesting of a minor;
     ii) The person's SARATSO is low, low-moderate, or moderate, or the person is not eligible for assessment under applicable specified codes;
     iii) For a period of 10 years, commencing with the person's initial registration date, the person is not convicted of a registerable offense or a violent felony; and,
     iv) For a period of 10 years, commencing with the person's initial registration date, the person is not convicted of more than one specified felony.

  b) A tier two registrant shall be subject to the registration requirements for a period of 20 years. A person is a tier two registrant when the following conditions apply:
     i) The person's score on the SARATSO was moderate-high risk. The person was convicted of a violent registerable offense, or the person was convicted of molestation;
     ii) For a period of 20 years, commencing with the person's initial registration date, the person is not convicted of a registerable offense or a violent felony;
     iii) For a period of 20 years, commencing with the person's initial registration date, the person is not convicted of more than one specified felony; and,

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

c) A tier three registrant shall be subject to the registration requirements for life. A person is the tier three registrant if any the following conditions apply:
   i) The person's score on the SARATSO is high risk;
   ii) Within 20 years of the person's initial registration date, the person is convicted of a violent registerable offense;
   iii) The person has at any time been committed to a state mental hospital as a sexually violent predator (SVP); and,
   iv) The person was a tier two registrant and subsequently was convicted of more than one specified felony, or the person was convicted of any specified registerable offense after becoming a tier two offender after having previously been a tier one offender.

Additionally, this bill provides the following:

States that persons required to register as tier two offenders may, by filing an application, petition the Department of Justice (DOJ) for tier one status if the person was convicted of a registerable offense against no more than one victim 12 to 17 years of age and 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 DOJ determines that the person meets the requirements for tier one status, DOJ shall grant the petition.

Specifies that annoying or molesting a minor may not be included as a Tier One registrant.

Creates phased implementation for the Department of Justice (DOJ) to assign tiers and implement the provisions of this bill as follows:

a) Beginning January 1, 2012, a tier level shall be assigned by DOJ to each person who registered pursuant to the Sex Offender Registration Act (Act) prior to January 1, 2012. The DOJ shall assign tier levels to these registrants by reviewing registrants by birth year, starting with the oldest.

b) Beginning January 1, 2014, a tier level shall be assigned when the person registers pursuant to the Act for the first time.

c) Beginning January 1, 2017, a tier level shall have been assigned to every person registered pursuant to the Act, except that the DOJ shall not be required to assign a tier level to a person who has not registered after January 1, 1996, unless the person registers again.

AMENDED IN ASSEMBLY MAY 27, 2011

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 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 instead establish 3 tiers of registration based on specified criteria, for periods of 10 years, 20 years, and life, respectively, as specified. *The bill would require that by January 1, 2017, as specified, a tier level be assigned to every person registered as a sex offender, except a person who has not registered after January 1, 1996, unless that person registers again.*

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

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

SECTION 1. Section 290 of the Penal Code is amended to read:

290. (a) Sections 290 to 290.023, inclusive, shall be known 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 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)~~ *the Act*.

(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 *static* 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 *or a violation of Section 647.6*.

(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, *or the person has no static SARATSO score because the person was not on supervised release after January 1, 2005*.

(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.

(8) Except as provided in subparagraph (E) of paragraph (3) and subparagraph (G) of paragraph (4), the Department of Justice

shall determine the tier level of each person required to register pursuant to the Act, as follows:

(A) (i) Beginning January 1, 2012, a tier level shall be assigned to each person who registered pursuant to the Act prior to January 1, 2012.

(ii) The Department of Justice shall assign tier levels to each person who registered prior to January 1, 2012, by reviewing registrants by birth year, starting with the oldest.

(B) Beginning January 1, 2014, a tier level shall be assigned when the person registers pursuant to the Act for the first time.

(C) By January 1, 2017, a tier level shall have been assigned to every person registered pursuant to the Act, except that the Department of Justice shall not be required to assign a tier level to a person who has not registered after January 1, 1996, unless the person registers again.

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 to register as a tier two or tier three offender pursuant to Section 290.

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