
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 421 **Hearing Date:** April 25, 2017
Author: Wiener
Version: April 17, 2017
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Sex Offenders: Registration: Criminal Offender Record Information Systems*

HISTORY

Source: CALCASA
Los Angeles District Attorney's Office
Sex Offender Management Board

Prior Legislation: AB 625 (Ammiano) Failed Assembly Floor 2012

Support: 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 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; Riverside Sheriffs Association; Root & Rebound; Rubicon Programs; Voices for Progress Education Fund; a number of Individuals

Opposition: None known

PURPOSE

The purpose of this bill is to create 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.

Existing law 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 DOJ 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))

Existing law 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 follows:

- a) He or she shall register, or reregister if the person has previously registered, within five working days from release from incarceration, placement or commitment, or release on probation, pursuant to Penal Code Section 290(b), except that if the person previously registered as a transient less than 30 days from the date of his or her release from incarceration, he or she does not need to reregister as a transient until his or her next required 30-day update of registration. If a transient is not physically present in any one jurisdiction for five consecutive working days, he or she shall register in the jurisdiction in which he or she is physically present on the fifth working day following release, as specified. Beginning on or before the 30th day following initial registration upon release, a transient shall reregister no less than once every 30 days thereafter. A transient shall register with the chief of police of the city in which he or she is physically present within that 30-day period, or the sheriff of the county if he or she is physically present 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 physically present upon the campus or in any of its facilities. A transient shall reregister no less than once every 30 days regardless of the length of time he or she has been physically present in the particular jurisdiction in which he or she reregisters. If a transient fails to reregister within any 30-day period, he or she may be prosecuted in any jurisdiction in which he or she is physically present.
- b) A transient who moves to a residence shall have five working days within which to register at that address, in accordance with Penal Code Section 290(b). A person registered at a residence address in accordance with that provision who becomes transient shall have five working days within which to reregister as a transient in accordance with existing law.
- c) Beginning on his or her first birthday following registration, a transient shall register annually, within five working days of his or her birthday, to update his or her registration with the entities described in existing law. A transient shall register in whichever jurisdiction he or she is physically present on that date. At the 30-day updates and the

annual update, a transient shall provide current information as required on the DOJ annual update form, including the information.

- d) A transient shall, upon registration and re-registration, provide current information as required on the DOJ registration forms, and shall also list the places where he or she sleeps, eats, works, frequents, and engages in leisure activities. If a transient changes or adds to the places listed on the form during the 30-day period, he or she does not need to report the new place or places until the next required re-registration. (Penal Code § 290.011(a) to (d).)

Existing law 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).)

Existing law 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).)

Existing law 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).)

Under existing law, the Department of Justice ("DOJ") is required to make information about registered sex offenders available to the public via an Internet Web site, as specified. (Penal Code § 290.46.) DOJ is required to include on this Web site a registrant's name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, any other information that the Department of Justice deems relevant unless expressly excluded under the statute. (*Id.*) Existing law additionally requires DOJ to include on its Internet Web site either the home address or zip code of residence of persons who are required to register as sex offenders based upon their registration offense (Penal Code § 290.46(b)(2); 290.46(d)(2).)

Existing law 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.)

Existing law imposes specified restrictions on persons registered as sex offenders with respect to employment in certain areas, such as in education (Education Code §§ 35021, 44345), community care facilities (Health and Safety Code § 1522), residential care facilities (Health and Safety Code § 1568.09), residential care facilities for the elderly (Health and Safety Code § 1569.17), day care facilities (Health and Safety Code § 1596.871), engaging in the business of massage (Government Code § 51032), physicians and surgeons (Business and Professions Code § 2221), registered nurses (Business and Professions Code § 2760.1), and others.

Existing law provides that the "Department of Corrections, to the maximum extent practicable and feasible, and subject to legislative appropriation of necessary funds, shall ensure, by July 1, 2001, that all parolees under active supervision and deemed to pose a high risk to the public of

committing violent sex crimes shall be placed on an intensive and specialized parole supervision caseload." (Penal Code § 3005.)

Existing law further 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.*)

Existing law provides that "(n)otwithstanding any other law, an inmate who is released on parole for any violation of Section 288¹ or 288.5² 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).)

Existing law 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 creates three tiers of sex offender registration; a person will be required to register for 10 years, 20 years or life.

This bill provides that a person convicted of the specified misdemeanor and non-violent offenses shall be required to register for 10 years. Misdemeanors: indecent exposure (Pen. Code § 314(1), (2)); sexual battery (Pen. Code § 243.4(e)); inveigling/enticing a minor to have sex (Pen. Code § 266); contacting a minor with intent to expose oneself or engage in lewd or lascivious behavior (Pen. Code § 288.4(a)); possession of child pornography with intent to distribute, etc. (Pen. Code § 311, 311.2); hiring a minor to perform prohibited acts (Pen. Code § 311.4(a)); advertising for sale obscene matter depicting a minor (Pen. Code § 311.10(a)); trafficking of a minor (Pen. Code § 236.1(b), (c)); possession of child pornography (Pen. Code § 311.11(a)); annoy/molest a child under 18 (Pen. Code § 647.6); contributing to the delinquency of a minor (Pen. Code, § 272). Felonies: inveigling/enticing a minor to have sex (Pen. Code, § 266); sending harmful matter to a minor (Pen. Code § 288.2); contacting a minor with intent to commit a specified sexual offense (Pen. Code § 288.3); contacting a minor with intent to expose oneself or engage in lewd or lascivious behavior (Pen. Code § 288.4(a),(b)); possession of child pornography with intent to distribute, etc. (Pen. Code, § 311, 311.2); hiring a minor to perform prohibited acts (Pen. Code § 311.4(a)); advertising for sale obscene matter depicting a minor (Pen. Code § 311.10(a)); possession of child pornography (Pen. Code § 311.11(a).)

This bill provides that a person convicted of specified offenses, most of which are serious or violent described in subdivision (c) of section 667.5 or subdivision (c) of section 1192.7., shall be required to register for 20 years. They are: assault with intent to commit described sex crimes (Pen. Code § 220); rape (Pen. Code § 261); spousal rape with force or violence ((Pen. Code § 262); rape in concert (Pen. Code § 264.1); abduction for purposes of prostitution (Pen. Code § 267); incest (Pen. Code § 285); forcible sodomy or sodomy of a minor under 14 (Pen. Code § 286(c), (d)); lewd or lascivious acts with a child under 14 and child under 16 when the offender is 10 years older (Pen. Code § 288(a),(c)); sodomy of a victim who is unconscious, prevented

¹ Penal Code § 288 pertains to lewd or lascivious acts on a child under the age of 14, as specified.

² Penal Code § 288.5 pertains to continuous sexual abuse of a child under the age of 14, as specified.

from resisting by intoxication/drugs, physically or mentally unable to consent or induced to consent by fraud (Pen. Code § 286(f), (g), (h), (i), (j)); continuous sexual abuse of a child (Pen. Code § 288.5); forcible oral copulation, oral copulation of a minor under 14 (Pen. Code, § 288a(c), (d)); oral copulation of a victim who is unconscious, prevented from resisting by intoxication/drugs, physically or mentally unable to consent or induced to consent by fraud (Pen. Code § 288a(f), (g), (h), (i), (j)); forcible foreign object penetration or foreign object penetration of a minor under 14 (Pen. Code § 289, subs. (b), (d), (e), (f)); felony sexual battery (Pen. Code § 243.4(a), (d)); solicitation of rape (Pen. Code § 653f, subd. (c)); felony trafficking of a minor (Pen. Code § 236.1(b), (c)) (Pen. Code § 290.005).

This bill provides that a person convicted of the following offenses shall be required to register for life: murder with intent to commit a specified sex offense (Pen. Code § 187); kidnap with intent to commit a specified sex offense (Pen. Code § 207, 209); sexually violent predators (Welf. & Inst. Code § 6600 et seq.); sex offenders sentenced to life term (Pen. Code § 667.71); repeat felony child molestation (Pen. Code § 288(a)); forcible lewd or lascivious act on a child under 14 (Pen. Code § 288(b)); aggravated child molestation (Pen. Code § 269); sex crimes with child age 10 or younger (Pen. Code § 288.7); registered sex offenders who are convicted of a second registrable sex offense which is a violent offense (Pen. Code § 667.5(b)); assault with intent to commit a specified sex offense in the commission of a first degree burglary (Pen. Code § 220(b)); offenders with well above average risk level (formerly denominated high risk) on the state static risk assessment instrument (Pen. Code § 290.04); habitual sexual offenders (Pen. Code § 667.71); out-of-state sex offenders in California who have been assessed with well above average risk level on the state static risk assessment instrument (Pen. Code § 290.04); out-of-state sex offenders in California who have ever been civilly committed to a mental hospital in a proceeding equivalent to California's sexually violent predator proceedings (Welf. & Inst. Code § 6600 et seq.); offenders sentenced to 15 or 25 years to life for an offense listed in Section 667.61.

This bill 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.).

This bill 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.

This bill adds to 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.

This bill 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.

This bill provides that all tier three registrants will be posted on a public web site with full address. All tier two registrants 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 Department of Justice (DOJ) for exclusion from the public web site for the last 10 years of the tier.

This bill 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 website.

This bill 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 website.

This bill 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.

This bill 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.

COMMENTS

1. Need for This Bill

According to the author:

California urgently needs a new registration system that focuses attention and resources on high risk and violent sex offenders. California currently has over 100,000 registered sex offenders on our Sex Offender Registry – far more than any other state. California is one of four states with a lifetime sex offender registration requirement (Alabama, Florida and South Carolina are the other three states) despite federal law (Adam Walsh Act) requiring all states to adopt state law that eliminates lifetime sex offender registration for all offenders.

Currently, all sex offenders must register for life under the Sex Offender Registration Act, regardless of the seriousness of underlying crime. The list of mandatory registration offenses is found in Penal Code § 290, subdivision (c), and includes relatively nonserious offenses, such as indecent exposure, as well as violent offenses, like forcible rape. The sentencing court may not relieve the defendant of the registration requirement for these offenses. (See *People v. McClellan* (1993) 6 Cal.4th 367, 380.) The only way to eliminate the registration requirement is to obtain a certificate of rehabilitation pursuant to sections 4852.01 et seq., but that remedy is not available for all offenses. (Penal Code § 290.5.)

Sex offender registration is not (and has never been) considered a punishment – it is a collateral consequence of a sex crime conviction. However, many individuals and organizations treat registration as a punishment which has caused the courts to invalidate many local ordinances and threaten to judicially abolish or severely restrict California's Sex Offender Registry which would be detrimental to public safety.

The purpose of California's Sex Offender Registry is to serve as an investigatory tool for law enforcement to solve new sex crimes and to deter offenders from committing future crimes. However because of the size of California's Sex Offender Registry it has lost much of its value as an investigatory tool. 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, SB 421 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.

Under SB 421, 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.

The registration obligation would not terminate automatically after the minimum period of registration. Instead, the registrant must petition the court in their county of residence for termination. The proposed termination section, in turn, includes provisions for reducing registration periods (e.g., reducing Tier Two to Tier One registration), as well as the ability for courts to deny termination in certain circumstances (e.g., if continued registration would enhance community safety).

The proposal also gives the court new powers for discretionary registration. For these, the default registration period becomes Tier One (10 years) instead of lifetime, but allows the sentencing court to choose another tier in its discretion. The court must state the reasons for its choice on the record.

The proposal would also modify what information is made available on the DOJ website to correspond with the new tier system, and specifies when to include the offender's SARATSO scores. The proposal also makes minor changes to the Penal Code sections affecting certificates of rehabilitation, since the certificate would no longer be a prerequisite for terminating registration.

2. Tiered registry

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>.)

In December 2010, the California Research Bureau (CRB) published a report which reviewed practices and procedures throughout the United States regarding the registration of sex offenders.

Specifically the CRB examined: (a) registration requirements, (b) tiered registration, (d) the duration of registration, and (d) best practices and the overall cost-effectiveness of sex offender registration requirements. Specifically CRB examined how other states have implemented registration requirements.

"For a review of sex offender registration practices in other states, we selected states bordering California: Arizona, Nevada, and Oregon; and states with large populations and/or similar demographic characteristics as California: Florida, New Jersey, New York, Pennsylvania and Texas. For each of these states, we have compiled the following information:

- The offenses which require offender registration.
- The duration and type of registration (tiered vs. nontiered, i.e., duration based on type of crime committed and/or risk for reoffense)
- Any residency or occupational restrictions placed on registrants.

"These states have many registerable sex offenses in common such as sexual assault, luring or kidnapping of a minor, possessing child pornography, etc. However, they vary in the duration of registration requirements and in whether or not they place occupational or residency restrictions on registrants.

"Of the states reviewed, only one, Florida, requires lifetime registration. The others have tiers for registration – based on prior convictions or the type of offense, i.e., registering for ten, 15 or 20 years for first-time offenses; and lifetime registration

for more violent or repeat offenses. Some of the states do allow registrants to petition for removal from the list, generally after a period of not committing any registerable offenses. In contrast, California requires lifetime registration for all offenses, and only allows people convicted of certain misdemeanor sex offenses to apply for a certificate of rehabilitation with a trial court. If the certification is granted, they might be released from the duty to register --- but not in all cases.

Of the states reviewed, all have either some form of residency or occupational restrictions. Only one, Oregon, has both types of restrictions. In Oregon, sex offenders cannot reside 'near locations where children are the primary occupants or users,' or live with other sex offenders. They are also ineligible to become teachers. In California, sex offenders cannot reside within 2,000 feet of 'any public or private school, or park where children regularly gather.' They may be subject to local ordinances that limit where they can live even further. Also, a registered sex offender in California whose victim was under the age of 16 cannot work with minor children. The other selected states in this brief which have some type of residency restriction generally limit how close a sex offender may live in proximity to a school, daycare center, playground or any other place where children congregate. Occupational restrictions can sometimes be more haphazard: New York, for example, prohibits sex offenders from operating ice cream trucks, but has no other limitations. In some states, such as Pennsylvania and Texas there may be restrictions placed on offenders as a condition of parole, but not required by statute."

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

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, SB 421 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 SB 421 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 SB 421, 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.

3. Process to be Removed from Registration

Under this bill, any registrant who would be a tier one or two tier offender whose only sex offender was prior to 1987, has not reoffended, and who has registered for at least 10 years and meets the requirements for termination, will be terminated by DOJ within 12 months of their annual update of registration in 2018.

For all other first or second tier registrants, in order to be removed from the sex offender registry they must file a petition with the superior court in the county in which they are registered at the end of the time frame of the tier in which they fall. The petition must contain proof of the registrant's current registration. Registrants in violation of registration laws cannot petition for termination, and registrants who are in custody, facing pending charges which could extend or change the tier level, or who are on parole, probation or supervised release cannot petition for termination. The petition must also be served on the registering law enforcement agency and the district attorney. The registering agency shall report to the district attorney regarding whether the registrant meets the criteria for termination from the registry. The district attorney may request that the court set a hearing if the person does not meet the requirements for termination or if community safety would be significantly enhanced by continued registration. If no hearing is requested and the person meets the requirements for termination the court shall grant the petition. If a hearing is requested, factors to guide the court's determination of whether to terminate registration are provided. If termination is denied, the court shall set a time period, up to five years, in which the registrant can re-apply. Courts shall notify DOJ if a petition is granted or denied and, if denied, the time period after which the person can file a new petition for termination.

Furthermore, tier two registrants whose only registerable offense involved voluntary conduct with a minor who was ages 13-17, when the offender was under the age of 21, may apply for termination after completing 10 years of the tier. The person must not have been convicted of a violent offense during the tier period and must have registered for 10 years. The court shall

determine whether continued registration is necessary based on specified factors, or whether termination is appropriate.

Finally, a tier three registrant who obtains early release from a life term may petition the court for placement in tier two after registering for 10 years if the person has not committed a registerable or violent offense during the tier period. The court shall determine whether placement in tier two is appropriate based on specified factors.

4. Arguments in Support

According to a co-sponsor the Los Angeles District Attorney's office:

While it sounds contradictory, California will greatly improve public safety by eliminating our current lifetime sex offender registration requirement and moving to a system where registered sex offenders are placed in a tiered system based on the severity of the offense. Law enforcement is spending too much of their finite sex offender supervision funding on paperwork of low risk offenders instead of focusing on managing and supervising high risk offenders that pose the greatest risk to public safety. Our Sex Offender Registry has become so large that it produces too many potential suspects when used to try and solve a sex crime case in many situations which limits its usefulness. However, by eliminating many of the low risk offenders from our registry both of these issues can be solved. Research shows lifetime registration and notification for low risk offenders can backfire by increasing their risk of reoffending. Registering offenders in tiers that are based on the person's individual record and risk of reoffending would allow law enforcement to concentrate their efforts on making sure high risk and violent offenders comply with the law.

According to Dr. Karl Hanson, one of the leading experts in the study of recidivism of sex offenders, contrary to the popular notion that sexual offenders remain at risk of reoffending through their lifespan, research shows the longer a sex offender remains offense-free in the community, the less likely they are to re-offend sexually. After ten years a sex offender classified as low risk poses no more risk of recidivism than do individuals who have never been arrested for a sex-related offense but have been arrested for some other crime. After seventeen years without a new arrest for a sex-related offense, Dr. Hanson's research has found that even a sex offender classified as high-risk poses no more risk of committing a new sex offense than do individuals who have never been arrested for a sex-related offense but have been arrested for some other crime.

Moving to a tiered sex offender registration system will help California better achieve everyone's intended goal of achieving enhanced community safety through our sex offender registration system by focusing our efforts and resources on the most dangerous offenders.

The California State Association of Counties supports saying:

California has over 100,000 registered sex offenders and is in need of a registry system reform that focuses on high risk and violent sex offenders. Law enforcement agencies cannot effectively protect the community when they are in the office handling monthly or annual administrative paperwork for low risk offenders.

Currently, all sex offenders must register for life under the Sex Offender Registration Act, regardless of the seriousness of the underlying crime. Approximately 2/3 of the funding to supervise registered sex offenders is spent on registration paperwork rather than field supervision. Instead of mandatory lifetime registration for all offenders, SB 695 would divide registrants into three tiers: tier one would require a minimum of 10 years, tier two would require a minimum of 20 years and tier three would require lifetime registration.

By implementing a tiered sex offender registry system, SB 421 would be a proactive public safety policy that allows law enforcement agencies to concentrate their investigative efforts on making sure high risk and violent offenders comply with the law. In addition, SB 421 was created after many years of work by the Sex Offender Management Board and discussions with District Attorneys and law enforcement agencies.

The California Coalition Against Sexual Assault (CALCASA) supports this bill stating:

CALCASA is committed to exploring and supporting innovation in creating and re-examining systems of accountability. CALCASA will seek out policy change that build alternatives to the criminal justice system and promotes accountability, with a focus on responding to trauma, oppression and rehabilitation/healing.

[This bill] would establish 10 year, 20 year and lifetime tiers based on the convicted crime and risk assessment. We believe this a meaningful improvement in the handling of sexual assault offenders and provides for a tailored approach to monitoring and assessment of risk.

As the professional association for 84 rape crisis center programs that serve all of California, CALCASA works to develop and support legislative and systems policy change that benefit survivors and increase the capacity of institutions, community partners, organizations and business to respond to and prevent sexual assault. For these reasons, CALCASA is pleased to support and sponsor [this bill].

-- END --