



# CALIFORNIA DEPARTMENT OF JUSTICE CALIFORNIA JUSTICE INFORMATION SERVICES SEX OFFENDER REGISTRY



## **Registrant Frequently Asked Questions (FAQ's) for Senate Bill 384**

The California Department of Justice (CA DOJ) Sex Offender Registry has developed the following FAQs in reference to Senate Bill (SB) 384. The information provided below is general information and is not intended as legal advice.

**NOTE:** The CA DOJ cannot provide legal advice.

**IMPORTANT:** The CA DOJ, upon tier determination, will attempt to notify each sex offender registrant of their tier status via mail. Notification letters for transient registrants will be submitted to the jurisdictional law enforcement agency. As we move closer to the implementation date of SB 384, the CA DOJ has established a designated email address for questions pertaining to SB 384 ([SB384@doj.ca.gov](mailto:SB384@doj.ca.gov)).

### **What is SB 384?**

SB 384 will transition California's lifetime sex offender registration to a tier-based system. SB 384 will establish three tiers of registration for adult registrants for periods of 10 years, 20 years, and life. This new law requires the registrant to petition the superior court for termination at the expiration of his or her mandated minimum registration period. Based on specified criteria, the court will either grant or deny the petition request.

### **IMPORTANT DATES**

**Beginning on January 1, 2021**, the CA DOJ will designate tier levels for registrants.

**Beginning on July 1, 2021**, registrants who meet the mandated minimum requirements may petition for termination in the superior court in the county in which they reside.

**Beginning on January 1, 2022**, registrants will be displayed on the Megan's Law Website pursuant to Penal Code section 290.46 as amended by SB 384.

### **When does SB 384 take effect?**

The new tier-based sex offender registration system takes effect on January 1, 2021. At that time, the CA DOJ will be determining the tier statuses of registrants. On or after July 1, 2021, tier one and two registrants who meet their mandatory minimum requirements may petition the superior court in their county of residence to request termination from the sex offender registry. On or before January 1, 2022, the CA DOJ shall make information available to the public via the Megan's Law Website in accordance with SB 384. The current lifetime sex offender registration laws will stay in effect until December 31, 2020.



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## Tiering

### **How are tiers determined?**

Tier placement is based on the criteria specified in Penal Code section 290, including the registerable conviction(s) or adjudications from California and non California jurisdictions, risk assessment scores, and other criteria.

### **What are the mandatory, minimum registration periods for adults?**

Tier One: 10 year registration  
Tier Two: 20 year registration  
Tier Three: Lifetime registration

### **What are the mandatory, minimum registration periods for juveniles who were adjudicated in juvenile court?**

Tier One: 5 year registration  
Tier Two: 10 year registration  
Lifetime: Few, if any, juveniles will qualify for placement in the lifetime tier.

### **How are the tier durations calculated?**

Pursuant to Penal Code section 290(e), "the minimum time period for the completion of the required registration period in tier one or two commences on the date of release from incarceration, placement, or commitment, including any related civil commitment on the registerable offense. The minimum time for the completion of the required registration period for a designated tier is tolled during any period of subsequent incarceration, placement, or commitment, including any subsequent civil commitment, except that arrests not resulting in conviction, adjudication, or revocation of probation or parole shall not toll the required registration period. The minimum time period shall be extended by one year for each misdemeanor conviction of failing to register under the Sex Offender Registration Act (the Act), and by three years for each felony conviction of failing to register under the Act, without regard to the actual time served in custody for the conviction. If a registrant is subsequently convicted of another offense requiring registration pursuant to the Act, a new minimum time period for the completion of the registration requirement for the applicable tier shall commence upon that person's release from incarceration, placement, or commitment, including any related civil commitment. If the subsequent conviction requiring registration pursuant to the Act occurs prior to an order to terminate the registrant from the registry after completion of a tier associated with the first conviction for a registerable offense, the applicable tier shall be the highest tier associated with the convictions."



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## **Who determines tier placement?**

The CA DOJ will determine tier placement based on the criteria specified in the Act, as amended in accordance with SB 384.

Pursuant to Penal Code section 290.006, on or after January 1, 2021, the court shall determine tier placement for individuals ordered by the court to register. Registrants who are court ordered to register will be placed in tier one unless the court finds the person should register as a tier two or tier three registrant and states on the record the reasons for its finding.

## **Will registrants be notified of their tier status?**

Yes. Upon determination of the tier, the CA DOJ will attempt to notify each registrant of their tier status via mail. Notification letters for transient registrants will be submitted to the jurisdictional law enforcement agency.

## **What tier will a registrant be in if he or she has a non California sex offense conviction (out-of-state, federal, military)?**

Pursuant to Penal Code section 290, subdivision (d)(4), "a person who is required to register pursuant to Section 290.005 shall be placed in the appropriate tier if the offense is assessed as equivalent to a California registerable offense described in subdivision (c). If the person's duty to register pursuant to Section 290.005 is based solely on the requirement of registration in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a tier two registrant, except that the person is subject to registration as a tier three registrant if one of the following applies:

- (i) The person's risk level on the static risk assessment instrument (SARATSO), pursuant to Section 290.06, is well above average risk at the time of release on the index sex offense into the community, as defined in the Coding Rules for that instrument.
- (ii) The person was subsequently convicted in a separate proceeding of an offense substantially similar to an offense listed in subdivision (c) which is also substantially similar to an offense described in subdivision (c) of Section 667.5, or is substantially similar to Section 269 or 288.7.
- (iii) The person has ever been committed to a state mental hospital or mental health facility in a proceeding substantially 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.



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**If a registrant was convicted in another state/jurisdiction and he or she has completed the required registration period in that jurisdiction (out-of-state, federal, military) is he or she still required to register in California?**

If a registrant has a non-California conviction for which he or she is no longer required to register in the state of conviction, he or she may still be required to register in California. If the CA DOJ determines that his or her non-California conviction is equivalent to a registrable offense listed in Penal Code section 290, subdivision (c), he or she will be required to meet the mandatory minimum registration requirements for that tier before he or she is eligible to petition for termination from the duty to register as a sex offender.

**What if the CA DOJ is unable to determine a registrant's tier by January 1, 2021?**

A registrant will be placed in a tier-to-be-determined category if his or her appropriate tier designation described in this subdivision cannot be immediately ascertained. An individual placed in this tier-to-be-determined category shall continue to register in accordance with the Act. The individual shall be given credit for any period for which he or she registers towards his or her mandated minimum registration period.

The CA DOJ shall ascertain an individual's appropriate tier designation as described in this subdivision within 24 months of his or her placement in the tier-to-be-determined category.

**If a registrant completed his or her registration period in California and subsequently moves, is he or she required to register out-of-state?**

Each state/jurisdiction has their own sex offender registration requirements; therefore, we cannot confirm a registrant's duty to register as a sex offender in another state/jurisdiction. Registrants should contact the sex offender registry for the appropriate state/jurisdiction for additional information about registration requirements.

**If a registrant already meets the mandatory, minimum registration requirements, does he or she still need to register until SB 384 is implemented (January 1, 2021)?**

Yes. A registrant must continue to register as a sex offender in accordance with Penal Code section 290. After July 1, 2021, specified registrants may petition the courts for termination from the Sex Offender Registry in accordance with SB 384.



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## Megan's Law Website

### **When will registrants be posted on the Megan's Law Website pursuant to SB 384?**

On or before January 1, 2022, the Megan's Law Website will reflect the changes pursuant to SB 384. These changes include the elimination of certain exclusion criteria.

### **Who will be posted on the website?**

Not all registrants will be posted on the public website. Subdivisions (b) and (c) of Penal Code section 290.46 as amended under SB 384, reflect those registrants who would be posted to the Megan's Law Website. Tier one registrants will not be posted to the Megan's Law website; however, their registration information is known to registering agencies. If specified factors indicate that they are posing a current risk to the community, community notification by the registering agency is possible.

### **Will the exclusion criteria change for removal from the Megan's Law Website?**

Yes. Pursuant to Penal Code section 290.46(d) as amended under SB 384, registrants who meet the following requirements are eligible to apply for exclusion.

(i) An offense for which the registrant successfully completed probation, provided that the registrant submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the registrant was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the registrant by the penis of the other or by any foreign object.

(ii) An offense for which the registrant is on probation at the time of his or her application, provided that the registrant submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates that the registrant was the victim's parent, stepparent, sibling, or grandparent and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the registrant by the penis of the other or by any foreign object.

If, subsequent to his or her application, the registrant commits a violation of probation resulting in his or her incarceration in county jail or state prison, his or her exclusion, or application for exclusion from the Internet Web site shall be terminated.

### **If a registrant is currently excluded from the Megan's Law Website will he or she remain excluded?**

Pursuant to SB 384, registrants who were previously granted exclusion may no longer be eligible. If the CA DOJ determines that a person who was granted an exclusion under a former version of Penal Code section 290.46(d) would not qualify for exclusion under Penal Code section 290.46(d) as amended under SB 384, the department shall rescind the exclusion, make a reasonable effort to provide notification to the person that the exclusion has been rescinded, and, no sooner than 30 days after notification is attempted, make information about the registrant available to the public on the Internet Web site as provided in this section.



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## **Will registrants be notified if they will be posted on the Megan's Law Website?**

Yes. Upon determination of the tier and appropriate posting level, the CA DOJ will attempt to notify each registrant of their tier status via mail. Notification letters for transient registrants will be submitted to the jurisdictional law enforcement agency.

## **Petition for Termination**

### **When and where do registrants petition for termination from the Registry?**

On or after July 1, 2021, registrants who meet the mandated minimum requirements may petition the superior court in the county in which they reside. The CA DOJ cannot provide legal assistance. If assistance is required, a registrant may contact the public defender's office in the county of jurisdiction or a private attorney.

### **How can a registrant have his or her registration terminated before January 1, 2021?**

Until January 1, 2021, registrants are still subject to lifetime registration and must obtain a certificate of rehabilitation or pardon in order to be relieved of the duty to register (Pen. Code § 290.5).

### **Can CA DOJ provide a registrant proof of current registration for the petition of termination process?**

No. If a registrant does not have a copy of his or her most recent *CJIS 8102: Sex Offender Registration Change of Address / Annual or Other Update*, the law enforcement agency where he or she currently registers can provide the registrant with a copy. The CA DOJ is not the custodian of records of the CJIS 8102 form.

### **Who grants or denies a petition for termination?**

The superior court where the registrant filed his or her petition will be responsible for either granting or denying the petition for termination. For more information on the criteria used to grant or deny a petition, please refer to PC section 290.5 as amended under SB 384.

### **If a petition for termination is denied, when can a registrant repetition for termination?**

Pursuant to Penal Code section 290.5 as amended under SB 384, for tier one and tier two registrants who have met their mandated, minimum registration period, but whose petition for termination was denied, the court shall set the time period after which the person can repetition for termination. The earliest repetition date 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.

Specified tier two and tier three registrants who have not met their mandated, minimum registration period, but who were eligible to petition based on specified circumstances, may petition the court for removal from the Registry. If the petition is denied, these registrants will be eligible to repetition from one to three years from the date of denial (Penal Code section 290.5).



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**Can a tier three registrant petition for termination?**

If a tier three (lifetime) registrant is placed in tier three solely due to his or her risk level, which was well above average risk (formerly high risk) on the Static-99R, after 20 years of registration, the registrant can petition for termination from the Registry unless the conviction offense is listed in PC sections 1192.7 or 288. The court shall determine, based on factors listed in Penal Code section 290.5, whether community safety would be significantly enhanced by continued registration.

**Who may a registrant contact for more information regarding how to file a petition for termination from the Registry?**

Beginning on July 1, 2021, following the expiration of the mandated minimum registration period, a registrant may contact the superior court in the county in which he or she is registered for assistance with how to file a petition for termination. If additional legal assistance is needed, a registrant may contact the Public Defender's Office or a private attorney.

**California Department of Justice  
Sex Offender Registry  
[SB384@doj.ca.gov](mailto:SB384@doj.ca.gov)**