


<p>California Department of Justice CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION Joe Dominic, Chief</p> 	<h1>INFORMATION BULLETIN</h1>	
<p><i>Subject:</i> Senate Bill (SB) 145: Discretionary Sex Offender Registration for Certain Offenses – Effective January 1, 2021</p>	<p><i>No.</i> 21-01-CJIS</p> <p><i>Date:</i> 02-05-2021</p>	<p><i>Contact for information:</i> California Sex Offender Registry (916) 210-3113 CASEX-Reg@doj.ca.gov</p>

TO: ALL CALIFORNIA COURTS, DISTRICT ATTORNEY’S OFFICES, AND REGISTERING LAW ENFORCEMENT AGENCIES

Effective **January 1, 2021**, pursuant to SB 145 (Stats. 2020, ch. 79), a person convicted of non-forcible sodomy with a minor [Penal Code (PC) section 286 (b)], non-forcible oral copulation with a minor [PC section 287 (b)], or non-forcible foreign object penetration with a minor [PC section 289 (h) or (i)], is not automatically required to register as a sex offender under the Sex Offender Registration Act (PC section 290 to 290.024, et seq., “the Act”) if the person was not more than ten years older than the minor victim at the time of the offense and the conviction is the only one requiring the individual to register. However, a court may still order sex offender registration pursuant to PC section 290.006, which authorizes the court to order discretionary registration 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.

While SB 145 does not address retroactivity, PC section 290.023 provides that the registration provisions of “the Act” are applicable to every person described in “the Act,” without regard to when their crime(s) were committed or their duty to register pursuant to “the Act” arose, and to every offense described in “the Act,” regardless of when it was committed. Sex offender registrants with convictions prior to January 1, 2021, who seek relief from registration pursuant to SB 145, may raise this issue on direct appeal if the time to appeal has not yet expired. However, if the time to appeal has expired, in an analogous context, the California Supreme Court identified a writ petition filed in superior court as the proper procedure to gain a retroactive benefit. If the superior court finds that a registrant is entitled to relief from mandatory registration, it can consider and order discretionary sex offender registration pursuant to PC section 290.006 at that time. The California Department of Justice (DOJ) will not proactively review or terminate any registrant convicted prior to January 1, 2021, based upon the criteria contained within SB 145, without a court order showing findings that the individual has met criteria for termination.

Regarding individuals convicted of one of the above offenses after January 1, 2021, it is highly recommended that courts note on the records and document in the minute orders if individuals meet the criteria within SB 145 and therefore are not subject to mandatory registration, and, in turn, whether discretionary registration pursuant to PC section 290.006 was ordered. In the absence of such documentation, the DOJ may not be aware of the individual’s registration status (or lack thereof). The DOJ will provide courts with additional information and instructions about registration requirements and reporting pursuant to SB 145.


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For questions about this bulletin, contact the California Sex Offender Registry at (916) 210-3113 or CASEX-Reg@doj.ca.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Joe", with a long horizontal flourish extending to the right.

JOE DOMINIC, Chief
California Justice Information Services Division

For XAVIER BECERRA
Attorney General