
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 1994 **Hearing Date:** May 15, 2018
Author: Cervantes
Version: May 2, 2018
Urgency: No **Fiscal:** Yes
Consultant: SJ

Subject: *Sex Offenders: County or Local Custodial Facilities*

HISTORY

Source: Attorney General's Office

Prior Legislation: None

Support: California District Attorneys Association; California Police Chiefs Association;
Riverside Sheriffs' Association

Opposition: None known

Assembly Floor Vote: 68 - 0

PURPOSE

The purpose of this bill is to require the California Department of Corrections and Rehabilitation (CDCR), a state mental institution, and a county or local custodial facility to forward a sex offender registrant's change of address information to the Department of Justice (DOJ) within 15 days of the person's receipt and release.

Existing law requires every person convicted of a specified sex offense, for the rest of his or her life while residing in California, or while attending school or working in California, 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 to register thereafter in accordance with the Sex Offender Registration Act. (Pen. Code, § 290, subd. (b) & (c).)

Existing law requires a person to register annually within five working days of his or her birthday. (Pen. Code, § 290.012, subd. (a).)

Existing law requires a person living as a transient in California to update his or her registration at least every 30 days. (Pen. Code, § 290.012, subd. (c).)

Existing law requires a person who changes his or her residential address to inform the law enforcement agency where the person was last registered of the move and new address within five working days of the move. (Pen. Code, § 290.013, subd. (a).)

Existing law requires law enforcement agencies to forward a copy of the change of address information to the DOJ within three working days after the receipt of the information. (Pen. Code, § 290.013, subd. (c).)

Existing law requires the DOJ to forward appropriate registration data to the law enforcement agency or agencies having local jurisdiction of the registrant's new place of residence. (Pen. Code, § 290.013, subd. (c).)

Existing law provides that if a person's new address is in a CDCR facility or a state mental institution, an official of the place of incarceration, placement, or commitment is required to forward the registrant's change of address to the DOJ within 90 days of receipt of the person. Requires the DOJ to forward the change of address information to the agency with which the person last registered. (Pen. Code, § 290.013, subd. (d).)

Existing law requires a person to register, or to reregister if he or she has previously registered, upon release from incarceration, placement, commitment, or release on probation, except as specified. (Pen. Code, § 290.015, subd. (a).)

Existing law requires the registering law enforcement agency or agencies to forward the registration information to the DOJ within three days of the person's registration. (Pen. Code, § 290.015, subd. (b).)

Existing law provides that if a person fails to register upon release from incarceration, a district attorney in the jurisdiction where the person is paroled or on probation may request that a warrant be issued for the person's arrest and has the authority to prosecute the person for failing to register. Provides that if the person was not on parole, probation, postrelease community supervision or mandatory supervision at the time of release, the district attorney in the following applicable jurisdiction has the authority to prosecute that person, as specified. (Pen. Code, § 290.015, subd. (c).)

Existing law provides that when any person who is required to register is released, discharged, or paroled from a jail, state or federal prison, school, road camp, or other institution where he or she was confined, he or she must be informed of his or her duty to register by the official in charge of the place of confinement or hospital prior to discharge, parole, or release. Provides that the official require the person to read and sign any form that may be required by the DOJ, stating that the duty of the person to register has been explained to the person. Requires the official in charge of the place of confinement or hospital to obtain the address where the person expects to reside upon his or her discharge, parole, or release and to report the address to the DOJ. Requires the official to forward a current photograph of the person to the DOJ. (Pen. Code, § 290.017, subd. (a).)

Existing law requires the official in charge of the place of confinement or hospital to give one copy of the form to the person and to send one copy to the DOJ and one copy to the appropriate law enforcement agency or agencies having jurisdiction over the place the person expects to reside upon discharge, parole, or release. Provides that if the conviction that makes the person subject to registration is a felony conviction, the official in charge must, not later than 45 days

prior to the scheduled release of the person, send one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon discharge, parole, or release; one copy to the prosecuting agency that prosecuted the person; and one copy to the DOJ. The official in charge of the place of confinement or hospital must retain one copy. (Pen. Code, § 290.017, subd. (b).)

Existing law requires any person who is required to register and who is released on probation, to be informed of the duty to register by the probation department prior to release or discharge. Provides that the probation officer require the person to read and sign any form that may be required by the DOJ, stating that the duty of the person to register has been explained to him or her. Requires the probation officer to obtain the address where the person expects to reside upon release or discharge and to report the address to the DOJ within three days. Requires the probation officer to give one copy of the form to the person, send one copy to the DOJ, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release. (Pen. Code, § 290.017, subd. (c).)

Existing law requires any person who is required to register and who is granted conditional release without supervised probation, or discharged upon payment of a fine, to be informed of the duty to register in open court by the court in which the person has been convicted prior to release or discharge. Provides that the court require the person to read and sign any form that may be required by the DOJ, stating that the duty of the person to register has been explained to him or her. Requires the court to obtain the address where the person expects to reside upon release or discharge and shall report the address to the DOJ within three days. Requires the court to give one copy of the form to the person, send one copy to the DOJ, and forward one copy to the appropriate law enforcement agency or agencies having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release. (Pen. Code, § 290.017, subd. (d).)

Existing law provides that a person who is required to register based on a misdemeanor conviction or juvenile adjudication who willfully violates any requirement of the act is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding one year. (Pen. Code, § 290.018, subd. (a).)

Existing law provides that a person who is required to register based on a felony conviction or juvenile adjudication who willfully violates any requirement of the act or who has a prior conviction or juvenile adjudication for the offense of failing to register under the act and who subsequently and willfully violates any requirement of the act is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years, except as provided. (Pen. Code, § 290.018, subd. (b).)

This bill requires CDCR, a state mental institution, and a county or local custodial facility to forward a sex offender registrant's change of address information to the DOJ within 15 days of the person's receipt or release.

COMMENTS

1. Need for This Bill

According to the author:

Under existing law, state prisons and state hospitals are required to notify the DOJ when a registered sex offender is admitted to their facilities. However, there is no law that similarly requires county jails to notify DOJ when a registered sex offender is either admitted to or released from their custody. This loophole means that it is possible that neither law enforcement nor the public are notified when a registered sex offender has been released into their communities.

AB 1994 would close this loophole by requiring county jails to notify DOJ when a registered sex offender has been admitted to or released from their custody. This bill will help keep our communities safe by providing law enforcement with more tools to track registered sex offenders.

2. Existing Registration Requirements

Under existing law, a sex offender registrant is required to register with the local law enforcement agency where he or she resides. Registrants must re-register annually. If a registrant moves, he or she must notify the local law enforcement agency where he or she was last registered of the move and provide the agency with his or her new address within five working days of the move. When a registrant's new address is a CDCR facility or state hospital, an official with the respective department must forward the registrant's change of address to the DOJ within 90 days of receipt of the person. The DOJ is then required to forward the change of address information to the agency with which the person last registered. Institutions other than CDCR facilities and the state hospitals, such as county jails, are not required to notify the DOJ when a registrant is received or admitted.

Generally, a sex offender registrant is required to register, or reregister if previously registered, upon release from incarceration, placement, commitment, or release on probation. Before a person is released, discharged, or paroled from a jail, prison, state hospital, or other institution, he or she must be informed of his or her duty to register as a sex offender. He or she must sign a DOJ form indicating that the duty to register was explained to him or her. This form is then sent to the DOJ. An official in charge of the place of confinement or commitment must also obtain the address where the registrant is planning to move upon release, and must send that information to the DOJ. The official is also required to send the DOJ form to the law enforcement agency where the registrant expects to live upon release. If the registrant was convicted of a felony sex offense, then the official must send the DOJ form to the prosecuting agency that prosecuted the person, the law enforcement agency where the person expects to reside upon release, and the DOJ at least 45 days prior to the scheduled release of the person. If a person is released on probation, then the probation officer must explain the duty to register and obtain the DOJ form signed by the registrant to send to the DOJ and local law enforcement agency where the registrant is planning to move. If the person is granted conditional release without supervised probation, then the court will perform duties similar to those of the probation officer.

The primary effects of this bill are: 1) to shorten the timeline a CDCR facility or state hospital has to notify the DOJ of a registrant's receipt from the current 90 days to 15 working days; 2) to include county and local custodial facilities in the mandate to notify the DOJ upon the receipt of a sex offender registrant; and 3) to require all CDCR facilities, county jails, and state mental institutions to notify the DOJ of the release of a registrant within 15 working days of the registrant's release. Under current law, all state prisons, local correctional facilities, and state hospitals are required to notify the DOJ of a registrant's new address upon release, discharge, or parole. In cases where the registrant was convicted of a felony sex offense, the institution must notify the DOJ, the local law enforcement agency where the registrant is planning to reside, and the prosecuting attorney's office of the release of the registrant 45 days prior to his or her scheduled release. Therefore, the mandate in this bill establishing a timeline for notifying the DOJ of a registrant's release would only affect registrants convicted of misdemeanor sex offenses given that the timeline for notifying the DOJ of a felony sex offender registrant's release is already specified in statute and occurs much earlier than the one in this bill.

3. Argument in Support

According to the Attorney General's Office, the bill's sponsor:

AB 1994 . . . would shorten the timeframe, from 90 days to 15 days, that state incarceration facilities and state mental institutions must provide the DOJ with change-of-address information for sex offender registrants that are admitted to or released from such facilities. The bill would also subject county jails to this same reporting requirement.

. . . As custodian of the state's Sex Offender Registry, the DOJ is required to ensure that sex offender records are complete, accurate and up-to-date. Under current statutory reporting requirements, some registrants are incorrectly shown as "in-violation" for failing to register when they are actually in custody, creating unnecessary public alarm. Conversely, there have also been scenarios of registrants being released into a community without local law enforcement's knowledge. In these situations, several months or longer may pass before the omission is detected, resulting in registered sex offenders moving in and out of a community without the knowledge of the DOJ, law enforcement or the public.

. . . Requiring facilities that house sex offender registrants to timely and accurately report to the DOJ on the admission or release of such individuals is absolutely indispensable.

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