
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: AB 484 **Hearing Date:** June 13, 2017
Author: Cunningham
Version: February 13, 2017
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Sex Offenses: Registration*

HISTORY

Source: Author

Prior Legislation: AB 65 (Achadjian) Chapter 259, Stats. 2013
SB 59 (Evans) Chapter 282, Stats. 2013
SB 765 (Achadjian) 2011, held in Senate Public Safety
SB 1421 (Romero) Chapter 302, Stats. 2002

Support: California District Attorneys Association; California Peace Officers' Association; California Police Chiefs Association; California State Sheriffs' Association; Crime Victims United of California; Peace Officers Research Association of California; San Diego County Sheriff's Department

Opposition: California Attorneys for Criminal Justice

Assembly Floor Vote: 74 - 1

PURPOSE

The purpose of this bill is to add rape by fraud and rape by authority of a public official to the list of offenses that require lifetime registration as a sex offender.

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 (Penal Code § 290.015 (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;
- Fingerprints and a current photograph taken by the registering official;
- The license plate number of any vehicle owned by, regularly driven by or registered in the name of the registrant;

- 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,
- 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.

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:

- 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.
- 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.
- 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.
- 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 provides 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, two or three years. (Penal Code § 290.018 (a)&(b).)

Existing law provides that the DOJ shall make available information concerning persons who are required to register as a sex offender to the public via an internet website. The DOJ shall update the website on an ongoing basis. Victim information shall be excluded from the website. (Penal Code § 290.46.) The information provided on the website is dependent upon what offenses the person has been convicted of, but generally includes identifying information and a photograph of the registrant.

Existing law generally prevents the use of the information on the website from being used in relation to the following areas: (Penal Code § 290.46 (1)(2).)

- Health insurance;
- Insurance;
- Loans;
- Credit;
- Employment;
- Education, scholarships, or fellowships;
- Housing or accommodations; and
- Benefits, privileges, or services provided by any business establishment.

Existing law provides that rape by fraud is when a person submits under the belief that the person committing the act is someone known to the victim other than the accused, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief. (Penal Code § 261 (a)(5).)

Existing law provides that rape by authority of a public official is accomplished when the act is committed against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. As used in this paragraph, "public official" means "a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official." (Penal Code § 261 (a)(7).)

This bill adds to the list of offenses requiring registration to include rape when the person submits under the belief that the person committing the act is someone known to the victim, other than the accused or rape by the use of authority of a public official to incarcerate arrest or deport the victim.

COMMENTS

1. Need for This Bill

According to the author:

AB 484 would require registration in CA Sex and Arson Registry if found guilty of the following two crimes: (1) where a person submits to an act of sexual intercourse under the belief that the person committing the act is someone known to the victim other than the accused. And (2) the offense of rape is accomplished against the victim's will by threatening use of the authority of a public official to incarcerate or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official. This legislation would send a strong message that California does not tolerate rape of any form and those convicted of the above crimes must register as offenders. Registering offenders who use deceit and political status as a means to prey on innocent victims is a common-sense proposal and we must work together to safeguard the lives of families in our communities. We need to be proactive in protecting potential victims.

2. Addition of 2 forms of Rape

Under existing law, a person is required to register as a sex offender when convicted of most types of rape. This bill would add rape when the person believes the perpetrator is someone else and rape under color of authority to the other types of rape for which a person must register. These are similar to the offenses for which registration is already required, but were not added to the registration sections at the time they were added to the statute.

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