



**Superior Court of California  
County of Fresno**

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**Notification re Senate Bill No. 384 - Sex Offender Registration Act (Adults)**

This Notice is to advise the public as to the Court's procedures for petitions to terminate an applicant's sex offender registration requirement as a result of the recent changes to California's Sex Offender Registration Act. This Notice describes the Court's procedures and is not intended as a substitute for legal advice.

Senate Bill No. 384 (2017-2018) changed the existing California sex offender registry into a three-tiered system. (Penal Code<sup>1</sup> § 290(d).)

**TIERS:**

- Tier 1: A person placed in Tier 1 must register as a sex offender for a minimum of 10 years.
- Tier 2: A person placed in Tier 2 must register as a sex offender for a minimum of 20 years.
  - EXCEPTION: After 10 years of registration, a Tier 2 registrant may petition for termination of registration if all of the following are true: (1) the registrant committed no new sex offense requiring registration under § 290 or offense described in § 667.5(c) since the person was released from custody on the offense requiring § 290 registration; (2) the offense resulting in registration involved no more than one victim 14-17 years of age; (3) the offender was under 21 at the time of the offense; (4) the registrable offense is not listed in § 667.5(c), except for violation of § 288(a); and (5) the registerable offense is not listed in § 236.1.
- Tier 3: A person placed in Tier 3 is subject to lifetime registration as a sex offender.
  - EXCEPTION: After 20 years of registration, a Tier 3 registrant who was placed in Tier 3 solely on their risk level assessment may petition for termination of registration if the registrant committed no new offense requiring registration under § 290, or any offense described in § 667.5(c), since the person was released from custody on the offense requiring § 290 registration. Note that this exception DOES NOT APPLY to a person required to register pursuant to § 288 or an offense listed in § 1192.7(c).

**PERSONS SENTENCED BEFORE JANUARY 1, 2021:**

The California Department of Justice (DOJ), not the Superior Court, will determine the appropriate tier for persons required to be registered as sex offenders due to sentences imposed by a California State Court before January 1, 2021. Be advised that the DOJ may also place an existing registrant in a "tier-to-be-determined" category while it investigates the appropriate tier. A person placed in the "tier-to-be-determined" category shall continue to register as previously ordered. A registrant may stay in the "tier-to-be-determined" category for up to 24 months.

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<sup>1</sup> All further statutory references are to the Penal Code unless otherwise indicated.

**PERSONS SENTENCED AFTER JANUARY 1, 2021:**

After January 1, 2021, DOJ will place persons sentenced by a California State Court for a registerable sex offenses listed in § 290(c) into one of the three tiers as specified by § 290(d). Additionally, at the time of conviction or sentencing, a court may order a person to register as a sex offender for an offense NOT listed in § 290, where it finds that the person committed the offense as a result of sexual compulsion or for purposes of sexual gratification. When the Court orders a person to register for an offense NOT listed in § 290, the Court will determine which tier the person will be placed in.

After January 1, 2021, persons convicted for violating § 286(b), § 287(b), § 289(h) or (i) shall not be required to register if the person was no more than ten years older than the minor victim at the time of the offense and that conviction is the only one requiring the person to register.

**PERSONS REQUIRED TO REGISTER PURSUANT TO § 290.005:**

If a person is required to register pursuant to § 290.005 for sex offense conviction rendered by an out-of-state court, a federal court, or a military court and the offense is assessed as equivalent to a California registerable offense, then DOJ will place the person into one of the three tiers as specified in § 290(d).

If a person is required to register pursuant to § 290.005 based solely on the fact that the person is required to register as a sex offender in another jurisdiction, and there is no equivalent California registerable offense, the person shall be subject to registration as a Tier 2 offender, except that DOJ will determine the person to be a Tier 3 offender if one of the three facts listed in § 290(d)(4)(B) applies.

**PETITION TO TERMINATE SEX OFFENDER REGISTRATION:**

On or after their birthday following July 1, 2021, a person who is required to register as a sex offender may file a petition for termination from the sex offender registry if their mandated minimum registration period has expired. The petition must be filed with the Superior Court in the county in which the person is registered. Therefore, only persons registered with a law enforcement agency (LEA) in Fresno County may file a petition for termination of registration with the Superior Court of California, County of Fresno.

1. **Petition:** All petitions must be on the mandatory California Judicial Council Form CR-415. This form may be obtained from the Court or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm). The form will not be available prior to July 1, 2021. All parts of the form must be filled out and signed.
  - The petition must include proof of the applicant's current registration as a sex offender, which may be obtained upon request from the LEA.
2. **Process:** The petition must be **filed** with the Superior Court of California, Fresno County at 1100 Van Ness Ave, Fresno, CA 93724. The applicant then has 15 court days<sup>2</sup> to **serve** the filed petition on the following agencies:
  - The registering LEA;

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<sup>2</sup> California Rules of Court, rule 10.603(c)(11).

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- The Fresno County District Attorney (DA);
- LEA in the county of conviction (if different); and
- DA in the county of conviction (if different).

The applicant must also **file** proof of service on these above agencies with the Court within 15 court days of the filing of the petition.

\*The Court may summarily deny a petition if the applicant does not comply with the above filing and service requirements.

- All LEAs served with the petition will have 60 days after service to report to the DA and the Court whether the applicant has met the requirements for termination pursuant to § 290.
- After receiving the report, the DA in the county where the petition was filed has 60 days to request a hearing if the applicant has not met the requirements, or if the DA believes community safety would be significantly enhanced by the applicant's continued registration.
- If the DA does NOT REQUEST a hearing:
  - a) The Court may **deny** the petition if it determines that the applicant does not meet the statutory requirements for termination of registration, or if the applicant has not fulfilled the above filing and service requirements.
  - b) The Court may **grant** the petition if it finds: proper proof of current registration was submitted with the petition; the statutory requirements for termination of sex offender registration have been met; the applicant has no pending charges extending the time to complete the registration requirements of the tier or changing the applicant's tier status; and the applicant is not in custody or on parole, probation, or supervised release for any charge, not just sex offenses.
- If the DA REQUESTS a hearing:
  - a) The Court will give notice of the hearing date, time and department to all parties.
  - b) At the hearing, the DA may present evidence as to whether community safety would be significantly enhanced by requiring continued registration. The applicant may appear at the hearing.
  - c) After the hearing, the Court will grant or deny the petition. The Court may announce its decision at the hearing, or through a written order mailed to the parties.

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3. Court's Decision:

- If the petition is DENIED, the applicant must continue to register as a sex offender. The Court will set a time period after which the applicant can re-petition for termination from the sex offender registry, which shall be no earlier than one year, and not later than five years, from the date of denial. **Any subsequent petition filed by the applicant before the re-petition date given by the Court will be summarily denied.** The Court will also notify the DOJ, the California Sex Offender Registry, and all other parties that the petition was denied, and state the re-petition time period applicable to the applicant.
- If the petition is GRANTED, the applicant will be no longer required to register as a sex offender in California. The Court will notify the DOJ, the California Sex Offender Registry, and all other parties that the petition was granted.