

**RESOLUTION 02-04-2008**

**DIGEST**

Sex Offender Registration: Elimination of Certain Misdemeanors

Amends California Penal Code section 290 to eliminate lifetime sex offender registration for certain misdemeanor sex offenses.

**TEXT OF RESOLUTION**

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Penal Code section 290, to read as follows:

1 § 290

2 (a) Sections 290 to 290.023, inclusive, shall be known and may be cited as the Sex  
3 Offender Registration Act. All references to "the Act" in those sections are to the Sex  
4 Offender Registration Act.

5 (b) Every person described in subdivision (c), for the rest of his or her life while  
6 residing in California, or while attending school or working in California, as described in  
7 Sections 290.002 and 290.01, shall be required to register with the chief of police of the  
8 city in which he or she is residing, or the sheriff of the county if he or she is residing in an  
9 unincorporated area or city that has no police department, and, additionally, with the chief  
10 of police of a campus of the University of California, the California State University, or  
11 community college if he or she is residing upon the campus or in any of its facilities,  
12 within five working days of coming into, or changing his or her residence within, any city,  
13 county, or city and county, or campus in which he or she temporarily resides, and shall be  
14 required to register thereafter in accordance with the Act.

15 (c) The following persons shall be required to register:

16 Any person who, since July 1, 1944, has been or is hereafter convicted in any court in  
17 this state or in any federal or military court of a violation of Section 187 committed in the  
18 perpetration, or an attempt to perpetrate, rape or any act punishable under Section  
19 286, 288, 288a, or 289, Section 207 or 209 committed with intent to violate Section 261,  
20 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, any felony  
21 violation of Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section  
22 261, paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence  
23 for which the person is sentenced to the state prison, Section 264.1, any felony violation of  
24 Sections 266, or 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i,  
25 Section 266j, 267, 269, 285, 286 (except misdemeanor violations of subdivision (e)), 288  
26 (except misdemeanor violations of subdivision (c)(2)), subdivisions (b)(2), (c), (d) and (f)  
27 of Section 288a, 288.3, 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b), (e), or (d) of  
28 Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or subdivisions (b), (c) and (d) of  
29 Section 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of  
30 Section 314, any offense involving lewd or lascivious conduct under Section 272, or any  
31 felony violation of Section 288.2; any statutory predecessor that includes all elements of  
32 one of the above-mentioned offenses; or any person who since that date has been or is

33 hereafter convicted of the attempt or conspiracy to commit any of the above-mentioned  
34 offenses as felonies.

(Proposed new language underlined; language to be deleted stricken.)

**PROPONENT:** Bar Association of San Francisco

**STATEMENT OF REASONS:**

Existing Law: Requires persons convicted of the enumerated sexually-related crimes to register with law enforcement as sexual offenders for their lifetime, annually within 5 days of their birthday OR within 5 days of moving their residence OR every 30 days if they are homeless

This Resolution: Eliminates the lifetime registration requirement for certain misdemeanor sexually-related crimes.

The Problem: Thousands of Californians are registered sex offenders. While it is true that many of them have been convicted of extremely serious and violent felony crimes, such as child molestation and rape, a very large number have also been convicted of misdemeanor crimes that are basically non-violent in nature, such as indecent exposure. The significance of the conviction of *any* sexually-related crime in California is that there is a requirement to register with law enforcement as a sexual offender *for life*, if the crime for which the individual is convicted is enumerated in the list of crimes in Penal Code section 290, regardless of (1) whether the crime is a felony or a misdemeanor and (2) however distantly in the past the crime has been committed. The invasion of privacy of those convicted is obvious. Besides having regularly to report their address to law enforcement, registered sexual offenders are listed by name, address and photograph on internet-accessible law enforcement databases. The stigma associated with being a registered sex offender is great, having many collateral consequences, not the least of which is physical danger to the registrant from citizens who have found their personal information of law enforcement websites. As well, there have been numerous instances where registered individuals are subject to protests from other citizens and hounded from their residences by the knowledge of their neighbors that they are “sexual offenders”.

This resolution would revise Penal Code Section 290 to eliminate misdemeanor violations of these various statutes from the requirement of lifetime registration. In addition, the resolution eliminates from registration any violations of Penal Code Section 314 (indecent exposure), 311 (possession of “child pornography”) and former Penal Code Section 647a (lewd conduct, which was often used to punish consensual sexual acts between same-sex partners). It is inappropriate for persons convicted of misdemeanor crimes, or the other crimes listed in this paragraph.

**IMPACT STATEMENT:**

This resolution would affect the statutes calling for registration of convicted offenders that have been eliminated from the list by this resolution, but not any other law, statute or rule.

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