

**ASSEMBLY BILL**

**No. 1640**

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**Introduced by Assembly Member Jones-Sawyer**

February 11, 2014

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An act to amend Sections 290 and 290.005 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1640, as introduced, Jones-Sawyer. Sex offenders: registration.

Existing law requires persons convicted of specified sex offenses, or attempts to commit those offenses, to register with local law enforcement agencies while residing in the state or while attending school or working in the state. Existing law includes among the specified offenses for which registration is required, the offenses of sodomy, oral copulation, sexual penetration, and contacting or communicating with a minor, when the offender knows or reasonably should know that the person is a minor, with the intent to commit sodomy, oral copulation, or sexual penetration.

This bill would delete from the list of offenses or attempts to commit those offenses requiring registration, sodomy, oral copulation, and sexual penetration, if in each case the offender participates in the offense with another person who is under 18 years of age or when the offender is over 21 years of age and participates in the offense with another person who is under 16 years of age. The bill would also delete from that list the offense of contacting or communicating with a minor, if the offender knows or reasonably should know that the person is a minor, with the intent to commit one of the offenses as described above. The bill would authorize a person who is convicted, on or before January 1, 2015, of any of the listed offenses to seek discretionary relief from

the registration requirement. The bill would make those listed offenses subject to provisions authorizing the discretionary imposition of the registration requirement. The bill would make additional conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 290 of the Penal Code is amended to  
2 read:

3 290. (a) Sections 290 to 290.024, inclusive, shall be known  
4 and may be cited as the Sex Offender Registration Act. All  
5 references to “the Act” in those sections are to the Sex Offender  
6 Registration Act.

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

21 (c) The following persons shall ~~be required to~~ register:  
22 Any person who, since July 1, 1944, has been or is hereafter  
23 convicted in any court in this state or in any federal or military  
24 court of a violation of Section 187 committed in the perpetration,  
25 or an attempt to perpetrate, rape or any act punishable under  
26 Section 286, *except subdivision (b) thereof*, Section 288, 288a,  
27 *except subdivision (b) thereof*, or Section 289, *except subdivisions*  
28 *(h) and (i)*, Section 207 or 209 committed with intent to violate  
29 Section 261, 286, *except subdivision (b) thereof*, Section 288, 288a,  
30 *except subdivision (b) thereof*, or Section 289, *except subdivisions*  
31 *(h) and (i) thereof*, Section 220, except assault to commit mayhem,

1 subdivision (b) and (c) of Section 236.1, Section 243.4, paragraph  
2 (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, paragraph  
3 (1) of subdivision (a) of Section 262 involving the use of force or  
4 violence for which the person is sentenced to the state prison,  
5 Section 264.1, 266, or 266c, subdivision (b) of Section 266h,  
6 subdivision (b) of Section 266i, Section 266j, 267, 269, 285, 286,  
7 *except subdivision (b) thereof, Section 288, 288a, except*  
8 *subdivision (b) thereof, Section 288.3, except if committed with*  
9 *the intent to commit a violation of subdivision (b) of Section 286,*  
10 *subdivision (b) of Section 288a, or subdivision (h) or (i) of Section*  
11 *289, Section 288.4, 288.5, 288.7, 289, or 311.1, subdivision (b),*  
12 *(c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11,*  
13 *or 647.6, former Section 647a, subdivision (c) of Section 653f,*  
14 *subdivision 1 or 2 of Section 314, any offense involving lewd or*  
15 *lascivious conduct under Section 272, or any felony violation of*  
16 *Section 288.2; any statutory predecessor that includes all elements*  
17 *of one of the above-mentioned these listed offenses; or any person*  
18 *who since that date has been or is hereafter convicted of the attempt*  
19 *or conspiracy to commit any of the above-mentioned offenses.*

20 *(d) Any person convicted on or before January 1, 2015, of any*  
21 *of the following offenses or attempt to commit any of those offenses,*  
22 *may seek discretionary relief from registration imposed under*  
23 *subdivision (b), if the person has not suffered any other conviction*  
24 *requiring registration:*

25 *(1) Subdivision (b) of Section 286.*

26 *(2) Subdivision (b) of Section 288a.*

27 *(3) Subdivision (h) or (i) of Section 289.*

28 *(4) Section 283, if committed with the intent to commit a*  
29 *violation of subdivision (b) of Section 286, subdivision (b) of*  
30 *Section 288a, or subdivision (h) or (i) of Section 289.*

31 *(e) The offenses listed in subdivision (d) shall, pursuant to*  
32 *Section 290.006, be subject to discretionary imposition of the*  
33 *registration requirement in subdivision (b).*

34 SEC. 2. Section 290.005 of the Penal Code is amended to read:  
35 290.005. The following persons shall register in accordance  
36 with the Act:

37 (a) Except as provided in subdivision (c) or (d), any person who,  
38 since July 1, 1944, has been, or is hereafter convicted in any other  
39 court, including any state, federal, or military court, of any offense  
40 that, if committed or attempted in this state, based on the elements

1 of the convicted offense or facts admitted by the person or found  
2 true by the trier of fact or stipulated facts in the record of military  
3 proceedings, would have been punishable as one or more of the  
4 offenses described in subdivision (c) of Section 290, including  
5 offenses in which the person was a principal, as defined in Section  
6 31.

7 (b) Any person ordered by any other court, including any state,  
8 federal, or military court, to register as a sex offender for any  
9 offense, if the court found at the time of conviction or sentencing  
10 that the person committed the offense as a result of sexual  
11 compulsion or for purposes of sexual gratification.

12 (c) Except as provided in subdivision (d), any person who would  
13 be required to register while residing in the state of conviction for  
14 a sex offense committed in that state.

15 (d) Notwithstanding any other law, a person convicted in another  
16 state of an offense similar to one of the following offenses who is  
17 required to register in the state of conviction ~~shall~~ *is not* be required  
18 to register in California unless the out-of-state offense, based on  
19 the elements of the conviction offense or proven or stipulated facts  
20 in the record of conviction, contains all of the elements of a  
21 registerable California offense described in subdivision (c) of  
22 Section 290:

- 23 (1) Indecent exposure, pursuant to Section 314.
- 24 (2) Unlawful sexual intercourse, pursuant to Section 261.5.
- 25 (3) Incest, pursuant to Section 285.
- 26 (4) Sodomy, pursuant to Section 286, *except subdivision (b)*  
27 *thereof*, or oral copulation, pursuant to Section 288a, *except*  
28 *subdivision (b) thereof*, provided that the offender notifies the  
29 Department of Justice that the sodomy or oral copulation conviction  
30 was for conduct between consenting adults, as described in Section  
31 290.019, and the department is able, upon the exercise of  
32 reasonable diligence, to verify that fact.
- 33 (5) Pimping, pursuant to Section 266h, or pandering, pursuant  
34 to Section 266i.