

## ADDITIONAL LAWS PERTAINING TO REGISTERED SEX OFFENDERS IN CALIFORNIA<sup>1/</sup>

### 1. International Travel

In order to satisfy federal law (42 U.S.C. § 16914(a)), registrants who plan to travel outside of the United States (i.e., international travel) should provide at least 21 days advance written notice of their travel plans to the local law enforcement agency having jurisdiction over their residence. The written notice should include dates of travel and travel destination. Forms are available at the local registering agency to document notice of intention to travel internationally.

### 2. Campus Registration

Sex offender registrants who are enrolled as students or employed by, or who carry on a vocation or volunteer at a university, college, community college, or other institution of higher learning (including a certificate program, such as cosmetology or massage therapy, that takes at least 12 months to complete), must register with the campus police department. If the campus/institution does not have a police department, the registrant must register with the local law enforcement agency having jurisdiction over the campus/institution. (Pen. Code, § 290.01.)

### 2. Proof of Registration to Probation/Parole Officer

Registrants who are on probation or parole must provide proof of registration to their probation or parole officer within six working days of release on probation or parole. Probationers/parolees must provide proof of any change in information or annual update to his or her registration information to his or her probation or parole officer at the next scheduled supervision appointment. (Pen. Code, § 290.85.)

### 3. Registrant Whose Victim was under 16 Cannot Work with Children

Registrants whose sex offense conviction was for a crime where the victim was a minor under age 16 cannot be an employer, employee, independent contractor, or volunteer with any person, group or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. This prohibition shall not apply to a business owner or independent contractor who has the ability to hire, fire, or discipline minors, but who does not work directly in an unaccompanied setting with minors. It does include those who provide goods or services to children. Misdemeanor penalty. (Pen. Code, § 290.95.)

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1. These laws apply in addition to the provisions of Penal Code section 290.

4. Registrant Whose Victim Was 16 or Older Must Notify Employer or Volunteer Organization Before Working with Children

Registrants must disclose their status as registered sex offenders before they can be an employee or volunteer with any person, group or organization where the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis, or who would have supervision or disciplinary power over minor children, and whose sex offense conviction was for a crime in which the victim was age 16 or older. (Pen. Code, § 290.95.) Also, the registrant cannot work with children even if another adult is present if he or she would have to touch the children on a more than occasional basis, effective January 1, 2007. (Pen. Code, § 290.95.) Misdemeanor penalty.

5. Certain Parolees Cannot Reside Near Schools

A registrant convicted pursuant to Penal Code section 288 or 288.5 (child molest/recurring child molest) who is a parolee on a high risk CDC-R caseload shall not be placed or reside, during parole, within 1/2 mile of any school including any or all of kindergarten and grades 1 through 8, inclusive. (Pen. Code, § 3003, subd. (g).)

6. Registrants Need Lawful Purpose and Written Permission to Be on School Campus

A registrant must not be on a school campus (grades K-12) unless he or she has both a lawful purpose and written permission from the school's chief administrative officer indicating the date or dates and times for which permission has been granted. Additionally, if the registrant is not a family member of a student who attends the school, the school's chief administrative officer must notify the parents or guardians of every child attending the school that permission was granted. (Pen. Code, § 626.81.)

7. Registrants Cannot Live Together in Single Family Dwellings Unless Related By Blood

A registrant who is on parole for any registrable offense may not, during parole, reside in any single family dwelling with any other person also required to register pursuant to Penal Code section 290, unless those persons are legally related by blood, marriage or adoption. "Single family dwelling" does not include a residential facility which serves six or fewer persons. (Pen. Code, §3003.5.)

8. Registrants Must Disclose Status as Registrant to Community Care Facility

Sex offender registrants must disclose their registration status to the licensee of a community care facility before they enter such a facility, pursuant to Health and Safety Code section 1522.01. (A hospital is not a community care facility.) A community care facility is defined in Health & Saf. Code section 1502 as any facility, place, or building that is maintained and operated to provide nonmedical residential care, day treatment, adult day care, or foster family agency services for children, adults, or children and adults, including, but not limited to, the physically handicapped, mentally impaired, incompetent persons, and abused or neglected children, and includes the following: residential facility; adult day program; therapeutic day services facility. (Health & Saf. Code, §1502.)

Additionally, a registered sex offender cannot live in a community care facility that is within one mile of a school. (Health & Saf. Code, § 1564.)

9. Registrants Must Disclose Status and Proof Of Registration to Long-Term Health Facility

Officials in charge of confinement of a person required to register as a sex offender must notify in writing, at least 45 days prior to release to a long-term health facility, the facility of the fact that the person being placed there upon release is a registrant. (Health & Saf. Code, § 1312). The registrant is also required to notify the facility of his status as a registrant, on the same day he or she registers as a sex offender, and provide the facility with proof of registration or re-registration. The facility is then required to immediately provide notice to full-time employees and residents, or responsible persons for incompetent residents, of the presence of the registrant. (Stats. 2005, ch. 466 (AB 217), effective 1-1-06.)

10. Living Within 2000 Feet of a School or Park Where Children Regularly Gather

Penal Code section 3003.5(b), the law enacted by ballot initiative in 2006 prohibiting registered sex offenders from living within 2,000 feet of a school or park, was held unconstitutional in 2015. The California Supreme Court found that when there was insufficient affordable housing for registrants, the law had the opposite effect on public safety intended by creating a homeless population of transient sex offenders. CDCR now applies the residency restriction to parolees only on a case by case basis. In 2016, an appellate court ruled that the residency restriction does not apply to registrants on probation as a blanket restriction. The California Supreme Court had earlier ruled this law applied only to persons who were released from custody after November 7, 2006, rather than basing retroactivity on when the registrant gained a residence within the 2000 foot zone. Today, the restriction only applies if it is imposed as a probation or parole condition, based on an individual offender's record.

11. GPS Units for Persons Released on Parole for Life

A second law enacted by initiative (Proposition 83) on November 8, 2006, requires felony registered sex offenders who go to prison and are released on parole to wear a GPS unit, either for the period of parole or for life—the legislation is unclear and the courts will determine whether the lifetime period applies. Again, since the legislation was not made retroactive, at a minimum it does not apply to persons who were already released from prison before November 8, 2006, but applies only to persons paroled after that date. It is possible a court could rule it applies only to persons whose offenses were committed after the law's enactment. It has been the opinion of the Attorney General that the law did not create a criminal offense. Thus, while a parolee may be violated for refusing to wear a GPS, it is unclear how this law can be enforced as to persons no longer on parole.

12. Loitering Near Schools or Elder/Dependent Adult Facilities

Registered sex offenders may not loiter near schools or elder/dependent adult facilities. (Pen. Code, § 653b, 653c.)