

## TIERED REGISTRY BILL MODIFICATIONS

Senate Bill 384, as passed by the legislature and signed by the Governor in 2017, created a Tiered Registry that will take effect in 2021. That registry requires adults to register as a sex offender pursuant to Penal Code Section 290 (“registrants”) for a minimum of 10 years, 20 years or a lifetime depending upon the offense for which they were convicted. Although the Tiered Registry is a significant improvement as compared to 70 years of lifetime registration for virtually all registrants, a clean up bill is required in order to address deficiencies in three areas: illegal images, sexual battery and Tier 3 registrants. In addition, it is necessary to allow registrants to access their profiles on the Megan’s Law website to prepare their petitions requesting removal from the registry.

### Illegal Images

The Tiered Registry currently assigns all individuals convicted of a felony child pornography (“CP”) offense to Tier 3. This assignment is contrary to federal law which recommends that most individuals convicted of CP offenses be assigned to Tier 1. The CA registry includes more than 2,000 individuals convicted of felony CP offenses, including young adults questioning their sexual orientation and those addicted to pornography. If kept on Tier 3, these individuals will be required to register as a sex offender for the rest of their lives. **ACSOL recommends that individuals convicted of CP possession and distribution possession (PC 311.11(a), 311.1 and 311.2) be assigned to Tier 1 and that individuals convicted of CP production (PC 311.3 and 311.4 ) be assigned to Tier 2.**

### Sexual Battery

The Tiered Registry currently assigns most physicians convicted of an offense involving a patient to Tier 3 regardless of the physician’s actions. For example, a physician convicted of accidentally grazing a woman’s breast during a patient exam will be treated the same as a physician who violently rapes a patient. This lack of distinction is unjust and could reasonably lead to an equal protection challenge in court. **ACSOL recommends that all physicians convicted of a sex offense, that is not a violent offense, be assigned to Tier 2 consistent with current assignment of PC 243.4 to that tier.**

### Off-ramp for Tier 3 registrants

After the Tiered Registry takes effect in 2021, California will join 46 states that have tiered registries. Of that total, there are 15 states that provide one or more methods by which a registrant on Tier 3 who has not re-offended can be considered for removal from the state’s sex offender registry. For example, a Tier 3 Georgia registrant with a non-aggravated offense may petition after ten years (O.C.G.A. § 42-1-19(a)(4), (c)(2)), and any Tier 3 Pennsylvania registrant may petition after 25 years (42 Pa.C.S. § 9799.15(a.2)). **ACSOL recommends that judges be granted discretion to remove registrants assigned to Tier 3 after 30 years if they have not committed a subsequent sex offense.**

### Megan’s Law Website profiles

Penal Code 290.46(k) prohibits registrants from viewing their profiles on the California Megan’s Law website. The penalties for violating this law include up to six months in jail and a fine up to \$1,000. Registrants will need information from their profiles in order to prepare their petitions for removal from the registry. **ACSOL recommends repeal of this law.**