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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
10 **COUNTY OF SAN DIEGO**

11 ALLIANCE FOR CONSTITUTIONAL  
12 SEX OFFENSE LAWS, INC.,  
13 a California non-profit corporation;  
14 JOHN DOE #1, an individual;  
15 JOHN DOE #2, an individual; and  
16 JAMES ROES #1 through #1,000, inclusive;

17 Petitioners,

18 vs.

19 CALIFORNIA DEPARTMENT OF JUSTICE;  
20 XAVIER BECERRA, in his official capacity as  
21 Attorney General of the State of California; and  
22 SAN DIEGO COUNTY SHERIFF'S  
23 DEPARTMENT,

24 Respondents.

Case No.:

**PETITION FOR WRIT OF MANDATE  
AND COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF  
(CAL. CIV. PROC. CODE §§ 1085, 1060)**

25 **INTRODUCTION**

26 1. This action challenges the discretionary, unnecessary, and injurious decision by Respondents  
27 California Department of Justice (“Cal. DOJ”), Attorney General Xavier Becerra, and/or the San  
28 Diego County Sheriff’s Department (“SDSD”), to require persons required to register as a sex  
offender (“Registrants”) who are vulnerable to the COVID-19 virus to leave their homes and to  
appear in person at local SDSD stations for their 30-day, 90-day, or annual registration updates  
(hereinafter, “**periodic updates**”). Consistent with the Sex Offender Registration Act, periodic

1 updates can be completed through means that do not require vulnerable persons to subject  
2 themselves, during an in-person registration, to a risk of harm that is universally recognized by  
3 national, state, and local government – in violation of orders issued by those same governments.

4 2. This issue warrants the Court’s attention at this time because the extraordinary measures  
5 now being taken to slow the spread of the COVID-19 pandemic are undermined by requiring  
6 Registrants to continue to appear in person for periodic updates. Specifically, as of March 19, 2020,  
7 the Governor of California has ordered as follows: “Everyone is required to stay home except to  
8 get food, care for a relative or friend, get necessary health care, or go to an essential job.”<sup>1</sup> The  
9 Order contains no exception for Registrants or for registration updates.

10 3. Nor is such an exception mandated by law. Sex offender registration is governed by the  
11 California Sex Offender Registration Act, codified at Penal Code section 290, *et seq.* (hereinafter,  
12 “Section 290” or “Act”). Contrary to popular understanding, the text of the Act does not require  
13 Registrants to appear in person for periodic updates. (See Cal. Penal Code § 290.012, subs. (a)-  
14 (c).) Instead, the Act merely requires that Registrants be “Registered.” (*Ibid.*) In addition, there is  
15 no practical reason why Registrants must appear in person for periodic updates because periodic  
16 updates are for the purpose of confirming information that registering agencies already possess, or  
17 for the purpose of providing information that can be transmitted through alternative means which  
18 pose little or no risk of exposure of COVID-19, such as the telephone or video conferencing apps  
19 and programs. Use of this widely available technology provides law enforcement with effective  
20 methods to obtain the information necessary to complete periodic updates without subjecting the  
21 public, law enforcement personnel, and Registrants to potentially harmful in-person visits to  
22 locations where they could either contract or spread COVID-19. Requiring such in-person visits to  
23 SDDS stations during a pandemic, in contravention of state and local orders, is an abuse of  
24 discretion as pled herein.

25 4. On information and belief, many registering agencies throughout California, including the  
26 Los Angeles Police Department (“LAPD”), the agency with the largest population of Registrants in  
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28 <sup>1</sup> <https://covid19.ca.gov/>, last visited March 23, 2020.

1 the state, are processing periodic updates over the telephone. The LAPD does not require  
2 Registrants to appear in person while the COVID-19 emergency measures are in place. Instead, the  
3 LAPD has placed signs, including those attached hereto as Exhibit A, on the exterior of its police  
4 stations confirming that the LAPD's registration policy is currently "modified" to accommodate the  
5 COVID-19 emergency measures. (Exh. A.) Pursuant to the LAPD's modified policy, Registrants  
6 "are not [] allowed in the station," and "[the LAPD] will register [them] over the phone." (Exh. A.)

7 5. Petitioners include a civil rights organization that is comprised of and supports Registrants,  
8 as well as two individual Registrants, Petitioners John Doe #1 and John Doe #2, who are deemed  
9 vulnerable to infection by COVID-19 due to their age and/or chronic medical conditions suffered by  
10 them as well as the persons with whom they reside and care for. As pled more fully below,  
11 Respondent SDSA has directed Petitioners John Doe #1, John Doe # 2, and all Registrants residing  
12 in the jurisdiction of the SDSA to appear in person for their periodic updates. On information and  
13 belief, Respondent Cal. DOJ has also required persons residing within the jurisdiction of the SDSA  
14 to appear in person for their periodic updates. Respondents' mandate that all Registrants, including  
15 those with high risk factors for COVID-19, appear in person forces Petitioner and all Registrants  
16 into a Catch-22. That is, they must either subject themselves to COVID-19 infection (in violation of  
17 a state order), or violate Section 290 by failing to appear in person, thereby inviting arrest and  
18 custody in jail or prison (where the risk of COVID-19 infection is much greater). Section 290 does  
19 not require Registrants to play Russian Roulette with their lives in order to provide the information  
20 required for their periodic updates. Respondents' violation of the law must be addressed now  
21 because Petitioner John Doe #1's deadline to appear for his periodic update is April 3, 2020;  
22 however, his last opportunity to register with the SDSA is April 1, 2020.

23 6. Accordingly, Petitioners seek a writ of mandate directing Respondent SDSA to process 30-  
24 day, 90-day, and annual updates without the additional, non-statutory requirement to appear in  
25 person. Petitioners further seek, against Respondents Cal. DOJ, Becerra, and SDSA, injunctive  
26 relief as well as a declaratory judgment that Registrants are not required to appear in person for  
27 periodic updates until the threat of COVID-19 has ended.

28

1 **JURISDICTION AND VENUE**

2 7. As a court of unlimited jurisdiction, the San Diego County Superior Court has jurisdiction  
3 over this action for mandamus, declaratory, and injunctive relief pursuant to California Code of  
4 Civil Procedure sections 1084, *et seq.* and 1060.

5 8. Venue is proper within this Court because Respondents Cal. DOJ and Becerra, in his official  
6 capacity, maintain an office in San Diego County (Cal. Civ. Proc. Code § 401), and because  
7 Respondent SDSO is located in San Diego County.

8 **PARTIES**

9 9. Petitioners reallege and incorporate herein, as though fully set forth, all and inclusively,  
10 paragraphs 1 through 8.

11 10. Petitioner Alliance for Constitutional Sex Offense Laws, Inc. (“ACSOL”) is a non-profit  
12 corporation incorporated and headquartered in Los Angeles County, California. ACSOL is  
13 dedicated to protecting the Constitution by restoring the civil rights of more than 109,000  
14 Registrants in the State of California through advocacy, education, and litigation on behalf of them  
15 and their families. ACSOL is beneficially interested in the outcome of these proceedings, as well as  
16 in Respondents’ performance of their legal duties, and therefore seeks by this Petition to procure  
17 enforcement of a public duty on a question of public right. (Cal. Civ. Proc. Code § 1086.) In  
18 addition, ACSOL’s membership includes more than 3,200 Registrants who reside within the  
19 jurisdiction of the SDSO who are required to register as sex offenders, who are injured by the  
20 discretionary decision challenged in this action, and who are beneficially interested in the outcome  
21 of this proceeding.

22 11. Petitioner John Doe #1 is a Registrant who currently resides in San Diego County within the  
23 jurisdiction of the SDSO. Petitioner John Doe #1 is required to update his registration with the  
24 SDSO on or before April 1, 2020 pursuant to Penal Code section 290.012 and the restrictions  
25 imposed by Respondent SDSO as described herein. Petitioner John Doe #1 is vulnerable to  
26 COVID-19 because he suffers from chronic medical conditions including asthma, a respiratory  
27 disease, as determined by national and state health care agencies. In addition, Petitioner John Doe  
28 #1 resides with his parents who are also at high risk of infection by COVID-19 because they are

1 over 65 years old. In fact, Petitioner John Doe #1’s parents are self-isolating in their home, and rely  
2 upon Petitioner John Doe #1 to purchase their groceries, pharmaceuticals, and other essential goods.  
3 Therefore, any contact with COVID-19 risk factors that Petitioner John Doe #1 experiences will  
4 result in increased risk his elderly parents.

5 12. Petitioner John Doe #2 is a 72-year-old Registrant who currently resides in the County of  
6 San Diego within the jurisdiction of the SDSD. Petitioner John Doe #2 is required to update his  
7 registration within five working days of his birthday in July 2020 pursuant to Penal Code section  
8 290.012. Petitioner John Doe #2 is vulnerable to COVID-19 because of his age (72), as well as  
9 chronic medical conditions that include hypertension, as determined by national and state health  
10 care agencies. In addition, Petitioner John Doe #2 resides with his wife who is also vulnerable to  
11 COVID-19 because she is also over 65 years old.

12 13. Petitioners James Roes #1 through #1,000, inclusive, are additional Registrants residing in  
13 the jurisdiction of the SDSD who are vulnerable to infection by the COVID-19 virus due to age  
14 and/or chronic medical conditions as defined by healthcare officials, and who Respondents are  
15 currently requiring to appear in person for periodic updates. The true names of Petitioners James  
16 Roes #1 through #1,000 are currently unknown, but Petitioners will add those parties to this action  
17 when their names become known.

18 14. Respondent California Department of Justice (“Cal. DOJ”) is a state agency with overall  
19 responsibility for interpreting and enforcing the Act, including implementation of the discretionary  
20 decision challenged in this action.

21 15. Respondent Xavier Becerra is the Attorney General for the State of California. In his  
22 official capacity, as set forth in Article 5, Section 13 of the California Constitution, he is the “chief  
23 law officer of the State,” with a duty “to see that the laws of the state are uniformly and adequately  
24 enforced.” He has “direct supervision over every district attorney and sheriff and over such other  
25 law enforcement officers as may be designated by law.” (Cal. Const. art. 5, § 13.) He “has charge,  
26 as attorney, of all legal matters in which the State is interested.” (Cal. Gov’t Code § 12511.) He is  
27 obligated to enforce the laws of the State and to ensure that those laws are enforced in a manner that  
28 complies with the California and United States Constitutions.

1 16. Respondent San Diego County Sheriff’s Department (“SDSD”) is a local law enforcement  
2 agency responsible for implementing the Act in San Diego County (Cal. Penal Code § 290, subd.  
3 (b).) Respondent SDSD is responsible for facilitating the periodic updates for all Registrants  
4 residing in its jurisdiction, including Petitioners John Doe #1 and John Doe #2. On information and  
5 belief, Respondent SDSD is responsible for the discretionary decision challenged in this action.

6 17. Respondents Cal. DOJ, Becerra, and SDSD shall be referred to herein collectively as  
7 “Respondents.”

8 **FACTS**

9 18. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and  
10 inclusively, paragraphs 1 through 17.

11 **The Coronavirus Pandemic and State and Local Orders to Remain at Home**

12 19. The COVID-19 pandemic is a global emergency that is unprecedented in modern history.  
13 Extraordinary measures have been implemented by governments at every level. Most notably, on  
14 March 19, 2020, the Governor of California issued an order calling upon all 40 million residents of  
15 the state to remain in their homes, with limited exceptions for essential travel (hereinafter, the  
16 “Order”).<sup>2</sup> Specifically, the Governor’s Order directs “all individuals living in the State of  
17 California to stay home or at their place of residence except as needed to maintain continuity of  
18 operations of the federal critical infrastructure sectors, as outlined at  
19 <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>.”<sup>3</sup> Sex offender  
20 registration is not listed among the exceptions to the Order, and violation of the Order can result in  
21 penalties and punishment.

22 20. The Order emphasizes that persons within specified vulnerable populations must self-isolate  
23 and remain in their homes. As reflected in the Order, the Center for Disease Control and the  
24 California Department of Health Care Services declare the following persons at “higher risk” for  
25

26 \_\_\_\_\_  
27 <sup>2</sup> <https://covid19.ca.gov/stay-home-except-for-essential-needs/>

28 <sup>3</sup> <https://covid19.ca.gov/img/Executive-Order-N-33-20.pdf>

1 contracting COVID-19:<sup>4, 5</sup>

- 2 a. Persons aged 65 and older;
- 3 b. Persons with HIV/AIDS or compromised immune systems; and
- 4 c. Persons with chronic serious medical conditions, including asthma and hypertension.

5 21. In February 2020, the San Diego County Board of Supervisors declared a Local Emergency  
6 throughout San Diego County due to COVID-19. Consistent with the Governor’s Order, San Diego  
7 County officials confirm that “Everyone is required to stay home except for essential needs or to go  
8 to an essential job.”<sup>6</sup>

9 **The California Sex Offender Registration Act Does Not Require In-person Periodic Updates**

10 22. In general, the Act requires persons convicted of an offense described in Section 290,  
11 subdivision (c) who reside in California to complete their initial registration with local law  
12 enforcement within specified time frames when they: (1) are released from custody or supervision,  
13 (2) establish residency in the state, (3) change their residence address, or (4) cease residing in  
14 California.

15 23. The Act further requires Registrants to periodically update their registration with local law  
16 enforcement at specified intervals, as follows:

- 17 a. All Registrants must provide an “annual update” within five working days of  
18 their birthday, beginning on his or her first birthday after the initial  
19 registration. (Penal Code § 290.012, subd. (a).)
- 20 b. Registrants designated “sexually violent predators” must update their  
21 registration every 90 days. (Penal Code § 290.012, subd. (b).)
- 22 c. Transient Registrants (*i.e.*, those with no fixed residence address), must  
23 update their registration every 30 days. (Penal Code § 290.012, subd. (c).)

24 24. Contrary to popular understanding, the Act does not require initial registration, annual  
25 updates, 90-day updates, or 30-day updates (*i.e.*, “periodic updates”) to be in person. Instead, the

26 <sup>4</sup> <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/high-risk-complications.html>

27 <sup>5</sup> <https://covid19.ca.gov/what-you-can-do/#symptoms-risks>

28 <sup>6</sup> <https://www.sandiegocounty.gov/coronavirus/>

1 Act only requires that periodic updates occur, without specifying how the Registrant is to provide  
2 the required information to the registering agency. (E.g., Penal Code § 290.012, subd. (a)  
3 [“Beginning on his or her first birthday following registration or change of address, the person shall  
4 be required to register annually, within five working days of his or her birthday, to update his or her  
5 registration with the entities described in subdivision (b) of Section 290. At the annual update, the  
6 person shall provide current information as required on the Department of Justice annual update  
7 form, including the information described in paragraphs (1) to (4), inclusive, of subdivision (a) of  
8 Section 290.015. The registering agency shall give the registrant a copy of the registration  
9 requirements from the Department of Justice form.”].)

10 25. Notably, the Act specifies only three occasions on which in-person registration or in-person  
11 updates are required. Specifically, in-person registration and updates are required only for:

- 12 a. **Transient Registrants “who move[] of out state.”** (Penal Code § 290.011,  
13 subd. (f) [“A transient who moves out of state shall inform, in person, the  
14 chief of police in the city in which he or she is physically present, or the  
15 sheriff of the county if he or she is physically present in an unincorporated  
16 area or city that has no police department, within five working days, of his or  
17 her move out of state.”].)
- 18 b. **Registrants who change their residence address**, whether within the  
19 jurisdiction in which they are currently registered or to a new jurisdiction  
20 outside California. (Penal Code § 290.013, subd. (a) [“A person who was  
21 last registered at a residence address pursuant to the Act who changes his or  
22 her residence address, whether within the jurisdiction in which he or she is  
23 currently registered or to a new jurisdiction inside or outside the state, shall,  
24 in person, within five working days of the move, inform the law enforcement  
25 agency or agencies with which he or she last registered of the move, the new  
26 address or transient location, if known, and any plans he or she has to return  
27 to California.”].)

- 1 c. **Registrants who legally change their names.** (Penal Code § 290.014, subd.  
2 (a) [“If any person who is required to register pursuant to the Act changes his  
3 or her name, the person shall inform, in person, the law enforcement agency  
4 or agencies with which he or she is currently registered within five working  
5 days”].)

6 26. The Legislature’s decision to expressly require in-person updates in certain limited situations  
7 but not other situations confirms that the Legislature did not intend to require personal appearance at  
8 initial registration, annual updates, 90-day updates, or 30-day updates. (*See Wilson v. City of*  
9 *Laguna Beach* (1992) 6 Cal. App. 4th 543, 554.) On information and belief, the Respondent Cal.  
10 DOJ and various local registering agencies are able to, and do in fact, process registrations when the  
11 Registrant does not appear in person, such as when a Registrant is hospitalized or otherwise  
12 incapacitated. Accordingly, Respondents have, but unlawfully refuse to exercise, discretion to  
13 process periodic updates without requiring Registrants to appear in person.

14 **Respondents’ Discretionary In-person Registration Requirement Threatens Vulnerable**  
15 **Registrants and Forces Them to Violate State and Local COVID-19-Related Orders**

16 27. Petitioner John Doe #1 suffers from chronic medical conditions that render him vulnerable  
17 to COVID-19 infection, including asthma, as confirmed by state and local authorities. In addition,  
18 Petitioner John Doe #1 resides with his parents who are likewise at high risk of infection by  
19 COVID-19 because they are over 65 years old. In fact, Petitioner John Doe #1’s parents are self-  
20 isolating in their home, and rely upon Petitioner John Doe #1 to purchase their groceries,  
21 pharmaceuticals, and other essential goods. Therefore, any contact that Petitioner John Doe #1 has  
22 with the public increases the risk of infection for his elderly parents. Finally, Petitioner John Doe  
23 #1 is currently subject to the Governor of California’s Order, which requires him to remain at home  
24 except for “essential” travel pursuant to the terms of that order.

25 28. Petitioner John Doe #2 is vulnerable to COVID-19 because of his age (72), as well as  
26 chronic medical conditions that include hypertension, as determined by national and state health  
27 care agencies. In addition, Petitioner John Doe #2 resides with his wife who is also vulnerable to  
28 COVID-19 because she is also over 65 years old. Petitioner John Doe #2 is currently subject to the

1 Governor of California’s Order, which requires him to remain at home except for “essential” travel  
2 pursuant to the terms of that order.

3 29. Petitioner John Doe #1 is required to update his registration on or before April 3, 2020;  
4 however, his last opportunity to register is April 1, 2020 because the SDSO registration office hours  
5 are limited to Tuesdays and Wednesdays from 8:00 a.m. to 12:00 p.m. On or about March 25, 2020,  
6 Petitioner John Doe #2 contacted the registration officer at his local SDSO station, who confirmed  
7 on March 26, 2020 that he and all Registrants must continue to register in person.

8 30. On information and belief, Respondents Cal. DOJ and Becerra are responsible for the  
9 discretionary decision challenged in this action, in that they have directed local registering agencies  
10 such as Respondent SDSO to require in-person registration during periodic updates, or by  
11 interpreting the Sex Offender Registration Act to require in-person registration during periodic  
12 updates.

13 31. In addition to being discretionary and not required by Section 290, Respondents’ ongoing  
14 decision to require in-person registration for periodic updates forces Registrants to contravene the  
15 public safety measures imposed by state and local government upon all residents of California,  
16 including Registrants, including the current Order by the Governor of California. (*Helling v.*  
17 *McKinney* (1994) 509 U.S. 25, 33 [“It would be odd to deny an injunction to inmates who plainly  
18 proved an unsafe, life-threatening condition in their prison on the ground that nothing yet had  
19 happened to them.”].) Respondents’ decision therefore threatens both vulnerable Registrants and  
20 the larger population with which those Registrants interact, including the public, law enforcement  
21 personnel, and their families.

22 32. On information and belief, the locations in which Registrants are required to register in  
23 person are often unsanitary, crowded, and do not allow for “social distancing” and other  
24 preventative measures mandated by state and local government. For example, many police and  
25 sheriff’s stations are located in areas with large homeless populations. In addition, Registrants are  
26 forced to enter, sit in, touch, and otherwise interact with unsanitary, and often narrow and cramped,  
27 physical environments while registering. Those environments, as well as, the registration  
28 procedures employed by Respondents, require repeated and prolonged contact with potentially

1 virus-ridden surfaces and objects such as countertops, clip boards, various papers, pens, pen chains,  
2 ink pads, chairs, door handles, water fountains, and Livescan and other fingerprinting machine.  
3 These unsanitary surfaces are touched by innumerable other Registrants, as well as other visitors to  
4 the station and employees of the registering agencies.

5 33. On information and belief, the risk imposed upon the public, law enforcement personnel,  
6 Registrants, and their families by the in-person registration requirement is rendered even greater  
7 within the SDSD's jurisdiction because one or more SDSD stations have severely restricted the  
8 hours available for registration. Specifically, on or about March 26, 2020, an SDSD registration  
9 officer told Petitioner John Doe #1 that his station is currently open only on Tuesdays and  
10 Wednesdays from 8:00 a.m. through 12:00 p.m. on a walk-in basis. Respondent SDSD will not  
11 provide appointments to register. As a result of these restricted hours, a larger number of  
12 Registrants will be forced to congregate together in SDSD stations during longer-than-normal wait  
13 times while their periodic updates are processed. By restricting the hours that Registrants must  
14 appear to register, the SDSD has increased the risk of infection and harm not only to Registrants,  
15 but also to their families, law enforcement, and the general public by ensuring that Registrants will  
16 appear in larger and more concentrated numbers at SDSD stations.

17 34. On information and belief, there are registering agencies throughout California, including  
18 the Los Angeles Police Department (LAPD), a law enforcement agency with more than 3,900  
19 Registrants, that are processing periodic updates over the telephone. That is, the LAPD has  
20 completely stopped requiring Registrants to register in person while the COVID-19 emergency  
21 measures are in place. Instead, the LAPD has placed signs, including those attached hereto as  
22 Exhibit A, on the exterior of its police stations confirming that the LAPD's registration policy is  
23 currently "modified" to accommodate the COVID-19 emergency measures. (Exh. A.) Pursuant to  
24 the LAPD's modified policy, Registrants "are not [] allowed in the station," and "[the LAPD] will  
25 register [them] over the phone." (Exh. A.)

26 **EQUITY AND IRREPARABLE INJURY**

27 35. Petitioner realleges and incorporates herein, as though fully set forth, each and every, all and  
28 inclusively, paragraphs 1 through 34.

1 36. Risk of infection and death are irreparable injuries remediable by injunction. (*E.g.*, *Harris v.*  
2 *Bd. of Supervisors* (9th Cir. 2004) 366 F.3d 754 759, 766.)

3 37. Respondents' discretionary decision to require that periodic updates occur in-person, rather  
4 than through telephone or videoconferencing or other means, subjects Registrants and the general  
5 public to an unreasonable and untenable risk of harm, as confirmed by state and local authorities  
6 who have ordered such Registrants to remain at home. There are alternative effective means to  
7 achieve the purposes of Section 290, such as providing the necessary information over the telephone  
8 or through videoconference, or by delaying the collection of certain information until the COVID-  
9 19 pandemic has ended. On information and belief, certain state and federal agencies, including but  
10 not limited to the California courts and the California Department of Motor Vehicle, have  
11 suspended numerous statutory or regulatory requirements to appear in person, and/or have tolled  
12 deadlines associated with appearing in person, due to COVID-19. In addition, on information and  
13 belief, some registering agencies within the State of California, such as the Los Angeles Police  
14 Department ("LAPD"), have suspended their requirement that Registrants appear in person for  
15 periodic updates. (See Exh. A.) The equities in this case demand that Respondents extend similar  
16 accommodation to Petitioners and other Registrants in San Diego County, and throughout  
17 California, because of the extraordinary needs and measures required by the current pandemic.

18 38. Mandamus, declaratory, and injunctive relief are warranted in this action because  
19 Respondents' unlawful activity has caused, is causing, and will continue to cause immediate and  
20 irreparable harm to Petitioners, other Registrants, as well as the public at large by exposing  
21 Petitioner and other Registrants to increased risk of infection by the COVID-19 virus. In fact, the  
22 purpose of the stay-at-home order issued by the Governor of California is to prevent precisely the  
23 risks imposed by Respondents upon Registrants when Registrants are needlessly forced to appear in  
24 person at Sheriff's stations. Yet, Respondents persist in requiring that Registrants appear in person  
25 for periodic updates.

26 39. There are no plain, adequate, complete, or speedy alternative remedies available to redress  
27 the violations of law committed by Respondents in this action, nor are there any available and non-  
28 futile administrative remedies available to redress the violations of law committed by Respondents.

1 Damages are not adequate to protect Petitioners from the continuing effects of Respondents’  
2 violations of the law and from Respondents’ failure to carry out their duty under the law in  
3 compliance with the law. (Cal. Civ. Proc. Code § 1086.)

4 **FIRST CLAIM FOR RELIEF**

5 **(Mandamus – Cal. Civ. Proc. Code § 1085)**

6 40. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and  
7 inclusively, paragraphs 1 through 39.

8 41. As recognized by state and local government, COVID-19 is transmittable in the community  
9 through person-to-person contact, or by contact with surfaces that host the virus. In order to  
10 minimize the risk to individuals as well as to society at large, the Governor of California has ordered  
11 all persons to stay at home unless departing for or returning from “essential” trips that do not  
12 include sex offender registration.

13 42. The California Sex Offender Registration Act does not require 30-day, 90-day, or annual  
14 registration updates to be completed in person. Yet, Respondents have forced, and continue to  
15 force, Registrants to appear in person, even during the COVID-19 pandemic, and despite the  
16 Governor’s Order that such persons remain at home. Forcing Registrants to appear at SDSA  
17 stations, which poses risk of exposure to COVID-19, for the purpose of period updates exposes  
18 Petitioners, other Registrants, and thus the public at large, to increased risk of infection.

19 43. The state violates the rights of individuals when it subjects them to risk of physical harm and  
20 disease during required interactions with law enforcement. (*See Helling v. McKinney* (1994) 509  
21 U.S. 25, 33.)

22 44. The information required for 30-day, 90-day, and annual updates can be effectively obtained  
23 by Respondents without requiring Registrants to appear in person. In the alternative, Respondents  
24 have the discretion to permit and process periodic updates without requiring Registrants to appear in  
25 person, but Respondents unlawfully refuse to exercise that discretion.

26 45. By requiring Registrants to appear in person for periodic updates pursuant to Penal Code  
27 sections 290.011 and 290.012, Respondents have effectively added a requirement that is not  
28 contained in those statutes or any other applicable statute, in violation of the law, thereby abusing its

1 discretion.

2 46. Respondents have abused their discretion by requiring Petitioners and other Registrants in  
3 vulnerable populations, as defined by state and national health care agencies, to violate the  
4 Governor's Order and to appear in person for periodic updates, thereby subjecting themselves and  
5 the public at large to increased risk of infection by COVID-19.

6 47. Petitioners are beneficially interested in the outcome of this mandamus action because  
7 Petitioners are adversely impacted by Respondents' failure to perform their duty in compliance with  
8 the law, as well as by Respondents' abuse of discretion, and because Petitioners' rights are infringed  
9 by Respondents' failure to perform their duty in compliance with the law, as well as by  
10 Respondents' abuse of discretion.

11 48. The injuries that Petitioners are suffering and will suffer as a result of the actions of  
12 Respondents, as well as their deputies, officials, officers, agents, and employees, are severe,  
13 irreparable, and ongoing, and there is no plain, adequate, complete, or speedy alternative remedies  
14 available to redress the violations of law committed by Respondents in this action, nor are there any  
15 available and non-futile administrative remedies available to redress the violations of law committed  
16 by Respondents. Damages are not adequate to protect Petitioners from the continuing effects of  
17 Respondents' violations of the law, from Respondents' abuse of their discretion under the law, and  
18 from Respondents' failure to carry out their duty as required by law. Therefore, immediate  
19 mandamus relief is necessary to halt and prevent further occurrence of these ongoing unlawful acts  
20 and the infliction of irreparable harm to Petitioners and all Registrants.

21 **SECOND CLAIM FOR RELIEF**

22 **(Declaratory Judgment – Cal. Civ. Proc. Code § 1060)**

23 49. Petitioners reallege and incorporate herein, as though fully set forth, each and every, all and  
24 inclusively, paragraphs 1 through 48.

25 50. There is an actual controversy as set forth in this Petition.

26 51. Petitioners are informed and believe and thereon allege that Respondents, as well as their  
27 deputies, officials, officers, agents, and employees, have failed to comply with the law, and are  
28 abusing their discretion under the law, by requiring Registrants in vulnerable populations as defined

1 by national and state health care authorities to appear in person for their periodic registration  
2 updates amidst the COVID-19 pandemic, as pled herein.

3 52. Petitioners therefore seek a declaration of their rights under California law, as well as a  
4 declaration of Respondents' duties under the Sex Offender Registration Act, California Penal Code  
5 section 290, *et seq.*, and of the scope of Respondents' discretion under that Act.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Petitioners pray for judgment against Respondents Cal. DOJ, Becerra, and  
8 SDDS as follows:

- 9 A. That the Court issue a peremptory writ of mandate directing Respondent SDDS to cease  
10 requiring persons required to register as a sex offender from appearing in person for 30-  
11 day, 90-day, and annual updates ("periodic updates") pursuant to California Penal Code  
12 sections 290.011 and 290.012 until the threat of COVID-19 has ended;
- 13 B. That the Court issue a peremptory writ of mandate directing Respondents Cal. DOJ and  
14 Becerra to cease requiring persons required to register as a sex offender from appearing  
15 in person for 30-day, 90-day, and annual updates ("periodic updates") pursuant to  
16 California Penal Code sections 290.011 and 290.012 until the threat of COVID-19 has  
17 ended;
- 18 C. For a judgment declaring that California Penal Code sections 290.011 and 290.012 and  
19 other applicable law do not require persons required to register as a sex offender to  
20 appear in person to complete periodic updates;
- 21 D. For a judgment declaring that Respondents have abused their discretion under California  
22 Penal Code sections 290.011 and 290.012 and other applicable law by requiring persons  
23 required to register as a sex offender to appear in person to complete periodic updates;
- 24 E. For an injunction restraining Respondents from requiring persons required to register as  
25 a sex offender from appearing in person for periodic updates pursuant to California Penal  
26 Code sections 290.011 and 290.012 until the threat of COVID-19 has ended;

27 ///

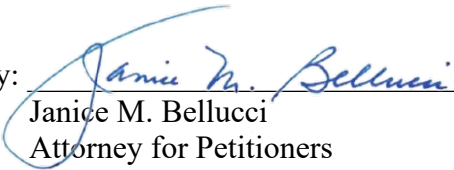
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- F. That Petitioners recover from Respondents all of the Petitioners' reasonable attorneys' fees, costs, and expenses of this litigation; and
- G. For such other and further relief as the Court deems just and proper.

Dated: March 27, 2020

LAW OFFICE OF JANICE M. BELLUCCI

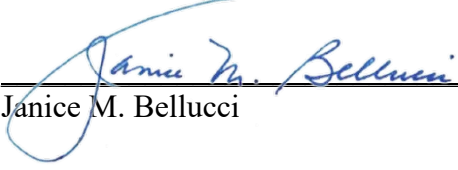
By:   
Janice M. Bellucci  
Attorney for Petitioners

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**VERIFICATION**

I, Janice M. Bellucci, have read this PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF in the matter of *Alliance for Constitutional Sex Offense Laws, Inc., et al. v. California Department of Justice, et al.* I am the Executive Director of Petitioner Alliance for Constitutional Sex Offense Laws, Inc. and make this declaration on behalf of that entity. In addition, I am counsel of record for Petitioners John Doe #1 and John Doe #2 in this action. Pursuant to Code of Civil Procedure section 446, I make this verification on behalf of Petitioners John Doe #1 and John Doe #2 because they reside in San Diego County, while my office is in the City of Sacramento. Unless otherwise noted, the facts alleged therein are within my personal knowledge and I know these facts to be true. As to the remainder of the Petition, I am informed, and do believe, that the matters therein are true, and on that ground allege that the matters stated therein are true.

Executed March 27, 2020, in Sacramento, California. I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

By:  \_\_\_\_\_  
Janice M. Bellucci

# **EXHIBIT A**

**MODIFIED SEX REGISTRATION**

**CALL 818-374-9675**

**WE WILL REGISTER YOU OVER THE PHONE.**

**YOU WILL NOT BE ALLOWED IN THE STATION.**

**INSCRIPCIÓN DE DELINCUENTE SEXUAL**

**290PC**

**DEVIDO AL CORONA VIRAL, INSCRIPCION PARA  
DELIQUENTES SEXUAL SERA POR TELEFONO  
NADA MAS! NADIE SERA PERMETIDO EN LA  
ESTACION DE POLICIA. PUEDEN LLAMAR AL  
NUMERO:**

**(818) 374-9675**