



JUDICIAL COUNCIL OF CALIFORNIA
GOVERNMENTAL AFFAIRS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 28, 2017

Hon. Scott Wiener
Member of Senate
State Capitol, Room 4066
Sacramento, California 95814

Subject: Senate Bill 421 (Wiener), as amended July 13, 2017 – Support, if funded

Dear Senator Wiener:

The Judicial Council supports SB 421, if funded, which establishes three tiers of registration for sex offenders based on specified criteria for two mandated minimum periods of registration of at least 10 years, and at least 20 years, and maintains lifetime registration, as specified. Among other things, SB 421 establishes new court procedures by: (1) permitting a tier one or tier two offender to file a petition at the expiration of his or her minimum registration period and providing that the district attorney may request a hearing on the petition on the basis that the petitioner has not fulfilled the requirements of successful tier completion; and (2) by permitting a tier three offender who meets specified criteria to petition the court for placement into tier two.

The Judicial Council supports SB 421, if funded, because it enhances judicial discretion by requiring a person to register as a tier one offender unless the court finds the person should register as a tier two or tier three offender and states on the record the reasons for its finding. Similarly, if a petition to terminate registration of a tier one or two tier offender is filed with the court, the prosecution may request a hearing at which the prosecution may “present evidence regarding whether community safety would be significantly enhanced by requiring continued

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registration” and SB 421 grants courts discretion to consider specified factors in determining whether to order continued registration. Finally, with regard to petitions for termination of tier two registration and a petition for reclassification from tier three to tier two registration, the court must make additional findings relating to public safety.

With regard to funding, there is no question that passage of SB 421 would have some impact on court operations. According to data supplied to Judicial Council by California Department of Justice (DOJ), there were 106,872 people on California’s Sex Offender Registry as of July, 2017. The council estimates that an average of 4,000 individuals would, based on annual registration numbers, become eligible to petition the courts each year to terminate registration, starting on the January 1, 2021 operative date of the bill. This represents the number of new registrations each year, and takes into account that a small percentage (estimated at 8 percent) will be lifetime registrants, and includes some number of registrants from prior years whose petitions were denied. SB 421 allows an individual whose petition has been denied to re-petition the court within one to five years at the discretion of the judicial officer who issues an order denying termination of registration.

The Judicial Council cannot predict how many of the eligible 3,000 to 5,000 registrants each year will petition the courts for release from registration. Nor can we anticipate how many petitions will result in an evidentiary hearing requested by the district attorney. By way of example, if 25 percent of the eligible registrants file petitions in the first year that they are permitted to be filed, approximately 1,000 petitions would be filed statewide. Of those, some portion will be summarily granted in the absence of opposition from the prosecution, while others will require hearings. Based on the average cost to California’s trial courts of \$876 per hour including the wages of the judicial officer, court clerks and support staff, office equipment, and operations, below are presented some estimates that illustrate the potential court costs associated with the implementation of SB 421.

Number of petitions filed	No hearing (5 minutes of court time at \$73)	One-hour hearing at a cost of \$876
400 (10%)	\$29,200	\$350,400
1,000 (25%)	\$73,000	\$876,000
1,600 (40%)	\$116,800	\$1,401,600

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For these reasons, the Judicial Council supports SB 421, if funded.

Sincerely,

Mailed on August 28, 2017

Sharon Reilly
Attorney

SR/yc-s

cc: Mr. Dan Felizzatto, Deputy District Attorney, Los Angeles County District Attorney's Office
Ms. Nancy O'Malley, Chair, California Sex Offender Management Board
Ms. Sandra Henriquez, M.B.A., Executive Director, California Coalition Against Sexual Assault, and Equality California
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California



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August 28, 2017

Hon. Lorena Gonzalez Fletcher, Chair
Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, California 95814

Subject: Senate Bill 421 (Wiener), as amended August 21, 2017 – Fiscal Impact Statement

Dear Assembly Member Gonzalez Fletcher:

SB 421 would transition California from lifetime mandatory registration for individuals convicted of specified sex offenses, to a tiered sex offender registry as required by the federal Sex Offender Registration and Notification Act (SORNA), 42 U.S.C. §16911 et seq., also referred to as the Adam Walsh Child Protection and Safety Act.

The Judicial Council of California has adopted a position on SB 421 of “support, if funded.”

According to data supplied to Judicial Council by California Department of Justice (DOJ), there were 106,872 people on California’s Sex Offender Registry as of July, 2017. Each year there are somewhere between 3,000 and 5,000 individuals who are required to register in California, which will bring the total number of registrants to approximately 120,000 when the bill becomes

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operational on January 1, 2021. According to DOJ data, below is a breakdown of how many registrants will be eligible to petition the courts, and the timeframe these petitions represent:

- Should SB 421 be signed into law and take effect on January 1, 2021, an estimated 10 percent, or 12,000, of the individuals registered would be eligible for removal from the registry per the terms of the bill without any objection from the district attorney in the jurisdiction where the defendant is registered. These are individuals who have only one registerable sex offense from prior to 1991 who have not reoffended since their sentence and registration, and who have been registered for at least 10 years. The trial court workload to process the petitions of these individuals would involve modest clerk time and the time of the judicial officer to sign the order, but is not considered significant, and would largely be driven by DOJ.
- An estimated 9,600, or 8 percent of all registrants would likely be lifetime registrants who would not likely have their registration changed from Tier 3 to Tier 2, thus largely eliminating them from the workload at the courts. While some of the individuals are likely to file a petition with the courts, we do not anticipate a significant increase in court workload from this cohort of registrants.
- An estimated 26,400, or 22 percent, of the individuals required to register would, upon enactment of SB 421, qualify to be converted from lifetime registrants to Tier 1 registrants. When, over the course of the subsequent 13 years, they meet the eligibility criteria in the bill, they would then be eligible to petition the courts to terminate their registration. These petitions will, on a flow basis, be submitted to the courts after 2021.
- An estimated 72,000, or 60 percent of the individuals required to register, would, upon enactment of SB 421, qualify to be converted from lifetime registrants to Tier 2 registrants. When, over the course of the subsequent 13 years, they meet the eligibility criteria in the bill, they would then be eligible to petition the courts to terminate their registration. These petitions will, on a flow basis, be submitted to the courts after 2021.
- Taking into consideration the estimated 98,400 individuals (combined tier 1 and tier 2 registrants) who will become eligible to petition the courts for termination from registration over the next 23 years:
 - Data show that at least 5 percent of registrants are transient, and this number, from 2008, is likely higher now. According to “Homeless among Registered Sex Offenders in California: The Numbers, the Risks and the Response,” a report of the California Sex Offender Management Board (December 2008), the rise in the

number of paroled sex offenders registering as transient increased 800 percent after the enactment of tighter living and reporting restrictions with Proposition 83 (November 6, 2006). Due to the coordination and costs associated with the proposed tiered sex offender registration process in SB 421, this population of registrants is unlikely to file petitions to change their registration requirements.

- Implementation of SB 421 has been delayed three years, to January 1, 2021, to allow the Department of Justice to prepare its software and hardware, and notification procedures. This time period also allows district attorneys and public defenders to develop coordinated strategies to work with each other and the courts. Likewise, should the courts be funded for the workload anticipated by the enactment of SB 421, there will be time for protocols to be put into place to support the transition from a lifetime registration paradigm to a tiered registration system.
- An average of 4,000 individuals would, based on annual registration numbers, become eligible to petition the courts each year to terminate registration. This represents the number of new registrations each year, and takes into account that a small percentage (estimated at 8 percent) will be lifetime registrants, and includes some number of registrants from prior years whose petitions were denied. SB 421 allows an individual whose petition has been denied to re-petition the court within one to five years at the discretion of the judicial officer who issues an order denying termination of registration.
- Not all individuals eligible to petition the courts to be removed from registration will take advantage of the opportunity.

The Judicial Council cannot predict how many of the eligible 3,000 to 5,000 registrants each year will petition the courts for release from registration. Nor can we anticipate how many petitions will result in an evidentiary hearing requested by the district attorney. By way of example, if 25 percent of the eligible registrants file petitions in the first year that they are permitted to be filed, approximately 1,000 petitions would be filed statewide. Of those, some portion will be summarily granted in the absence of opposition from the prosecution, while others will require hearings. Based on the average cost to California's trial courts of \$876 per hour including the wages of the judicial officer, court clerks and support staff, office equipment, and operations, below are presented some estimates that illustrate the potential court costs associated with the implementation of SB 421.

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There is no question that passage of SB 421 would have some impact on court operations. What is also certain is that whatever number of petitions are filed each year once SB 421 becomes operational, not all petitions will require a hearing, and, as such the termination of registration will be granted at more modest costs.

The information provided here is intended for the purposes of fiscal analysis and impact only, and does not reflect a position in favor of or against SB 421. Please contact Andi Liebenbaum at 916-323-3121 if you have questions about the information contained in this letter.

Sincerely,

Mailed on August 28, 2017

Cory T. Jasperson,
Director, Governmental Affairs

CTJ/AL/yc-s

cc: Members, Assembly Appropriations Committee
Hon. Scott Wiener, Member of the Senate
Mr. Dan Felizzato, Deputy District Attorney, Los Angeles County District Attorney's Office
Ms. Nancy O'Malley, Chair, California Sex Offender Management Board
Ms. Sandra Henriquez, M.B.A., Executive Director, California Coalition Against Sexual Assault, and Equality California
Mr. Pedro Reyes, Chief Consultant, Assembly Appropriations Committee
Mr. Allan Cooper, Fiscal Consultant, Assembly Republican Fiscal Office
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Emma Jungwirth, Budget Analyst, Department of Finance
Mr. Martin Hoshino, Administrative Director, Judicial Council of California