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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

JOHN DOE, *et al.*,

Plaintiffs,

vs.

KAMALA D. HARRIS, *et al.*,

Defendants.

No.: C 12-5713 TEH

STATUS REPORT

1 **1. Introduction**

2 On April 7, 2015, this Court issued an order staying this case to give Interveners an
3 opportunity to pursue a legislative resolution of this matter. That stay expires automatically on
4 September 15, 2015 unless Interveners file a status report by September 14, 2015 indicating that the
5 Legislature has approved legislation potentially resolving this matter, at which point the stay would
6 continue until October 12, 2015 to give the Governor time to act upon the bill.

7 Interveners submit this status report to inform the Court that Senator Ben Hueso
8 introduced legislation – SB 448 – to address the constitutional concerns raised by Proposition 35. On
9 September 1, 2015, the California Senate overwhelmingly approved SB 448 with a 39-0 vote, but the
10 Assembly was unable to vote on SB 448 before the end of the legislative session on September 11,
11 2015. Interveners have good cause to believe that the Legislature will approve SB 448 shortly after the
12 Legislature reconvenes on January 4, 2016, and that the resulting legislation will fully resolve the
13 constitutional claims raised by Plaintiffs in this lawsuit.

14 These developments render any further litigation in this Court at this time unnecessary.
15 Interveners will therefore allow the stay to lapse according to its own terms, and then meet and confer
16 with Plaintiffs to discuss how to proceed. The parties will then jointly report to the Court at the
17 October 26, 2015 case management conference.

18 **2. Facts and Procedural Background**

19 On November 6, 2012, 81% of California voters approved Proposition 35 to combat
20 human trafficking and strengthen laws regarding sexual exploitation, including sex offender
21 registration requirements, to allow law enforcement to track and prevent online sex offenses and
22 human trafficking. Plaintiffs filed this lawsuit the next day challenging the provisions of
23 Proposition 35 that would require registered sex offenders to register their Internet identifiers and
24 Internet Service Providers along with the other information they are already required to register. This
25 Court granted Plaintiffs a temporary restraining order on November 7, 2012.

26 The proponents of Proposition 35, Chris Kelly and Daphne Phung, moved to intervene
27 on November 12, 2012. This Court granted the motion on January 10, 2013.

1 On January 11, 2013, this Court issued a preliminary injunction prohibiting the State
2 from enforcing the challenged portions of the initiative, which the Ninth Circuit Court of Appeals
3 affirmed on November 18, 2014. The Court concluded that Proposition 35 unnecessarily chills sex
4 offenders' First Amendment rights in three ways:

5 (1) The Act does not make sufficiently clear which Internet Service
6 Providers and Internet identifiers sex offenders would be required to
report;

7 (2) The Act provides insufficient safeguards preventing the public
8 release of the information sex offenders do report; and

9 (3) The 24-hour reporting requirement is onerous and overbroad.

10 *Doe v. Harris*, 772 F.3d 563, 578
(9th Cir. 2014).

11 On March 30, 2015, the parties filed a Joint Case Management Statement with this
12 Court in which Intervenor requested that proceedings in this Court be stayed while Intervenor
13 pursued legislation addressing this Court and the Ninth Circuit's concerns. Specifically, Intervenor
14 proposed that this litigation be stayed until September 15, 2015, but if Intervenor file a status report
15 by September 14 indicating that the Legislature has approved legislation addressing the courts'
16 concerns, but the time for the Governor to sign or veto the bill had not yet elapsed, the stay would
17 automatically extend until October 12, 2015. Intervenor further proposed that if the Governor vetoed
18 the bill, the stay would expire and the parties would stipulate to a permanent injunction for the putative
19 class. If the Governor either signed the bill or failed to act by October 12, 2015, the stay would
20 automatically extend until voluntary dismissal of this action, or until the Court hears Defendant and
21 Intervenor's joint motions for summary judgment.

22 Plaintiffs opposed the stay on the grounds that no bill had been introduced in the
23 California Legislature, which made it impossible for Plaintiffs to assess whether legislation would
24 resolve the problems identified by the Ninth Circuit or pass First Amendment scrutiny.

25 On April 7, 2015, this Court issued an order staying this case, noting that plaintiffs had
26 failed to articulate how they would suffer any prejudice from a stay, other than delay.
27
28

1 **3. Senate Bill 448**

2 On June 17, 2015, Senator Ben Hueso introduced amendments to SB 448 to address this
 3 Court and the Ninth Circuit's constitutional concerns regarding Proposition 35. The bill was re-
 4 referred to the Senate Public Safety Committee, which held a hearing and unanimously (7-0) passed an
 5 amended version of the bill on August 17. The bill was then re-referred to the Committee on
 6 Appropriations, which unanimously passed the bill on August 27. On September 1, 2015, the Senate
 7 approved SB 448 without a single dissenting vote (39-0). A true and correct copy of the complete bill
 8 history of SB 448 is attached to this Status Report as Attachment A.

9 As approved by the Senate, SB 448 addresses this Court and the Ninth Circuit's
 10 concerns. The bill would:

11 (1) Eliminate the requirement that sex offenders register Internet
 12 Service Providers, and clarify that sex offenders need only register
 13 those Internet identifiers actually used to participate in online
 14 communications;

15 (2) Limit the public disclosure of sex offenders' Internet identifiers
 16 to instances where the Attorney General had determined, based on
 17 specific, articulable facts, that disclosure is likely to protect
 18 members of the public from sex-related crimes, kidnappings, or
 19 human trafficking;

20 (3) Provide sex offenders with five working days to register new
 21 Internet identifiers, rather than 24 hours; and

22 (4) Apply the registration requirements only to those who are
 23 required to register for a crime where the use of the Internet was
 24 essential to the commission of the crime.

25 A true and correct copy of the current version of SB 448 is attached to this Status
 26 Report as Attachment B.

27 Once SB 448 passed the Senate, it was referred to the Assembly and read for the first
 28 time. The ACLU of Northern California raised both constitutional and policy concerns about SB 448,
 so Interveners and Senator Hueso continued to confer with the ACLU. These discussions, and
 discussions with other interested parties and members of the Legislature, led Senator Hueso to draft a
 series of amendments for consideration by the Assembly Committee on Public Safety. Under these
 amendments:

(1) Sex offenders would only have to register “any electronic mail address or user name used for instant messaging or social networking that is actually used for direct communication between users on the Internet in a manner that makes the communication not accessible to the general public”;

(2) Reported Internet identifiers could not be released to members of the public except by court order, and law enforcement could only use reported identifiers to investigate a sex-related crime, a kidnapping, or human trafficking;

(3) Sex offenders would have 30 days to register new Internet identifiers, rather than 24 hours; and

(4) The requirements would only apply prospectively to sex offenders who commit a felony requiring registration after January 1, 2016, if a court determines based on specified criteria that the felony requiring registration was facilitated by the use of the Internet.

A true and correct copy of Senator Hueso’s proposed amendments to SB 448 are attached to this Status Report as Attachment C.

On September 11, 2015, the ACLU sent Senator Hueso a letter indicating that they no longer had constitutional objections to SB 448, although they would continue to oppose the bill on policy grounds. The ACLU also voiced its strong opinion that the Legislature should delay its consideration of SB 448 until the next legislative session to give interested parties more time to provide input on the measure.

Unfortunately, although SB 448 garnered substantial bipartisan support in the closing days of the legislative session, the Assembly simply ran out of time and was unable to vote on SB 448 before the session closed on September 11, 2015.

4. Further Proceedings In This Court

The parties have not yet had the opportunity to meet and confer over these developments. It is Interveners’ position, however, that these developments render any further litigation in this Court at this time unnecessary. As before, Interveners remain willing to stipulate to the entry of a permanent injunction if its legislative efforts are ultimately unsuccessful. However, given that its legislative efforts have been successful to date, and given that the ACLU now has the additional time that it requested to continue conferring over the provisions of SB 448, Interveners

1 propose that the parties refrain from further litigation in order to give the legislative process sufficient
2 time to work.

3 Interveners will therefore allow the current stay to elapse according to its terms.
4 Interveners propose that the parties confer over how they will proceed and report to the Court at the
5 October 26, 2015 case management conference.

6 Dated: September 14, 2015

Respectfully Submitted,

7 James C. Harrison
8 Karen Getman
9 Margaret R. Prinzing
REMCHO, JOHANSEN & PURCELL, LLP

10 By: /S/ Margaret R. Prinzing

11 Attorneys for Interveners
12 Daphne Phung and Chris Kelly

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Attachment A

COMPLETE BILL HISTORY

BILL NUMBER : S.B. No. 448
AUTHOR : Hueso
TOPIC : Sex offenders: Internet identifiers.

TYPE OF BILL :

Active
Urgency
Non-Appropriations
2/3 Vote Required
Non-State-Mandated Local Program
Non-Fiscal
Non-Tax Levy

BILL HISTORY

2015

Sept. 10 Referred to Com. on PUB. S. Joint Rule 61(a) suspended. Art. IV.
Sec. 8(b) of the Constitution dispensed with.
Sept. 1 In Assembly. Read first time. Held at Desk.
Sept. 1 Read third time. Urgency clause adopted. Passed. (Ayes 39. Noes 0.)
Ordered to the Assembly.
Aug. 31 Read second time. Ordered to third reading.
Aug. 27 From committee: Do pass. (Ayes 7. Noes 0.) (August 27).
Aug. 24 August 24 hearing: Placed on APPR. suspense file.
Aug. 19 Set for hearing August 24.
Aug. 18 Read second time and amended. Re-referred to Com. on APPR.
Aug. 17 From committee: Do pass as amended and re-refer to Com. on APPR.
(Ayes 7. Noes 0. Page 1960.) (July 14).
July 1 Set for hearing July 14.
June 17 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on PUB. S.
Apr. 21 April 21 set for second hearing canceled at the request of author.
Apr. 16 Set for hearing April 21.
Apr. 15 From committee with author's amendments. Read second time and
amended. Re-referred to Com. on PUB. S.
Apr. 14 April 14 set for first hearing canceled at the request of author.
Mar. 20 Set for hearing April 14.
Mar. 5 Referred to Coms. on PUB. S. and APPR.
Feb. 26 From printer. May be acted upon on or after March 28.
Feb. 25 Introduced. Read first time. To Com. on RLS. for assignment. To
print.

Attachment B

AMENDED IN SENATE AUGUST 18, 2015

AMENDED IN SENATE JUNE 17, 2015

AMENDED IN SENATE APRIL 15, 2015

SENATE BILL

No. 448

**Introduced by Senator Hueso
(Principal coauthor: Senator Galgiani)**

February 25, 2015

An act to amend Sections 290.012, 290.014, and 290.024 of, and to amend and repeal Section 290.015 of, the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 448, as amended, Hueso. Sex offenders: Internet identifiers.

Existing law, the Californians Against Sexual Exploitation Act, an initiative measure enacted by the approval of Proposition 35 at the November 6, 2012, statewide general election (CASE Act), requires a person who is subject to the Sex Offender Registration Act to list any and all Internet identifiers established or used by the person and any and all Internet service providers used by the person on his or her sex offender registration. The CASE Act requires a person subject to sex offender registration to send written notice of any addition of, or change to, an Internet identifier or Internet service provider to the law enforcement agency with which he or she is currently registered within 24 hours. Existing case law currently enjoins the application of the above provisions of the CASE Act through the imposition of a preliminary injunction on the grounds that these provisions violate the First Amendment to the United States Constitution. The CASE Act allows its provisions to be amended by a statute in furtherance of its

SB 448

— 2 —

objectives passed in each house of the Legislature by a majority vote of the membership.

This bill would state the intent of the Legislature to amend the CASE Act to further its ~~purposes~~ *objectives*. The bill would delete the requirement that a person subject to sex offender registration list on his or her sex offender registration all Internet service providers used by him or her. The bill would require a person subject to sex offender registration *for a crime where the use of the Internet was essential to the commission of the crime* to list only those Internet identifiers actually used to participate in online communications, as specified. The bill would require the registrant to send written notice of any addition of, or change to, an Internet identifier to ~~the~~ *any* law enforcement agency with which he or she is currently registered within 5 working days. The bill would authorize a law enforcement agency to which this information has been submitted to make the information available to another law enforcement agency for the sole purpose of preventing or investigating a sex-related crime, a kidnapping, or human trafficking, and would prohibit a law enforcement agency from disclosing this information to the public. The bill would authorize the Attorney General to disclose the information to another person if the Attorney General determines, based on specific, articulable facts, that the disclosure is likely to protect members of the public from sex-related crimes, kidnappings, or human trafficking, and the person to whom the disclosure is made signs an oath, as specified.

The bill would make other technical, nonsubstantive changes.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. It is the intent of the Legislature to further the
2 objectives of the Californians Against Sexual Exploitation Act, an

1 initiative measure enacted by the approval of Proposition 35 at the
2 November 6, 2012, statewide general election, by amending its
3 provisions to conform with the requirements of the court in the
4 case of Doe v. Harris (Case numbers 13-15263 and 13-15267).

5 SEC. 2. Section 290.012 of the Penal Code is amended to read:

6 290.012. (a) Beginning on his or her first birthday following
7 registration or change of address, the person shall be required to
8 register annually, within five working days of his or her birthday,
9 to update his or her registration with the entities described in
10 subdivision (b) of Section 290. At the annual update, the person
11 shall provide current information as required on the Department
12 of Justice annual update form, including the information described
13 in paragraphs (1) to (4), inclusive, of subdivision (a) of Section
14 290.015. The registering agency shall give the registrant a copy
15 of the registration requirements from the Department of Justice
16 form.

17 (b) In addition, every person who has ever been adjudicated a
18 sexually violent predator, as defined in Section 6600 of the Welfare
19 and Institutions Code, shall, after his or her release from custody,
20 verify his or her address no less than once every 90 days and place
21 of employment, including the name and address of the employer,
22 in a manner established by the Department of Justice. Every person
23 who, as a sexually violent predator, is required to verify his or her
24 registration every 90 days, shall be notified wherever he or she
25 next registers of his or her increased registration obligations. This
26 notice shall be provided in writing by the registering agency or
27 agencies. Failure to receive this notice shall be a defense to the
28 penalties prescribed in subdivision (f) of Section 290.018.

29 (c) In addition, every person subject to the Act, while living as
30 a transient in California, shall update his or her registration at least
31 every 30 days, in accordance with Section 290.011.

32 (d) No entity shall require a person to pay a fee to register or
33 update his or her registration pursuant to this section. The
34 registering agency shall submit registrations, including annual
35 updates or changes of address, directly into the Department of
36 Justice California Sex and Arson Registry (CSAR).

37 SEC. 3. Section 290.014 of the Penal Code is amended to read:

38 290.014. (a) If any person who is required to register pursuant
39 to the Act changes his or her name, the person shall inform, in
40 person, the law enforcement agency or agencies with which he or

1 she is currently registered within five working days. The law
2 enforcement agency or agencies shall forward a copy of this
3 information to the Department of Justice within three working
4 days of its receipt.

5 (b) (1) If any person who is required to register pursuant to the
6 *Act for a crime where the use of the Internet was essential to the*
7 *commission of the crime* adds or changes an Internet identifier, as
8 described in Section 290.024, the person shall send written notice
9 of the addition or change to the law enforcement agency or agencies
10 with which he or she is currently registered within five working
11 days. Each person to whom this paragraph applies at the time this
12 paragraph becomes effective shall immediately provide the
13 information required by this paragraph within five working days.

14 (2) (A) A law enforcement agency to which an Internet
15 identifier is submitted pursuant to this subdivision, Section
16 290.012, or Section 290.015 shall make the Internet identifier
17 available to the Department of Justice.

18 (B) ~~A~~—*Except as provided in subparagraph (A),* a law
19 enforcement agency to which an Internet identifier is submitted
20 pursuant to this subdivision, Section 290.012, or Section 290.015
21 may only release that Internet identifier to another law enforcement
22 agency for the sole purpose of preventing or investigating a
23 sex-related crime, a kidnapping, or human trafficking.

24 (C) Notwithstanding Sections 290.45 and 290.46, a law
25 enforcement agency shall not disclose an Internet identifier
26 submitted pursuant to this subdivision, Section 290.012, or Section
27 290.015 to the public, except that the Attorney General may
28 disclose an Internet identifier to another person if the Attorney
29 General has determined, based on specific, articulable facts, that
30 the disclosure is likely to protect members of the public from
31 sex-related crimes, kidnappings, or human trafficking, and the
32 person to whom the disclosure is made signs an oath promising to
33 use the information only for the identified purpose, to maintain
34 the confidentiality of the information, and to refrain from disclosing
35 the information to anyone who has not been granted access to the
36 information by the Attorney General.

37 SEC. 4. Section 290.015 of the Penal Code, as amended
38 November 6, 2012, by initiative Proposition 35, Section 12, is
39 amended to read:

1 290.015. (a) A person who is subject to the Act shall register,
2 or reregister if he or she has previously registered, upon release
3 from incarceration, placement, commitment, or release on probation
4 pursuant to subdivision (b) of Section 290. This section shall not
5 apply to a person who is incarcerated for less than 30 days if he
6 or she has registered as required by the Act, he or she returns after
7 incarceration to the last registered address, and the annual update
8 of registration that is required to occur within five working days
9 of his or her birthday, pursuant to subdivision (a) of Section
10 290.012, did not fall within that incarceration period. The
11 registration shall consist of all of the following:

12 (1) A statement in writing signed by the person, giving
13 information as shall be required by the Department of Justice and
14 giving the name and address of the person's employer, and the
15 address of the person's place of employment if that is different
16 from the employer's main address.

17 (2) The fingerprints and a current photograph of the person
18 taken by the registering official.

19 (3) The license plate number of any vehicle owned by, regularly
20 driven by, or registered in the name of the person.

21 (4) ~~A~~ If the person is required to register for a crime where the
22 use of the Internet was essential to the commission of the crime,
23 a list of any and all Internet identifiers used by the person for
24 communicative purposes, as defined in Section 290.024.

25 (5) A statement in writing, signed by the person, acknowledging
26 that the person is required to register and update the information
27 in paragraph (4), as required by this chapter.

28 (6) Notice to the person that, in addition to the requirements of
29 the Act, he or she may have a duty to register in any other state
30 where he or she may relocate.

31 (7) Copies of adequate proof of residence, which shall be limited
32 to a California driver's license, California identification card, recent
33 rent or utility receipt, printed personalized checks or other recent
34 banking documents showing that person's name and address, or
35 any other information that the registering official believes is
36 reliable. If the person has no residence and no reasonable
37 expectation of obtaining a residence in the foreseeable future, the
38 person shall so advise the registering official and shall sign a
39 statement provided by the registering official stating that fact.
40 Upon presentation of proof of residence to the registering official

1 or a signed statement that the person has no residence, the person
2 shall be allowed to register. If the person claims that he or she has
3 a residence but does not have any proof of residence, he or she
4 shall be allowed to register but shall furnish proof of residence
5 within 30 days of the date he or she is allowed to register.

6 (b) Within three days thereafter, the registering law enforcement
7 agency or agencies shall forward the statement, fingerprints,
8 photograph, and vehicle license plate number, if any, to the
9 Department of Justice.

10 (c) (1) If a person fails to register in accordance with
11 subdivision (a) after release, the district attorney in the jurisdiction
12 where the person was to be paroled or to be on probation may
13 request that a warrant be issued for the person's arrest and shall
14 have the authority to prosecute that person pursuant to Section
15 290.018.

16 (2) If the person was not on parole or probation or on postrelease
17 community supervision or mandatory supervision at the time of
18 release, the district attorney in the following applicable jurisdiction
19 shall have the authority to prosecute that person pursuant to Section
20 290.018:

21 (A) If the person was previously registered, in the jurisdiction
22 in which the person last registered.

23 (B) If there is no prior registration, but the person indicated on
24 the Department of Justice notice of sex offender registration
25 requirement form where he or she expected to reside, in the
26 jurisdiction where he or she expected to reside.

27 (C) If neither subparagraph (A) nor (B) applies, in the
28 jurisdiction where the offense subjecting the person to registration
29 pursuant to this Act was committed.

30 SEC. 5. Section 290.015 of the Penal Code, as amended by
31 Section 17 of Chapter 867 of the Statutes of 2012, is repealed.

32 SEC. 6. Section 290.024 of the Penal Code is amended to read:
33 290.024. For purposes of this chapter,

34 "Internet identifier" means an electronic mail address, user name,
35 screen name, or similar identifier actually used to participate in
36 online communications, including, but not limited to, Internet
37 forum discussions, Internet chat room discussions, emailing, instant
38 messaging, social networking, or similar methods of
39 communicating online. For the purpose of this chapter, an "Internet
40 identifier" does not include Internet passwords, or any electronic

1 mail address, user name, screen name, or similar identifier used
2 solely to read online content, or solely for transactions with a lawful
3 commercial enterprise or government agency concerning a lawful
4 commercial or governmental transaction with that enterprise or
5 agency.

6 SEC. 7. The Legislature finds and declares that Section 3 of
7 this act, which amends Section 290.014 of the Penal Code, imposes
8 a limitation on the public's right of access to the meetings of public
9 bodies or the writings of public officials and agencies within the
10 meaning of Section 3 of Article I of the California Constitution.
11 Pursuant to that constitutional provision, the Legislature makes
12 the following findings to demonstrate the interest protected by this
13 limitation and the need for protecting that interest:

14 In order to protect the rights afforded by the First Amendment
15 to the United States Constitution, it is necessary that Internet
16 identifier information provided to law enforcement agencies by
17 registerable sex offenders as part of their registration not be made
18 generally available to the public.

19 SEC. 8. This act is an urgency statute necessary for the
20 immediate preservation of the public peace, health, or safety within
21 the meaning of Article IV of the Constitution and shall go into
22 immediate effect. The facts constituting the necessity are:

23 In order to protect the rights afforded by the First Amendment
24 to the United States Constitution while furthering the objectives
25 of the Californians Against Sexual Exploitation Act, an initiative
26 measure enacted by the approval of Proposition 35 at the November
27 6, 2012, statewide general election, at the earliest possible time,
28 it is necessary that this act take effect immediately.

Attachment C

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Substantive

AMENDMENTS TO SENATE BILL NO. 448
AS AMENDED IN SENATE AUGUST 18, 2015

Amendment 1

In the heading, below line 2, insert:

(Coauthors: Senators Hall and Runner)
(Coauthor: Assembly Member Mathis)

Amendment 2

In the title, in line 1, strike out "and 290.024" and insert:

290.024, and 290.45

Amendment 3

On page 4, strike out lines 5 to 36, inclusive, and insert:

(b) If any person who is required to register Internet identifiers pursuant to Section 290.024 adds or changes an Internet identifier, as defined in Section 290.024, the person shall send written notice by mail of the addition or change to the law enforcement agency or agencies with which he or she is currently registered within 30 working days of the addition or change. The law enforcement agency or agencies shall make the information available to the Department of Justice.

Amendment 4

On page 5, strike out lines 21 to 24, inclusive, and insert:

(4) A list of all Internet identifiers actually used by the person, as required by Section 290.024.

Amendment 5

On page 6, in line 33, strike out "chapter," and insert:

chapter:



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Substantive

Amendment 6

On page 6, strike out lines 34 to 40, inclusive, on page 7, strike out lines 1 to 5, inclusive, and insert:

(a) A person who is convicted of a felony on or after January 1, 2016, requiring registration pursuant to the Act, shall register his or her Internet identifiers if a court determines at the time of sentencing that any of the following apply:

(1) The person used the Internet to collect any private information to identify a victim of the crime to further the commission of the crime.

(2) The person was convicted of a felony pursuant to subdivision (b) or (c) of Section 236.1 and used an electronic communication device, as defined under subdivision (b) of Section 653.2, to traffic a victim of the crime.

(3) The person was convicted of a felony pursuant to Chapter 7.5 (commencing with Section 311) and used an electronic communication device, as defined under subdivision (b) of Section 653.2, to prepare, publish, distribute, send, exchange, or download the obscene matter or matter depicting a minor engaging in sexual conduct, as defined in subdivision (d) of Section 311.4.

(b) For purposes of this chapter:

(1) "Internet identifier" means any electronic mail address or user name used for instant messaging or social networking that is actually used for direct communication between users on the Internet in a manner that makes the communication not accessible to the general public. "Internet identifier" does not include Internet passwords, date of birth, social security number, or PIN number.

(2) "Private information" means any information that identifies or describes an individual, including, but not limited to, his or her name; electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; social security number; account numbers; passwords; personal identification numbers; physical description; physical location; home address; home telephone number; education; financial matters; medical or employment history; and statements made by, or attributed to, the individual.

SEC. 7. Section 290.45 of the Penal Code is amended to read:

290.45. (a) (1) Notwithstanding any other ~~provision of~~ law, and except as provided in paragraph (2), any designated law enforcement entity may provide information to the public about a person required to register as a sex offender pursuant to Section 290, by whatever means the entity deems appropriate, when necessary to ensure the public safety based upon information available to the entity concerning that specific person.

(2) The law enforcement entity shall include, with the disclosure, a statement that the purpose of the release of information is to allow members of the public to protect themselves and their children from sex offenders.

(3) Community notification by way of an Internet Web site shall be governed by Section 290.46, and a designated law enforcement entity may not post on an Internet Web site any information identifying an individual as a person required to register as a sex offender except as provided in that section unless there is a warrant outstanding for that person's arrest.

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Substantive

(b) Information that may be provided pursuant to subdivision (a) may include, but is not limited to, the offender's name, known aliases, gender, race, physical description, photograph, date of birth, address, which shall be verified prior to publication, description and license plate number of the offender's vehicles or vehicles the offender is known to drive, type of victim targeted by the offender, relevant parole or probation conditions, crimes resulting in classification under this section, and date of release from confinement, but excluding information that would identify the victim. It shall not include any Internet identifier submitted pursuant to this chapter.

(c) (1) The designated law enforcement entity may authorize persons and entities who receive the information pursuant to this section to disclose information to additional persons only if the entity determines that disclosure to the additional persons will enhance the public safety and identifies the appropriate scope of further disclosure. A law enforcement entity may not authorize any disclosure of this information by its ~~placement placing that information on an Internet Web-site- site,~~ and shall not authorize disclosure of Internet identifiers submitted pursuant to this chapter, except as provided in subdivision (h).

(2) A person who receives information from a law enforcement entity pursuant to paragraph (1) may disclose that information only in the manner and to the extent authorized by the law enforcement entity.

(d) (1) A designated law enforcement entity and its employees shall be immune from liability for good faith conduct under this section.

(2) Any public or private educational institution, day care facility, or any child care custodian described in Section 11165.7, or any employee of a public or private educational institution or day care facility which in good faith disseminates information as authorized pursuant to subdivision (c) shall be immune from civil liability.

(e) (1) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment pursuant to subdivision (h) of Section 1170.

(2) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(f) For purposes of this section, "designated law enforcement entity" means the Department of Justice, every district attorney, the Department of Corrections, the Department of the Youth Authority, and every state or local agency expressly authorized by statute to investigate or prosecute law violators.

(g) The public notification provisions of this section are applicable to every person required to register pursuant to Section 290, without regard to when his or her crimes were committed or his or her duty to register pursuant to Section 290 arose, and to every offense described in Section 290, regardless of when it was committed.

(h) (1) Notwithstanding any other law, a designated law enforcement entity shall only use an Internet identifier submitted pursuant to this chapter, or release that Internet identifier to another law enforcement entity, for the purpose of investigating a sex-related crime, a kidnapping, or human trafficking.

(2) A designated law enforcement entity shall not disclose or authorize persons or entities to disclose an Internet identifier submitted pursuant to this chapter to the public or other persons, except as required by court order.

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Substantive

Amendment 7

On page 7, in line 6, strike out "SEC. 7." and insert:
SEC. 8.

Amendment 8

On page 7, in line 6, strike out "Section 3 of"

Amendment 9

On page 7, in line 7, strike out "290.014" and insert:
290.45

Amendment 10

On page 7, in line 19, strike out "SEC. 8." and insert:
SEC. 9.

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