

AMENDED IN ASSEMBLY APRIL 1, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2395

Introduced by Assembly Member Correa

February 19, 2004

~~An act to add Section 76104.6 to the Government Code, to amend Sections 295, 295.1, 296, 297, 298, 299, 299.5, 299.6, 300, and 300.1 of, to add Sections 298.2, 298.3, and 300.4 to, and to repeal and add Section 296.1 to, the Penal Code, relating to forensic identification. An act to amend Section 290 of the Penal Code, relating to sex offenders.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2395, as amended, Correa. ~~Forensic identification—Sex offenders.~~

Existing law requires persons convicted of certain sex offenses in California to register as a sex offender, as specified. Existing law also requires persons convicted of certain sex offenses in other jurisdictions to register as a sex offender, as specified. Violations of certain of the registration requirements are crimes, as specified.

This bill would, subject to exceptions, require persons to register as a sex offender if the person has suffered a conviction in another state for a sex offense that would require the person to register as a sex offender in that state.

By expanding the provisions of law, the violation of which constitutes a crime, this bill would impose a state-mandated local program.

By imposing additional burdens on local government by requiring more persons to register as sex offenders, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law generally regulates the collection and use of forensic identification samples, including DNA samples.~~

~~This bill would make legislative findings regarding the use of DNA and other forensic identification.~~

~~The bill would impose a penalty of \$1 for every \$10 or fraction thereof upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses. The money generated would be divided between the county collecting it and the state's DNA Identification Fund, as would be established by the bill. The bill would specify the purposes for which the moneys could be used by the county, and upon appropriation, by the state. The bill would authorize a loan from the General Fund to the DNA Identification Fund of \$7,000,000 for purposes of implementing the provisions of the bill, as specified. The bill would require an annual report, as specified, from the county board of supervisors to the Legislature and the Department of Justice regarding the amount of fines collected and allocated pursuant to the provisions of the bill.~~

~~By imposing additional reporting duties on county governments, this bill would impose a state-mandated local program.~~

~~The bill would expand and revise existing provisions establishing the DNA and Forensic Identification Database.~~

~~Existing law requires persons convicted or found not guilty by reason of insanity of any of certain specified crimes to provide, among other things, saliva samples for identification purposes.~~

~~The bill would require persons to supply a buccal swab sample, rather than a saliva sample, and would expand the scope of persons subject to that DNA sample collection by requiring collection of forensic samples;~~



~~as specified from any person who is convicted of, pleads guilty or no contest to, or is found not guilty of, by reason of insanity, any felony, from any adult person who is arrested or charged with any of certain specified felonies, and from any person who is required to register as a sex offender, as specified.~~

~~The bill would revise provisions relating to the collection of forensic samples, including DNA in the form of a buccal swab, and require collection, as specified, from adult persons arrested for a felony, from persons confined or in custody after conviction or adjudication, from persons on parole, probation, or other release, from parole violators and other persons returned to custody, persons accepted into the state from other jurisdictions, and from persons in federal institutions.~~

~~The bill would revise provisions for the administration of the collected forensic identification samples.~~

~~This bill would provide that any person required to submit a sample, as specified, who engages or attempts to engage in acts that would wrongfully attribute the origin of the identifying information or who tampers with a specimen or sample with the intent to deceive regarding the origin of the identifying information would be guilty of a felony, as specified.~~

~~By creating a new crime, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.~~



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

1 ~~SECTION 1.— This act shall be known and may be cited as the~~
2 *SECTION 1. Section 290 of the Penal Code is amended to*
3 *read:*

4 290. (a) (1) (A) Every person described in paragraph (2),
5 for the rest of his or her life while residing in, or, if he or she has
6 no residence, while located within California, or while attending
7 school or working in California, as described in subparagraph (G),
8 shall be required to register with the chief of police of the city in
9 which he or she is residing, or if he or she has no residence, is
10 located, or the sheriff of the county if he or she is residing, or if he
11 or she has no residence, is located, in an unincorporated area or city
12 that has no police department, and, additionally, with the chief of
13 police of a campus of the University of California, the California
14 State University, or community college if he or she is residing, or
15 if he or she has no residence, is located upon the campus or in any
16 of its facilities, within five working days of coming into, or
17 changing his or her residence or location within, any city, county,
18 or city and county, or campus in which he or she temporarily
19 resides, or, if he or she has no residence, is located.

20 (B) If the person who is registering has more than one residence
21 address or location at which he or she regularly resides or is
22 located, he or she shall register in accordance with subparagraph
23 (A) in each of the jurisdictions in which he or she regularly resides
24 or is located. If all of the addresses or locations are within the same
25 jurisdiction, the person shall provide the registering authority with
26 all of the addresses or locations where he or she regularly resides
27 or is located.

28 (C) If the person who is registering has no residence address,
29 he or she shall update his or her registration no less than once every
30 60 days in addition to the requirement in subparagraph (A), on a
31 form as may be required by the Department of Justice, with the
32 entity or entities described in subparagraph (A) in whose
33 jurisdiction he or she is located at the time he or she is updating the
34 registration.

35 (D) Beginning on his or her first birthday following
36 registration or change of address, the person shall be required to
37 register annually, within five working days of his or her birthday,
38 to update his or her registration with the entities described in



1 subparagraph (A). At the annual update, the person shall provide
2 current information as required on the Department of Justice
3 annual update form, including the information described in
4 subparagraphs (A) to (C), inclusive, of paragraph (2) of
5 subdivision (e).

6 (E) In addition, every person who has ever been adjudicated a
7 sexually violent predator, as defined in Section 6600 of the
8 Welfare and Institutions Code, shall, after his or her release from
9 custody, verify his or her address no less than once every 90 days
10 and place of employment, including the name and address of the
11 employer, in a manner established by the Department of Justice.

12 (F) No entity shall require a person to pay a fee to register or
13 update his or her registration pursuant to this section. The
14 registering agency shall submit registrations, including annual
15 updates or changes of address, directly into the Department of
16 Justice Violent Crime Information Network (VCIN).

17 (G) Persons required to register in their state of residence who
18 are out-of-state residents employed, or carrying on a vocation in
19 California on a full-time or part-time basis, with or without
20 compensation, for more than 14 days, or for an aggregate period
21 exceeding 30 days in a calendar year, shall register in accordance
22 with subparagraph (A). Persons described in paragraph (2) who
23 are out-of-state residents enrolled in any educational institution in
24 California, as defined in Section 22129 of the Education Code, on
25 a full-time or part-time basis, shall register in accordance with
26 subparagraph (A). The place where the out-of-state resident is
27 located, for purposes of registration, shall be the place where the
28 person is employed, carrying on a vocation, or attending school.
29 The out-of-state resident subject to this subparagraph shall, in
30 addition to the information required pursuant to subdivision (e),
31 provide the registering authority with the name of his or her place
32 of employment or the name of the school attended in California,
33 and his or her address or location in his or her state of residence.
34 The registration requirement for persons subject to this
35 subparagraph shall become operative on November 25, 2000. The
36 terms “employed or carries on a vocation” include employment
37 whether or not financially compensated, volunteered, or
38 performed for government or educational benefit.

39 (2) The following persons shall be required to register pursuant
40 to paragraph (1):



1 (A) Any person who, since July 1, 1944, has been or is hereafter
2 convicted in any court in this state or in any federal or military
3 court of a violation of Section 207 or 209 committed with intent
4 to violate Section 261, 286, 288, 288a, or 289, Section 220, except
5 assault to commit mayhem, Section 243.4, paragraph (1), (2), (3),
6 (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of
7 subdivision (a) of Section 262 involving the use of force or
8 violence for which the person is sentenced to the state prison,
9 Section 264.1, 266, 266c, subdivision (b) of Section 266h,
10 subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288,
11 288a, 288.5, or 289, Section 311.1, subdivision (b), (c), or (d) of
12 Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6,
13 former Section 647a, subdivision (c) of Section 653f, subdivision
14 1 or 2 of Section 314, any offense involving lewd or lascivious
15 conduct under Section 272, or any felony violation of Section
16 288.2; or any statutory predecessor that includes all elements of
17 one of the above-mentioned offenses; or any person who since that
18 date has been or is hereafter convicted of the attempt to commit any
19 of the above-mentioned offenses.

20 (B) Any person who, since July 1, 1944, has been or hereafter
21 is released, discharged, or paroled from a penal institution where
22 he or she was confined because of the commission or attempted
23 commission of one of the offenses described in subparagraph (A).

24 (C) Any person who, since July 1, 1944, has been or hereafter
25 is determined to be a mentally disordered sex offender under
26 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
27 of Division 6 of the Welfare and Institutions Code or any person
28 who has been found guilty in the guilt phase of a trial for an offense
29 for which registration is required by this section but who has been
30 found not guilty by reason of insanity in the sanity phase of the
31 trial.

32 (D) (i) Any person who, since July 1, 1944, has been, or is
33 hereafter convicted in any other court, including any state, federal,
34 or military court, of any offense that, if committed or attempted in
35 this state, would have been punishable as one or more of the
36 offenses described in subparagraph (A) ~~or any~~.

37 (ii) Any person ordered by any other court, including any state,
38 federal, or military court, to register as a sex offender for any
39 offense, if the court found at the time of conviction or sentencing



1 that the person committed the offense as a result of sexual
2 compulsion or for purposes of sexual gratification.

3 (iii) *Except as provided in clause (iv), any person who would*
4 *be required to register while residing in the state of conviction for*
5 *a sex offense committed in that state.*

6 (iv) *Clause (iii) shall not apply to a person required to register*
7 *in the state of conviction if the conviction was for the equivalent*
8 *of one of the following offenses, and the person is not subject to*
9 *clause (i):*

10 (I) *Indecent exposure, pursuant to Section 314.*

11 (II) *Unlawful sexual intercourse, pursuant to Section 261.5.*

12 (III) *Incest, pursuant to Section 285.*

13 (IV) *Sodomy, pursuant to Section 286, or oral copulation,*
14 *pursuant to Section 288a, provided that the offender notifies the*
15 *Department of Justice that the sodomy or oral copulation*
16 *conviction was for conduct between consenting adults, as*
17 *described in subparagraph (F) of paragraph (2) of subdivision (a),*
18 *and the department is able, upon the exercise of reasonable*
19 *diligence, to verify that fact.*

20 (E) Any person ordered by any court to register pursuant to this
21 section for any offense not included specifically in this section if
22 the court finds at the time of conviction or sentencing that the
23 person committed the offense as a result of sexual compulsion or
24 for purposes of sexual gratification. The court shall state on the
25 record the reasons for its findings and the reasons for requiring
26 registration.

27 (F) (i) Notwithstanding any other subdivision, a person who
28 was convicted before January 1, 1976, under subdivision (a) of
29 Section 286, or Section 288a, shall not be required to register
30 pursuant to this section for that conviction if the conviction was for
31 conduct between consenting adults that was decriminalized by
32 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes
33 of 1976. The Department of Justice shall remove that person from
34 the Sex Offender Registry, and the person is discharged from his
35 or her duty to register pursuant to the following procedure:

36 (I) The person submits to the Department of Justice official
37 documentary evidence, including court records or police reports,
38 that demonstrate that the person's conviction pursuant to either of
39 those sections was for conduct between consenting adults that was
40 decriminalized; or



1 (II) The person submits to the department a declaration stating
2 that the person's conviction pursuant to either of those sections was
3 for consensual conduct between adults that has been
4 decriminalized. The declaration shall be confidential and not a
5 public record, and shall include the person's name, address,
6 telephone number, date of birth, and a summary of the
7 circumstances leading to the conviction, including the date of the
8 conviction and county of the occurrence.

9 (III) The department shall determine whether the person's
10 conviction was for conduct between consensual adults that has
11 been decriminalized. If the conviction was for consensual conduct
12 between adults that has been decriminalized, and the person has no
13 other offenses for which he or she is required to register pursuant
14 to this section, the department shall, within 60 days of receipt of
15 those documents, notify the person that he or she is relieved of the
16 duty to register, and shall notify the local law enforcement agency
17 with which the person is registered that he or she has been relieved
18 of the duty to register. The local law enforcement agency shall
19 remove the person's registration from its files within 30 days of
20 receipt of notification. If the documentary or other evidence
21 submitted is insufficient to establish the person's claim, the
22 department shall, within 60 days of receipt of those documents,
23 notify the person that his or her claim cannot be established, and
24 that the person shall continue to register pursuant to this section.
25 The department shall provide, upon the person's request, any
26 information relied upon by the department in making its
27 determination that the person shall continue to register pursuant to
28 this section. Any person whose claim has been denied by the
29 department pursuant to this clause may petition the court to appeal
30 the department's denial of the person's claim.

31 (ii) On or before July 1, 1998, the department shall make a
32 report to the Legislature concerning the status of persons who may
33 come under the provisions of this subparagraph, including the
34 number of persons who were convicted before January 1, 1976,
35 under subdivision (a) of Section 286 or Section 288a and are
36 required to register under this section, the average age of these
37 persons, the number of these persons who have any subsequent
38 convictions for a registerable sex offense, and the number of these
39 persons who have sought successfully or unsuccessfully to be
40 relieved of their duty to register under this section.



1 (b) (1) Any person who is released, discharged, or paroled
2 from a jail, state or federal prison, school, road camp, or other
3 institution where he or she was confined because of the
4 commission or attempted commission of one of the offenses
5 specified in subdivision (a) or is released from a state hospital to
6 which he or she was committed as a mentally disordered sex
7 offender under Article 1 (commencing with Section 6300) of
8 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
9 Code, shall, prior to discharge, parole, or release, be informed of
10 his or her duty to register under this section by the official in charge
11 of the place of confinement or hospital, and the official shall
12 require the person to read and sign any form that may be required
13 by the Department of Justice, stating that the duty of the person to
14 register under this section has been explained to the person. The
15 official in charge of the place of confinement or hospital shall
16 obtain the address where the person expects to reside upon his or
17 her discharge, parole, or release and shall report the address to the
18 Department of Justice. The official shall at the same time forward
19 a current photograph of the person to the Department of Justice.

20 (2) The official in charge of the place of confinement or
21 hospital shall give one copy of the form to the person and shall send
22 one copy to the Department of Justice and one copy to the
23 appropriate law enforcement agency or agencies having
24 jurisdiction over the place the person expects to reside upon
25 discharge, parole, or release. If the conviction that makes the
26 person subject to this section is a felony conviction, the official in
27 charge shall, not later than 45 days prior to the scheduled release
28 of the person, send one copy to the appropriate law enforcement
29 agency or agencies having local jurisdiction where the person
30 expects to reside upon discharge, parole, or release; one copy to the
31 prosecuting agency that prosecuted the person; and one copy to the
32 Department of Justice. The official in charge of the place of
33 confinement or hospital shall retain one copy.

34 (c) (1) Any person who is convicted in this state of the
35 commission or attempted commission of any of the offenses
36 specified in subdivision (a) and who is released on probation, shall,
37 prior to release or discharge, be informed of the duty to register
38 under this section by the probation department, and a probation
39 officer shall require the person to read and sign any form that may
40 be required by the Department of Justice, stating that the duty of



1 the person to register under this section has been explained to him
2 or her. The probation officer shall obtain the address where the
3 person expects to reside upon release or discharge and shall report
4 within three days the address to the Department of Justice. The
5 probation officer shall give one copy of the form to the person,
6 send one copy to the Department of Justice, and forward one copy
7 to the appropriate law enforcement agency or agencies having
8 local jurisdiction where the person expects to reside upon his or her
9 discharge, parole, or release.

10 (2) Any person who is convicted in this state of the commission
11 or attempted commission of any of the offenses specified in
12 subdivision (a) and who is granted conditional release without
13 supervised probation, or discharged upon payment of a fine, shall,
14 prior to release or discharge, be informed of the duty to register
15 under this section in open court by the court in which the person
16 has been convicted, and the court shall require the person to read
17 and sign any form that may be required by the Department of
18 Justice, stating that the duty of the person to register under this
19 section has been explained to him or her. If the court finds that it
20 is in the interest of the efficiency of the court, the court may assign
21 the bailiff to require the person to read and sign forms under this
22 section. The court shall obtain the address where the person
23 expects to reside upon release or discharge and shall report within
24 three days the address to the Department of Justice. The court shall
25 give one copy of the form to the person, send one copy to the
26 Department of Justice, and forward one copy to the appropriate
27 law enforcement agency or agencies having local jurisdiction
28 where the person expects to reside upon his or her discharge,
29 parole, or release.

30 (d) (1) Any person who, on or after January 1, 1986, is
31 discharged or paroled from the Department of the Youth Authority
32 to the custody of which he or she was committed after having been
33 adjudicated a ward of the juvenile court pursuant to Section 602
34 of the Welfare and Institutions Code because of the commission or
35 attempted commission of any offense described in paragraph (3)
36 shall be subject to registration under the procedures of this section.

37 (2) Any person who is discharged or paroled from a facility in
38 another state that is equivalent to the Department of the Youth
39 Authority, to the custody of which he or she was committed
40 because of an offense which, if committed or attempted in this



1 state, would have been punishable as one or more of the offenses
2 described in paragraph (3), shall be subject to registration under
3 the procedures of this section.

4 (3) Any person described in this subdivision who committed an
5 offense in violation of any of the following provisions shall be
6 required to register pursuant to this section:

7 (A) Assault with intent to commit rape, sodomy, oral
8 copulation, or any violation of Section 264.1, 288, or 289 under
9 Section 220.

10 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
11 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
12 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
13 Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b)
14 of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of
15 Section 289, or Section 647.6.

16 (C) A violation of Section 207 or 209 committed with the intent
17 to violate Section 261, 286, 288, 288a, or 289.

18 (4) Prior to discharge or parole from the Department of the
19 Youth Authority, any person who is subject to registration under
20 this subdivision shall be informed of the duty to register under the
21 procedures set forth in this section. Department of the Youth
22 Authority officials shall transmit the required forms and
23 information to the Department of Justice.

24 (5) All records specifically relating to the registration in the
25 custody of the Department of Justice, law enforcement agencies,
26 and other agencies or public officials shall be destroyed when the
27 person who is required to register has his or her records sealed
28 under the procedures set forth in Section 781 of the Welfare and
29 Institutions Code. This subdivision shall not be construed as
30 requiring the destruction of other criminal offender or juvenile
31 records relating to the case that are maintained by the Department
32 of Justice, law enforcement agencies, the juvenile court, or other
33 agencies and public officials unless ordered by a court under
34 Section 781 of the Welfare and Institutions Code.

35 (e) (1) On or after January 1, 1998, upon incarceration,
36 placement, or commitment, or prior to release on probation, any
37 person who is required to register under this section shall
38 preregister. The preregistering official shall be the admitting
39 officer at the place of incarceration, placement, or commitment, or



1 the probation officer if the person is to be released on probation.

2 The preregistration shall consist of all of the following:

3 (A) A preregistration statement in writing, signed by the
4 person, giving information that shall be required by the
5 Department of Justice.

6 (B) The fingerprints and a current photograph of the person.

7 (C) Any person who is preregistered pursuant to this
8 subdivision is required to be preregistered only once.

9 (2) A person described in paragraph (2) of subdivision (a) shall
10 register, or reregister if the person has previously registered, upon
11 release from incarceration, placement, or commitment, pursuant
12 to paragraph (1) of subdivision (a). The registration shall consist
13 of all of the following:

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

19 (B) The fingerprints and a current photograph of the person
20 taken by the registering official.

21 (C) The license plate number of any vehicle owned by,
22 regularly driven by, or registered in the name of the person.

23 (D) Notice to the person that, in addition to the requirements of
24 paragraph (4), he or she may have a duty to register in any other
25 state where he or she may relocate.

26 (E) Copies of adequate proof of residence, which shall be
27 limited to a California driver's license, California identification
28 card, recent rent or utility receipt, printed personalized checks or
29 other recent banking documents showing that person's name and
30 address, or any other information that the registering official
31 believes is reliable. If the person has no residence and no
32 reasonable expectation of obtaining a residence in the foreseeable
33 future, the person shall so advise the registering official and shall
34 sign a statement provided by the registering official stating that
35 fact. Upon presentation of proof of residence to the registering
36 official or a signed statement that the person has no residence, the
37 person shall be allowed to register. If the person claims that he or
38 she has a residence but does not have any proof of residence, he or
39 she shall be allowed to register but shall furnish proof of residence
40 within 30 days of the day he or she is allowed to register.



1 (3) Within three days thereafter, the preregistering official or
2 the registering law enforcement agency or agencies shall forward
3 the statement, fingerprints, photograph, and vehicle license plate
4 number, if any, to the Department of Justice.

5 (f) (1) If any person who is required to register pursuant to this
6 section changes his or her residence address or location, whether
7 within the jurisdiction in which he or she is currently registered or
8 to a new jurisdiction inside or outside the state, the person shall
9 inform, in writing within five working days, the law enforcement
10 agency or agencies with which he or she last registered of the new
11 address or location. The law enforcement agency or agencies shall,
12 within three working days after receipt of this information,
13 forward a copy of the change of address or location information
14 to the Department of Justice. The Department of Justice shall
15 forward appropriate registration data to the law enforcement
16 agency or agencies having local jurisdiction of the new place of
17 residence or location.

18 (2) If the person's new address is in a Department of the Youth
19 Authority facility or a state prison or state mental institution, an
20 official of the place of incarceration, placement, or commitment
21 shall, within 90 days of receipt of the person, forward the
22 registrant's change of address information to the Department of
23 Justice. The agency need not provide a physical address for the
24 registrant but shall indicate that he or she is serving a period of
25 incarceration or commitment in a facility under the agency's
26 jurisdiction. This paragraph shall apply to persons received in a
27 Department of the Youth Authority facility or a state prison or state
28 mental institution on or after January 1, 1999. The Department of
29 Justice shall forward the change of address information to the
30 agency with which the person last registered.

31 (3) If any person who is required to register pursuant to this
32 section changes his or her name, the person shall inform, in person,
33 the law enforcement agency or agencies with which he or she is
34 currently registered within five working days. The law
35 enforcement agency or agencies shall forward a copy of this
36 information to the Department of Justice within three working
37 days of its receipt.

38 (g) (1) Any person who is required to register under this
39 section based on a misdemeanor conviction or juvenile
40 adjudication who willfully violates any requirement of this section



1 is guilty of a misdemeanor punishable by imprisonment in a
2 county jail not exceeding one year.

3 (2) Except as provided in paragraphs (5) and (7), any person
4 who is required to register under this section based on a felony
5 conviction or juvenile adjudication who willfully violates any
6 requirement of this section or who has a prior conviction or
7 juvenile adjudication for the offense of failing to register under this
8 section and who subsequently and willfully violates any
9 requirement of this section is guilty of a felony and shall be
10 punished by imprisonment in the state prison for 16 months, or two
11 or three years.

12 If probation is granted or if the imposition or execution of
13 sentence is suspended, it shall be a condition of the probation or
14 suspension that the person serve at least 90 days in a county jail.
15 The penalty described in this paragraph shall apply whether or not
16 the person has been released on parole or has been discharged from
17 parole.

18 (3) Any person determined to be a mentally disordered sex
19 offender or who has been found guilty in the guilt phase of trial for
20 an offense for which registration is required under this section, but
21 who has been found not guilty by reason of insanity in the sanity
22 phase of the trial, or who has had a petition sustained in a juvenile
23 adjudication for an offense for which registration is required under
24 this section pursuant to subdivision (d), but who has been found
25 not guilty by reason of insanity, who willfully violates any
26 requirement of this section is guilty of a misdemeanor and shall be
27 punished by imprisonment in a county jail not exceeding one year.
28 For any second or subsequent willful violation of any requirement
29 of this section, the person is guilty of a felony and shall be punished
30 by imprisonment in the state prison for 16 months, or two or three
31 years.

32 (4) If, after discharge from parole, the person is convicted of a
33 felony or suffers a juvenile adjudication as specified in this
34 subdivision, he or she shall be required to complete parole of at
35 least one year, in addition to any other punishment imposed under
36 this subdivision. A person convicted of a felony as specified in this
37 subdivision may be granted probation only in the unusual case
38 where the interests of justice would best be served. When
39 probation is granted under this paragraph, the court shall specify
40 on the record and shall enter into the minutes the circumstances



1 indicating that the interests of justice would best be served by the
2 disposition.

3 (5) Any person who has ever been adjudicated a sexually
4 violent predator, as defined in Section 6600 of the Welfare and
5 Institutions Code, and who fails to verify his or her registration
6 every 90 days as required pursuant to subparagraph (E) of
7 paragraph (1) of subdivision (a), shall be punished by
8 imprisonment in the state prison, or in a county jail not exceeding
9 one year.

10 (6) Except as otherwise provided in paragraph (5), and in
11 addition to any other penalty imposed under this subdivision, any
12 person who is required pursuant to subparagraph (C) of paragraph
13 (1) of subdivision (a) to update his or her registration every 60 days
14 and willfully fails to update his or her registration is guilty of a
15 misdemeanor and shall be punished by imprisonment in a county
16 jail not exceeding six months. Any subsequent violation of this
17 requirement that persons described in subparagraph (C) of
18 paragraph (1) of subdivision (a) shall update their registration
19 every 60 days is also a misdemeanor and shall be punished by
20 imprisonment in a county jail not exceeding six months.

21 (7) Any person who fails to provide proof of residence as
22 required by subparagraph (E) of paragraph (2) of subdivision (e),
23 regardless of the offense upon which the duty to register is based,
24 is guilty of a misdemeanor punishable by imprisonment in a
25 county jail not exceeding six months.

26 (8) Any person who is required to register under this section
27 who willfully violates any requirement of this section is guilty of
28 a continuing offense.

29 (h) Whenever any person is released on parole or probation and
30 is required to register under this section but fails to do so within
31 the time prescribed, the parole authority, the Youthful Offender
32 Parole Board, or the court, as the case may be, shall order the
33 parole or probation of the person revoked. For purposes of this
34 subdivision, "parole authority" has the same meaning as
35 described in Section 3000.

36 (i) Except as provided in Sections 290.4 and 290.45, the
37 statements, photographs, and fingerprints required by this section
38 shall not be open to inspection by the public or by any person other
39 than a regularly employed peace officer or other law enforcement
40 officer.



1 (j) In any case in which a person who would be required to
2 register pursuant to this section for a felony conviction is to be
3 temporarily sent outside the institution where he or she is confined
4 on any assignment within a city or county including firefighting,
5 disaster control, or of whatever nature the assignment may be, the
6 local law enforcement agency having jurisdiction over the place
7 or places where the assignment shall occur shall be notified within
8 a reasonable time prior to removal from the institution. This
9 subdivision shall not apply to any person who is temporarily
10 released under guard from the institution where he or she is
11 confined.

12 (k) As used in this section, “mentally disordered sex offender”
13 includes any person who has been determined to be a sexual
14 psychopath or a mentally disordered sex offender under any
15 provision which, on or before January 1, 1976, was contained in
16 Division 6 (commencing with Section 6000) of the Welfare and
17 Institutions Code.

18 (l) (1) Every person who, prior to January 1, 1997, is required
19 to register under this section, shall be notified whenever he or she
20 next reregisters of the reduction of the registration period from 14
21 to five working days. This notice shall be provided in writing by
22 the registering agency or agencies. Failure to receive this
23 notification shall be a defense against the penalties prescribed by
24 subdivision (g) if the person did register within 14 days.

25 (2) Every person who, as a sexually violent predator, as defined
26 in Section 6600 of the Welfare and Institutions Code, is required
27 to verify his or her registration every 90 days, shall be notified
28 wherever he or she next registers of his or her increased
29 registration obligations. This notice shall be provided in writing by
30 the registering agency or agencies. Failure to receive this notice
31 shall be a defense against the penalties prescribed by paragraph (5)
32 of subdivision (g).

33 (m) The registration provisions of this section are applicable to
34 every person described in this section, without regard to when his
35 or her crimes were committed or his or her duty to register pursuant
36 to this section arose, and to every offense described in this section,
37 regardless of when it was committed.

38 *SEC. 2. No reimbursement is required by this act pursuant to*
39 *Section 6 of Article XIII B of the California Constitution for*
40 *certain costs that may be incurred by a local agency or school*



1 *district because in that regard this act creates a new crime or*
2 *infraction, eliminates a crime or infraction, or changes the penalty*
3 *for a crime or infraction, within the meaning of Section 17556 of*
4 *the Government Code, or changes the definition of a crime within*
5 *the meaning of Section 6 of Article XIII B of the California*
6 *Constitution.*

7 *However, notwithstanding Section 17610 of the Government*
8 *Code, if the Commission on State Mandates determines that this*
9 *act contains other costs mandated by the state, reimbursement to*
10 *local agencies and school districts for those costs shall be made*
11 *pursuant to Part 7 (commencing with Section 17500) of Division*
12 *4 of Title 2 of the Government Code. If the statewide cost of the*
13 *claim for reimbursement does not exceed one million dollars*
14 *(\$1,000,000), reimbursement shall be made from the State*
15 *Mandates Claims Fund.*

16
17
18 **All matter omitted in this version of the**
19 **bill appears in the bill as introduced in the**
20 **Assembly, February 19, 2004 (JR 11)**
21
22

