

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 240

Introduced by Assembly Member Bermudez
(Principal coauthors: Assembly Members Parra and Spitzer)
(Coauthors: Assembly Members Bogh, DeVore, Shirley Horton,
and Sharon Runner)
(Coauthor: Senator Margett)

February 7, 2005

An act to amend ~~Section~~ *Sections 290 and 3003* of the Penal Code, and to add *Section 14133.225* to the *Welfare and Institutions Code*, relating to ~~parole~~ *sex offenders*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 240, as amended, Bermudez. ~~Parole: schools.~~ *Sex offenders.*

Existing law prohibits persons placed on parole for convictions of certain sex offenses with minors from residing within 1/4 mile of any public or private school with one or more grades of kindergarten through 8th grade.

This bill would prohibit a parolee convicted of one of these offenses from residing within the specified distance of any school with one or more grades of kindergarten through 12th grade.

Existing law provides that persons convicted of certain sex offenses must register with local law enforcement for as long as they live in California. Further, subject to specified exceptions, the information required to be provided to law enforcement by this provision is not available to the public.

This bill would make it permissible to disclose certain sex offender information to authorized governmental agencies that authorize or provide publicly funded prescription drugs.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care services, pursuant to a schedule of health care benefits. The Medi-Cal program is in part, governed and funded by federal Medicaid provisions.

This bill would provide that the State Department of Health Services could not provide or pay for any prescription drug or therapy to treat erectile dysfunction for any Medi-Cal recipient required to register pursuant to these provisions, except to the extent it is required under federal law.

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

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 290 of the Penal Code is amended to
- 2 read:
- 3 290. (a) (1) (A) Every person described in paragraph (2),
- 4 for the rest of his or her life while residing in California, or while
- 5 attending school or working in California, as described in
- 6 subparagraph (G), shall be required to register with the chief of
- 7 police of the city in which he or she is residing, or the sheriff of
- 8 the county if he or she is residing is located, in an unincorporated
- 9 area or city that has no police department, and, additionally, with
- 10 the chief of police of a campus of the University of California,
- 11 the California State University, or community college if he or she
- 12 is residing upon the campus or in any of its facilities, within five
- 13 working days of coming into, or changing his or her residence
- 14 within, any city, county, or city and county, or campus in which
- 15 he or she temporarily resides.
- 16 (B) If the person who is registering has more than one
- 17 residence address at which he or she regularly resides, he or she
- 18 shall register in accordance with subparagraph (A) in each of the
- 19 jurisdictions in which he or she regularly resides, regardless of
- 20 the number of nights spent there. If all of the addresses are within

1 the same jurisdiction, the person shall provide the registering
2 authority with all of the addresses where he or she regularly
3 resides .

4 (C) Every person described in paragraph (2), for the rest of
5 his or her life while living as a transient in California shall be
6 required to register, as follows:

7 (i) A transient must register, or reregister if the person has
8 previously registered, within five working days from release
9 from incarceration, placement or commitment, or release on
10 probation, pursuant to paragraph (1) of subdivision (a), except
11 that if the person previously registered at a transient less than 30
12 days from the date of his or her release from incarceration, he or
13 she does not need to reregister as a transient until his or her next
14 required 30-day update of registration. If a transient is not
15 physically present in any one jurisdiction for five consecutive
16 working days, he or she must register in the jurisdiction in which
17 he or she is physically present on the fifth working day following
18 release, pursuant to paragraph (1) of subdivision (a). Beginning
19 on or before the 30th day following initial registration upon
20 release, a transient must reregister no less than once every 30
21 days thereafter. A transient shall register with the chief of police
22 of the city in which he or she is physically present within that
23 30-day period, or the sheriff of the county if he or she is
24 physically present in an unincorporated area or city that has no
25 police department, and additionally, with the chief of police of a
26 campus of the University of California, the California State
27 University, or community college if he or she is physically
28 present upon the campus or in any of its facilities. A transient
29 must reregister no less than once every 30 days regardless of the
30 length of time he or she has been physically present in the
31 particular jurisdiction in which he or she reregisters. If a transient
32 fails to reregister within any 30-day period, he or she may be
33 prosecuted in any jurisdiction in which he or she is physically
34 present.

35 (ii) A transient who moves to a residence shall have five
36 working days within which to register at that address, in
37 accordance with subparagraph (A) of paragraph (1) of
38 subdivision (a). A person registered at a residence address in
39 accordance with subparagraph (A) of paragraph (1) of
40 subdivision (a), who becomes transient shall have five working

1 days within which to reregister as a transient in accordance with
2 clause (i).

3 (iii) Beginning or his or her first birthday following
4 registration, a transient shall register annually, within five
5 working days of his or her birthday, to update his or her
6 registration with the entities described in clause (i). A transient
7 shall register in whichever jurisdiction he or she is physically
8 present on that date. At the 30-day updates and the annual
9 update, a transient shall provide current information as required
10 on the Department of Justice annual update form, including the
11 information described in subparagraphs (A) to (C), inclusive, of
12 paragraph (2) of subdivision (e), and the information specified in
13 clause (iv).

14 (iv) A transient shall, upon registration and reregistration,
15 provide current information as required on the Department of
16 Justice registration forms, and shall also list the places where he
17 or she sleeps, eats, works, frequents, and engages in leisure
18 activities. If a transient changes or adds to the places listed on the
19 form during the 30-day period, he or she does not need to report
20 the new place or places until the next required reregistration.

21 (v) Failure to comply with the requirement of reregistering
22 every 30 days following initial registration pursuant to clause (i)
23 of this subparagraph shall be punished in accordance with
24 paragraph (6) of subdivision (g). Failure to comply with any
25 other requirement of this section shall be punished in accordance
26 with either paragraph (1) or (2) of subdivision (g).

27 (vi) A transient who moves out of state shall inform, in person
28 or in writing, the chief of police in the city in which he or she is
29 physically present, or the sheriff of the county, if he or she
30 physically present in an unincorporated area or city that has no
31 police department, within five working days of his or her move
32 out of state. The transient shall inform that registering agency of
33 his or her planned destination, residence or transient location out
34 of state, and any plans he or she has to return to California, if
35 known. The law enforcement agency shall, within three days
36 after receipt of this information, forward a copy of the change of
37 location information to the Department of Justice. The
38 department shall forward appropriate registration data to the law
39 enforcement agency having local jurisdiction of the new place of
40 residence or location.

1 (vii) For purposes of this section, “transient” means a person
2 who has no residence. “Residence” means a place where a person
3 is living or temporarily staying for more than five days, such as a
4 shelter or structure that can be located by a street address,
5 including, but not limited to, houses, apartment buildings, motels,
6 hotels, homeless shelters, and recreational and other vehicles.

7 (viii) The transient registrant’s duty to update his or her
8 registration no less than every 30 days shall begin with his or her
9 second transient update following the date this subdivision
10 became effective.

11 (D) Beginning on his or her first birthday following
12 registration or change of address, the person shall be required to
13 register annually, within five working days of his or her birthday,
14 to update his or her registration with the entities described in
15 subparagraph (A). At the annual update, the person shall provide
16 current information as required on the Department of Justice
17 annual update form, including the information described in
18 subparagraphs (A) to (C), inclusive, of paragraph (2) of
19 subdivision (e).

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

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

31 (G) Persons required to register in their state of residence who
32 are out-of-state residents employed, or carrying on a vocation in
33 California on a full-time or part-time basis, with or without
34 compensation, for more than 14 days, or for an aggregate period
35 exceeding 30 days in a calendar year, shall register in accordance
36 with subparagraph (A). Persons described in paragraph (2) who
37 are out-of-state residents enrolled in any educational institution
38 in California, as defined in Section 22129 of the Education Code,
39 on a full-time or part-time basis, shall register in accordance with
40 subparagraph (A). The place where the out-of-state resident is

1 located, for purposes of registration, shall be the place where the
2 person is employed, carrying on a vocation, or attending school.
3 The out-of-state resident subject to this subparagraph shall, in
4 addition to the information required pursuant to subdivision (e),
5 provide the registering authority with the name of his or her place
6 of employment or the name of the school attended in California,
7 and his or her address or location in his or her state of residence.
8 The registration requirement for persons subject to this
9 subparagraph shall become operative on November 25, 2000.
10 The terms “employed or carries on a vocation” include
11 employment whether or not financially compensated,
12 volunteered, or performed for government or educational benefit.

13 (2) The following persons shall be required to register
14 pursuant to paragraph (1):

15 (A) Any person who, since July 1, 1944, has been or is
16 hereafter convicted in any court in this state or in any federal or
17 military court of a violation of Section 207 or 209 committed
18 with intent to violate Section 261, 286, 288, 288a, or 289,
19 Section 220, except assault to commit mayhem, Section 243.4,
20 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section
21 261, or paragraph (1) of subdivision (a) of Section 262 involving
22 the use of force or violence for which the person is sentenced to
23 the state prison, Section 264.1, 266, or 266c, subdivision (b) of
24 Section 266h, subdivision (b) of Section 266i, Section 266j, 267,
25 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1,
26 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
27 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of
28 Section 653f, subdivision 1 or 2 of Section 314, any offense
29 involving lewd or lascivious conduct under Section 272, or any
30 felony violation of Section 288.2; or any statutory predecessor
31 that includes all elements of one of the above-mentioned
32 offenses; or any person who since that date has been or is
33 hereafter convicted of the attempt to commit any of the
34 above-mentioned offenses.

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

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

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

14 (ii) Any person ordered by any other court, including any
15 state, federal, or military court, to register as a sex offender for
16 any offense, if the court found at the time of conviction or
17 sentencing that the person committed the offense as a result of
18 sexual compulsion or for purposes of sexual gratification.

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

22 (iv) Clause (iii) shall not apply to a person required to register
23 in the state of conviction if the conviction was for the equivalent
24 of one of the following offenses, and the person is not subject to
25 clause (i):

26 (I) Indecent exposure, pursuant to Section 314.

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

28 (III) Incest, pursuant to Section 285.

29 (IV) Sodomy, pursuant to Section 286, or oral copulation,
30 pursuant to Section 288a, provided that the offender notifies the
31 Department of Justice that the sodomy or oral copulation
32 conviction was for conduct between consenting adults, as
33 described in subparagraph (F) of paragraph (2) of subdivision (a),
34 and the department is able, upon the exercise of reasonable
35 diligence, to verify that fact.

36 (E) Any person ordered by any court to register pursuant to
37 this section for any offense not included specifically in this
38 section if the court finds at the time of conviction or sentencing
39 that the person committed the offense as a result of sexual
40 compulsion or for purposes of sexual gratification. The court

1 shall state on the record the reasons for its findings and the
2 reasons for requiring registration.

3 (F) (i) Notwithstanding any other subdivision, a person who
4 was convicted before January 1, 1976, under subdivision (a) of
5 Section 286, or Section 288a, shall not be required to register
6 pursuant to this section for that conviction if the conviction was
7 for conduct between consenting adults that was decriminalized
8 by Chapter 71 of the Statutes of 1975 or Chapter 1139 of the
9 Statutes of 1976. The Department of Justice shall remove that
10 person from the Sex Offender Registry, and the person is
11 discharged from his or her duty to register pursuant to the
12 following procedure:

13 (I) The person submits to the Department of Justice official
14 documentary evidence, including court records or police reports,
15 that demonstrate that the person's conviction pursuant to either of
16 those sections was for conduct between consenting adults that
17 was decriminalized; or

18 (II) The person submits to the department a declaration stating
19 that the person's conviction pursuant to either of those sections
20 was for consensual conduct between adults that has been
21 decriminalized. The declaration shall be confidential and not a
22 public record, and shall include the person's name, address,
23 telephone number, date of birth, and a summary of the
24 circumstances leading to the conviction, including the date of the
25 conviction and county of the occurrence.

26 (III) The department shall determine whether the person's
27 conviction was for conduct between consensual adults that has
28 been decriminalized. If the conviction was for consensual
29 conduct between adults that has been decriminalized, and the
30 person has no other offenses for which he or she is required to
31 register pursuant to this section, the department shall, within 60
32 days of receipt of those documents, notify the person that he or
33 she is relieved of the duty to register, and shall notify the local
34 law enforcement agency with which the person is registered that
35 he or she has been relieved of the duty to register. The local law
36 enforcement agency shall remove the person's registration from
37 its files within 30 days of receipt of notification. If the
38 documentary or other evidence submitted is insufficient to
39 establish the person's claim, the department shall, within 60 days
40 of receipt of those documents, notify the person that his or her

1 claim cannot be established, and that the person shall continue to
2 register pursuant to this section. The department shall provide,
3 upon the person's request, any information relied upon by the
4 department in making its determination that the person shall
5 continue to register pursuant to this section. Any person whose
6 claim has been denied by the department pursuant to this clause
7 may petition the court to appeal the department's denial of the
8 person's claim.

9 (ii) On or before July 1, 1998, the department shall make a
10 report to the Legislature concerning the status of persons who
11 may come under the provisions of this subparagraph, including
12 the number of persons who were convicted before January 1,
13 1976, under subdivision (a) of Section 286 or Section 288a and
14 are required to register under this section, the average age of
15 these persons, the number of these persons who have any
16 subsequent convictions for a registerable sex offense, and the
17 number of these persons who have sought successfully or
18 unsuccessfully to be relieved of their duty to register under this
19 section.

20 (b) (1) Any person who is released, discharged, or paroled
21 from a jail, state or federal prison, school, road camp, or other
22 institution where he or she was confined because of the
23 commission or attempted commission of one of the offenses
24 specified in subdivision (a) or is released from a state hospital to
25 which he or she was committed as a mentally disordered sex
26 offender under Article 1 (commencing with Section 6300) of
27 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
28 Code, shall, prior to discharge, parole, or release, be informed of
29 his or her duty to register under this section by the official in
30 charge of the place of confinement or hospital, and the official
31 shall require the person to read and sign any form that may be
32 required by the Department of Justice, stating that the duty of the
33 person to register under this section has been explained to the
34 person. The official in charge of the place of confinement or
35 hospital shall obtain the address where the person expects to
36 reside upon his or her discharge, parole, or release and shall
37 report the address to the Department of Justice. The official shall
38 at the same time forward a current photograph of the person to
39 the Department of Justice.

1 (2) The official in charge of the place of confinement or
2 hospital shall give one copy of the form to the person and shall
3 send one copy to the Department of Justice and one copy to the
4 appropriate law enforcement agency or agencies having
5 jurisdiction over the place the person expects to reside upon
6 discharge, parole, or release. If the conviction that makes the
7 person subject to this section is a felony conviction, the official
8 in charge shall, not later than 45 days prior to the scheduled
9 release of the person, send one copy to the appropriate law
10 enforcement agency or agencies having local jurisdiction where
11 the person expects to reside upon discharge, parole, or release;
12 one copy to the prosecuting agency that prosecuted the person;
13 and one copy to the Department of Justice. The official in charge
14 of the place of confinement or hospital shall retain one copy.

15 (c) (1) Any person who is convicted in this state of the
16 commission or attempted commission of any of the offenses
17 specified in subdivision (a) and who is released on probation,
18 shall, prior to release or discharge, be informed of the duty to
19 register under this section by the probation department, and a
20 probation officer shall require the person to read and sign any
21 form that may be required by the Department of Justice, stating
22 that the duty of the person to register under this section has been
23 explained to him or her. The probation officer shall obtain the
24 address where the person expects to reside upon release or
25 discharge and shall report within three days the address to the
26 Department of Justice. The probation officer shall give one copy
27 of the form to the person, send one copy to the Department of
28 Justice, and forward one copy to the appropriate law enforcement
29 agency or agencies having local jurisdiction where the person
30 expects to reside upon his or her discharge, parole, or release.

31 (2) Any person who is convicted in this state of the
32 commission or attempted commission of any of the offenses
33 specified in subdivision (a) and who is granted conditional
34 release without supervised probation, or discharged upon
35 payment of a fine, shall, prior to release or discharge, be
36 informed of the duty to register under this section in open court
37 by the court in which the person has been convicted, and the
38 court shall require the person to read and sign any form that may
39 be required by the Department of Justice, stating that the duty of
40 the person to register under this section has been explained to

1 him or her. If the court finds that it is in the interest of the
2 efficiency of the court, the court may assign the bailiff to require
3 the person to read and sign forms under this section. The court
4 shall obtain the address where the person expects to reside upon
5 release or discharge and shall report within three days the address
6 to the Department of Justice. The court shall give one copy of the
7 form to the person, send one copy to the Department of Justice,
8 and forward one copy to the appropriate law enforcement agency
9 or agencies having local jurisdiction where the person expects to
10 reside upon his or her discharge, parole, or release.

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

19 (2) Any person who is discharged or paroled from a facility in
20 another state that is equivalent to the Department of the Youth
21 Authority, to the custody of which he or she was committed
22 because of an offense which, if committed or attempted in this
23 state, would have been punishable as one or more of the offenses
24 described in paragraph (3), shall be subject to registration under
25 the procedures of this section.

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

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

32 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6)
33 of subdivision (a) of Section 261, Section 264.1, 266c, or 267,
34 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
35 Section 286, Section 288 or 288.5, paragraph (1) of subdivision
36 (b) of, or subdivision (c) or (d) of, Section 288a, subdivision (a)
37 of Section 289, or Section 647.6.

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

1 (4) Prior to discharge or parole from the Department of the
2 Youth Authority, any person who is subject to registration under
3 this subdivision shall be informed of the duty to register under
4 the procedures set forth in this section. Department of the Youth
5 Authority officials shall transmit the required forms and
6 information to the Department of Justice.

7 (5) All records specifically relating to the registration in the
8 custody of the Department of Justice, law enforcement agencies,
9 and other agencies or public officials shall be destroyed when the
10 person who is required to register has his or her records sealed
11 under the procedures set forth in Section 781 of the Welfare and
12 Institutions Code. This subdivision shall not be construed as
13 requiring the destruction of other criminal offender or juvenile
14 records relating to the case that are maintained by the
15 Department of Justice, law enforcement agencies, the juvenile
16 court, or other agencies and public officials unless ordered by a
17 court under Section 781 of the Welfare and Institutions Code.

18 (e) (1) On or after January 1, 1998, upon incarceration,
19 placement, or commitment, or prior to release on probation, any
20 person who is required to register under this section shall
21 preregister. The preregistering official shall be the admitting
22 officer at the place of incarceration, placement, or commitment,
23 or the probation officer if the person is to be released on
24 probation. The preregistration shall consist of all of the
25 following:

26 (A) A preregistration statement in writing, signed by the
27 person, giving information that shall be required by the
28 Department of Justice.

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

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

32 (2) A person described in paragraph (2) of subdivision (a)
33 shall register, or reregister if the person has previously registered,
34 upon release from incarceration, placement, commitment, or
35 release on probation pursuant to paragraph (1) of subdivision (a).
36 The registration shall consist of all of the following:

37 (A) A statement in writing signed by the person, giving
38 information as shall be required by the Department of Justice and
39 giving the name and address of the person's employer, and the

1 address of the person's place of employment if that is different
2 from the employer's main address.

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

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

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

10 (E) Copies of adequate proof of residence, which shall be
11 limited to a California driver's license, California identification
12 card, recent rent or utility receipt, printed personalized checks or
13 other recent banking documents showing that person's name and
14 address, or any other information that the registering official
15 believes is reliable. If the person has no residence and no
16 reasonable expectation of obtaining a residence in the foreseeable
17 future, the person shall so advise the registering official and shall
18 sign a statement provided by the registering official stating that
19 fact. Upon presentation of proof of residence to the registering
20 official or a signed statement that the person has no residence,
21 the person shall be allowed to register. If the person claims that
22 he or she has a residence but does not have any proof of
23 residence, he or she shall be allowed to register but shall furnish
24 proof of residence within 30 days of the date he or she is allowed
25 to register.

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

30 (f) (1) If any person who is required to register pursuant to
31 this section and who has a residence address changes his or her
32 residence address, whether within the jurisdiction in which he or
33 she is currently registered or to a new jurisdiction inside or
34 outside the state, the person shall inform, in writing within five
35 working days, the law enforcement agency or agencies with
36 which he or she last registered of the new address or transient
37 location and any plans he or she has to return to California, if
38 known. If the person does not know the new residence address or
39 location, the registrant shall inform the last registering agency or
40 agencies that he or she is moving within five working days of the

1 move, and shall later notify the agency or agencies of the new
2 address or location within five working days of moving into the
3 new residence address or location, whether temporary or
4 permanent. The law enforcement agency or agencies shall, within
5 three working days after receipt of this information, forward a
6 copy of the change of address information to the Department of
7 Justice. The Department of Justice shall forward appropriate
8 registration data to the law enforcement agency or agencies
9 having local jurisdiction of the new place of residence .

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

24 (3) If any person who is required to register pursuant to this
25 section changes his or her name, the person shall inform, in
26 person, the law enforcement agency or agencies with which he or
27 she is currently registered within five working days. The law
28 enforcement agency or agencies shall forward a copy of this
29 information to the Department of Justice within three working
30 days of its receipt.

31 (g) (1) Any person who is required to register under this
32 section based on a misdemeanor conviction or juvenile
33 adjudication who willfully violates any requirement of this
34 section is guilty of a misdemeanor punishable by imprisonment
35 in a county jail not exceeding one year.

36 (2) Except as provided in paragraphs (5), (7), and (9), any
37 person who is required to register under this section based on a
38 felony conviction or juvenile adjudication who willfully violates
39 any requirement of this section or who has a prior conviction or
40 juvenile adjudication for the offense of failing to register under

1 this section and who subsequently and willfully violates any
2 requirement of this section is guilty of a felony and shall be
3 punished by imprisonment in the state prison for 16 months, or
4 two or three years.

5 If probation is granted or if the imposition or execution of
6 sentence is suspended, it shall be a condition of the probation or
7 suspension that the person serve at least 90 days in a county jail.
8 The penalty described in this paragraph shall apply whether or
9 not the person has been released on parole or has been discharged
10 from parole.

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

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

36 (5) Any person who has ever been adjudicated a sexually
37 violent predator, as defined in Section 6600 of the Welfare and
38 Institutions Code, and who fails to verify his or her registration
39 every 90 days as required pursuant to subparagraph (E) of
40 paragraph (1) of subdivision (a), shall be punished by

1 imprisonment in the state prison, or in a county jail not exceeding
2 one year.

3 (6) Except as otherwise provided in paragraph (5), any person
4 who is required to register or reregister pursuant to clause of (i)
5 of subparagraph (C) of paragraph (1) of subdivision (a) and
6 willfully fails to comply with the requirement that he or she
7 reregister no less than every 30 days is guilty of a misdemeanor
8 and shall be punished by imprisonment in a county jail at least 30
9 days, but not exceeding six months. A person who willfully fails
10 to comply with the requirement that he or she reregister no less
11 than every 30 days shall not be charged with this violation more
12 often than once for a failure to register in any period of 90 days.
13 Any person who willfully commits a third or subsequent
14 violation of the requirements of subparagraph (C) of paragraph
15 (1) of subdivision (a) that he or she reregister no less than every
16 30 days shall be punished in accordance with either paragraph (1)
17 of (2) of this subdivision.

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

23 (8) Any person who is required to register under this section
24 who willfully violates any requirement of this section is guilty of
25 a continuing offense as to each requirement he or she violated.

26 (9) In addition to any other penalty imposed under this
27 subdivision, the failure to provide information required on
28 registration and reregistration forms of the Department of Justice,
29 or the provision of false information, is a crime punishable by
30 imprisonment in a county jail for a period not exceeding one
31 year.

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

39 (i) Except as provided in Sections 290.01, 290.4, and 290.45,
40 290.46, and Section 14133.225 of the *Welfare and Institutions*

1 *Code*, the statements, photographs, and fingerprints required by
2 this section shall not be open to inspection by the public or by
3 any person other than a regularly employed peace officer or other
4 law enforcement officer.

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

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

22 (l) (1) Every person who, prior to January 1, 1997, is required
23 to register under this section, shall be notified whenever he or she
24 next reregisters of the reduction of the registration period from
25 14 to 5 working days. This notice shall be provided in writing by
26 the registering agency or agencies. Failure to receive this
27 notification shall be a defense against the penalties prescribed by
28 subdivision (g) if the person did register within 14 days.

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

37 (m) The registration provisions of this section are applicable to
38 every person described in this section, without regard to when his
39 or her crime or crimes were committed or his or her duty to

1 register pursuant to this section arose, and to every offense
2 described in this section, regardless of when it was committed.

3 **SECTION 1.—**

4 *SEC. 2.* Section 3003 of the Penal Code is amended to read:

5 3003. (a) Except as otherwise provided in this section, an
6 inmate who is released on parole shall be returned to the county
7 that was the last legal residence of the inmate prior to his or her
8 incarceration.

9 For purposes of this subdivision, “last legal residence” shall
10 not be construed to mean the county wherein the inmate
11 committed an offense while confined in a state prison or local jail
12 facility or while confined for treatment in a state hospital.

13 (b) Notwithstanding subdivision (a), an inmate may be
14 returned to another county if that would be in the best interests of
15 the public. If the Board of Prison Terms setting the conditions of
16 parole for inmates sentenced pursuant to subdivision (b) of
17 Section 1168, as determined by the parole consideration panel, or
18 the Department of Corrections setting the conditions of parole for
19 inmates sentenced pursuant to Section 1170, decides on a return
20 to another county, it shall place its reasons in writing in the
21 parolee’s permanent record and include these reasons in the
22 notice to the sheriff or chief of police pursuant to Section 3058.6.
23 In making its decision, the paroling authority shall consider,
24 among others, the following factors, giving the greatest weight to
25 the protection of the victim and the safety of the community:

26 (1) The need to protect the life or safety of a victim, the
27 parolee, a witness, or any other person.

28 (2) Public concern that would reduce the chance that the
29 inmate’s parole would be successfully completed.

30 (3) The verified existence of a work offer, or an educational or
31 vocational training program.

32 (4) The existence of family in another county with whom the
33 inmate has maintained strong ties and whose support would
34 increase the chance that the inmate’s parole would be
35 successfully completed.

36 (5) The lack of necessary outpatient treatment programs for
37 parolees receiving treatment pursuant to Section 2960.

38 (c) The Department of Corrections, in determining an
39 out-of-county commitment, shall give priority to the safety of the
40 community and any witnesses and victims.

- 1 (d) In making its decision about an inmate who participated in
2 a joint venture program pursuant to Article 1.5 (commencing
3 with Section 2717.1) of Chapter 5, the paroling authority shall
4 give serious consideration to releasing him or her to the county
5 where the joint venture program employer is located if that
6 employer states to the paroling authority that he or she intends to
7 employ the inmate upon release.
- 8 (e) (1) The following information, if available, shall be
9 released by the Department of Corrections to local law
10 enforcement agencies regarding a paroled inmate who is released
11 in their jurisdictions:
- 12 (A) Last, first, and middle name.
 - 13 (B) Birth date.
 - 14 (C) Sex, race, height, weight, and hair and eye color.
 - 15 (D) Date of parole and discharge.
 - 16 (E) Registration status, if the inmate is required to register as a
17 result of a controlled substance, sex, or arson offense.
 - 18 (F) California Criminal Information Number, FBI number,
19 social security number, and driver's license number.
 - 20 (G) County of commitment.
 - 21 (H) A description of scars, marks, and tattoos on the inmate.
 - 22 (I) Offense or offenses for which the inmate was convicted
23 that resulted in parole in this instance.
 - 24 (J) Address, including all of the following information:
 - 25 (i) Street name and number. Post office box numbers are not
26 acceptable for purposes of this subparagraph.
 - 27 (ii) City and ZIP Code.
 - 28 (iii) Date that the address provided pursuant to this
29 subparagraph was proposed to be effective.
 - 30 (K) Contact officer and unit, including all of the following
31 information:
 - 32 (i) Name and telephone number of each contact officer.
 - 33 (ii) Contact unit type of each contact officer such as units
34 responsible for parole, registration, or county probation.
 - 35 (L) A digitized image of the photograph and at least a single
36 digit fingerprint of the parolee.
 - 37 (M) A geographic coordinate for the parolee's residence
38 location for use with a Geographical Information System (GIS)
39 or comparable computer program.

1 (2) The information required by this subdivision shall come
2 from the statewide parolee database. The information obtained
3 from each source shall be based on the same timeframe.

4 (3) All of the information required by this subdivision shall be
5 provided utilizing a computer-to-computer transfer in a format
6 usable by a desktop computer system. The transfer of this
7 information shall be continually available to local law
8 enforcement agencies upon request.

9 (4) The unauthorized release or receipt of the information
10 described in this subdivision is a violation of Section 11143.

11 (f) Notwithstanding any other provision of law, an inmate who
12 is released on parole shall not be returned to a location within 35
13 miles of the actual residence of a victim of, or a witness to, a
14 violent felony as defined in paragraphs (1) to (7), inclusive, of
15 subdivision (c) of Section 667.5 or a felony in which the
16 defendant inflicts great bodily injury on any person other than an
17 accomplice that has been charged and proved as provided for in
18 Section 12022.53, 12022.7, or 12022.9, if the victim or witness
19 has requested additional distance in the placement of the inmate
20 on parole, and if the Board of Prison Terms or the Department of
21 Corrections finds that there is a need to protect the life, safety, or
22 well-being of a victim or witness.

23 (g) Notwithstanding any other law, an inmate who is released
24 on parole for any violation of Section 288 or 288.5 shall not be
25 placed or reside, for the duration of his or her period of parole,
26 within one-quarter mile of any public or private school including
27 any or all of kindergarten and grades 1 to 12, inclusive.

28 (h) Notwithstanding any other law, an inmate who is released
29 on parole for an offense involving stalking shall not be returned
30 to a location within 35 miles of the victim's actual residence or
31 place of employment if the victim or witness has requested
32 additional distance in the placement of the inmate on parole, and
33 if the Board of Prison Terms or the Department of Corrections
34 finds that there is a need to protect the life, safety, or well-being
35 of the victim.

36 (i) The authority shall give consideration to the equitable
37 distribution of parolees and the proportion of out-of-county
38 commitments from a county compared to the number of
39 commitments from that county when making parole decisions.

1 (j) An inmate may be paroled to another state pursuant to any
2 other law.

3 (k) (1) Except as provided in paragraph (2), the Department of
4 Corrections shall be the agency primarily responsible for, and
5 shall have control over, the program, resources, and staff
6 implementing the Law Enforcement Automated Data System
7 (LEADS) in conformance with subdivision (e).

8 (2) Notwithstanding paragraph (1), the Department of Justice
9 shall be the agency primarily responsible for the proper release of
10 information under LEADS that relates to fingerprint cards.

11 *SEC. 3. Section 14133.225 is added to the Welfare and
12 Institutions Code, to read:*

13 *14133.225. Notwithstanding any other law, the department
14 shall not provide or pay for any prescription drug or other
15 therapy to treat erectile dysfunction for any person who is
16 required to register pursuant to Section 290 of the Penal Code,
17 except to the extent required under federal law. The department
18 may request from the Department of Justice the information
19 necessary to implement this section. The Department of Justice
20 shall, upon request, make available sex offender information to
21 any state governmental entity responsible for authorizing or
22 providing publicly funded prescription drugs to treat erectile
23 dysfunction in those persons. State governmental entities shall
24 use information received pursuant to this section to protect
25 public safety by preventing the use of prescription drugs or other
26 therapies to treat erectile dysfunction by convicted sex offenders.*

27 *SEC. 4. This act is an urgency statute necessary for the
28 immediate preservation of the public peace, health, or safety
29 within the meaning of Article IV of the Constitution and shall go
30 into immediate effect. The facts constituting the necessity are: In
31 order to protect members of the public from sex offenders who
32 place them and their families at risk, it is necessary this act take
33 effect immediately.*

O