

AMENDED IN SENATE JUNE 30, 2005

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 Sections 290 and 3003 of the Penal Code, An act to amend Section 3003 of, and to add Section 290.02 to, the Penal Code, and to add Section 14133.225 to the Welfare and Institutions Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 240, as amended, Bermudez. Sex offenders.

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

This bill would, *effective July 1, 2006*, prohibit a parolee convicted of one of these offenses *involving a victim of 14 or 15 years of age* 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.~~ *Existing law provides that the Department of Justice shall make available information concerning specified registered sex offenders to the public via an Internet Web site. Existing law limits the manner in which this information may be used, as specified.*

~~This bill would make it permissible to disclose certain sex offender information to authorized governmental agencies that authorize or provide publicly funded prescription drugs.~~ *require the Department of Justice to identify the names of persons required to register under these provisions from a list of persons provided by the requesting agency, and provide those names and other information necessary to verify proper identification to any state governmental entity responsible for authorizing or providing publicly funded prescription drugs or other therapies to treat erectile dysfunction of these persons.*

This bill would authorize the Department of Justice to establish a fee for the above requests. It would allow any state governmental entity that is responsible for authorizing or providing publicly funded prescription drugs or other therapies to treat erectile dysfunction to use the above Internet Web site to protect public safety by preventing the use of those drugs or therapies for convicted sex offenders.

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: $\frac{2}{3}$. 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 290.02 is added to the Penal Code, to*
2 *read:*

3 290.02. (a) *Notwithstanding any other law, the Department*
4 *of Justice shall identify the names of persons required to register*
5 *pursuant to Section 290 from a list of persons provided by the*
6 *requesting agency, and provide those names and other*
7 *information necessary to verify proper identification to any state*
8 *governmental entity responsible for authorizing or providing*
9 *publicly funded prescription drugs or other therapies to treat*
10 *erectile dysfunction of those persons. State governmental entities*
11 *shall use information received pursuant to this section to protect*
12 *public safety by preventing the use of prescription drugs or other*
13 *therapies to treat erectile dysfunction by convicted sex offenders.*

14 (b) *Use or disclosure of the information disclosed pursuant to*
15 *this section is prohibited for any purpose other than that*
16 *authorized by this section or Section 14133.225 of the Welfare*
17 *and Institutions Code. The Department of Justice may establish a*
18 *fee for requests, including all actual and reasonable costs*
19 *associated with the service.*

20 (c) *Notwithstanding any other provision of law, any state*
21 *governmental entity that is responsible for authorizing or*
22 *providing publicly funded prescription drugs or other therapies*
23 *to treat erectile dysfunction may use the sex offender database*
24 *authorized by Section 290.46 to protect public safety by*
25 *preventing the use of those drugs or therapies for convicted sex*
26 *offenders.*

27 ~~SECTION 1. Section 290 of the Penal Code is amended to~~
28 ~~read:~~

29 ~~290. (a) (1) (A) Every person described in paragraph (2),~~
30 ~~for the rest of his or her life while residing in California, or while~~
31 ~~attending school or working in California, as described in~~
32 ~~subparagraph (G), shall be required to register with the chief of~~
33 ~~police of the city in which he or she is residing, or the sheriff of~~
34 ~~the county if he or she is residing is located, in an unincorporated~~
35 ~~area or city that has no police department, and, additionally, with~~
36 ~~the chief of police of a campus of the University of California,~~
37 ~~the California State University, or community college if he or she~~
38 ~~is residing upon the campus or in any of its facilities, within five~~

1 working days of coming into, or changing his or her residence
2 within, any city, county, or city and county, or campus in which
3 he or she temporarily resides.

4 ~~(B) If the person who is registering has more than one~~
5 ~~residence address at which he or she regularly resides, he or she~~
6 ~~shall register in accordance with subparagraph (A) in each of the~~
7 ~~jurisdictions in which he or she regularly resides, regardless of~~
8 ~~the number of nights spent there. If all of the addresses are within~~
9 ~~the same jurisdiction, the person shall provide the registering~~
10 ~~authority with all of the addresses where he or she regularly~~
11 ~~resides.~~

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

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

1 prosecuted in any jurisdiction in which he or she is physically
2 present.

3 (ii) A transient who moves to a residence shall have five
4 working days within which to register at that address, in
5 accordance with subparagraph (A) of paragraph (1) of
6 subdivision (a). A person registered at a residence address in
7 accordance with subparagraph (A) of paragraph (1) of
8 subdivision (a), who becomes transient shall have five working
9 days within which to reregister as a transient in accordance with
10 clause (i).

11 (iii) Beginning on his or her first birthday following
12 registration, a transient shall register annually, within five
13 working days of his or her birthday, to update his or her
14 registration with the entities described in clause (i). A transient
15 shall register in whichever jurisdiction he or she is physically
16 present on that date. At the 30-day updates and the annual
17 update, a transient shall provide current information as required
18 on the Department of Justice annual update form, including the
19 information described in subparagraphs (A) to (C), inclusive, of
20 paragraph (2) of subdivision (c), and the information specified in
21 clause (iv).

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

29 (v) Failure to comply with the requirement of reregistering
30 every 30 days following initial registration pursuant to clause (i)
31 of this subparagraph shall be punished in accordance with
32 paragraph (6) of subdivision (g). Failure to comply with any
33 other requirement of this section shall be punished in accordance
34 with either paragraph (1) or (2) of subdivision (g).

35 (vi) A transient who moves out of state shall inform, in person
36 or in writing, the chief of police in the city in which he or she is
37 physically present, or the sheriff of the county, if he or she
38 physically present in an unincorporated area or city that has no
39 police department, within five working days of his or her move
40 out of state. The transient shall inform that registering agency of

1 his or her planned destination, residence or transient location out
2 of state, and any plans he or she has to return to California, if
3 known. The law enforcement agency shall, within three days
4 after receipt of this information, forward a copy of the change of
5 location information to the Department of Justice. The
6 department shall forward appropriate registration data to the law
7 enforcement agency having local jurisdiction of the new place of
8 residence or location.

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

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

19 (D) Beginning on his or her first birthday following
20 registration or change of address, the person shall be required to
21 register annually, within five working days of his or her birthday,
22 to update his or her registration with the entities described in
23 subparagraph (A). At the annual update, the person shall provide
24 current information as required on the Department of Justice
25 annual update form, including the information described in
26 subparagraphs (A) to (C), inclusive, of paragraph (2) of
27 subdivision (c).

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

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

39 (G) Persons required to register in their state of residence who
40 are out-of-state residents employed, or carrying on a vocation in

1 California on a full-time or part-time basis, with or without
 2 compensation, for more than 14 days, or for an aggregate period
 3 exceeding 30 days in a calendar year, shall register in accordance
 4 with subparagraph (A). Persons described in paragraph (2) who
 5 are out-of-state residents enrolled in any educational institution
 6 in California, as defined in Section 22129 of the Education Code,
 7 on a full-time or part-time basis, shall register in accordance with
 8 subparagraph (A). The place where the out-of-state resident is
 9 located, for purposes of registration, shall be the place where the
 10 person is employed, carrying on a vocation, or attending school.
 11 The out-of-state resident subject to this subparagraph shall, in
 12 addition to the information required pursuant to subdivision (c),
 13 provide the registering authority with the name of his or her place
 14 of employment or the name of the school attended in California,
 15 and his or her address or location in his or her state of residence.
 16 The registration requirement for persons subject to this
 17 subparagraph shall become operative on November 25, 2000.
 18 The terms “employed or carries on a vocation” include
 19 employment whether or not financially compensated,
 20 volunteered, or performed for government or educational benefit.

21 (2) The following persons shall be required to register
 22 pursuant to paragraph (1):

23 (A) Any person who, since July 1, 1944, has been or is
 24 hereafter convicted in any court in this state or in any federal or
 25 military court of a violation of Section 207 or 209 committed
 26 with intent to violate Section 261, 286, 288, 288a, or 289;
 27 Section 220, except assault to commit mayhem, Section 243.4,
 28 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section
 29 261, or paragraph (1) of subdivision (a) of Section 262 involving
 30 the use of force or violence for which the person is sentenced to
 31 the state prison, Section 264.1, 266, or 266c, subdivision (b) of
 32 Section 266h, subdivision (b) of Section 266i, Section 266j, 267,
 33 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1,
 34 subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4,
 35 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of
 36 Section 653f, subdivision 1 or 2 of Section 314, any offense
 37 involving lewd or lascivious conduct under Section 272, or any
 38 felony violation of Section 288.2; or any statutory predecessor
 39 that includes all elements of one of the above-mentioned
 40 offenses; or any person who since that date has been or is

1 hereafter convicted of the attempt to commit any of the
2 above-mentioned offenses.

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

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

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

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

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

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

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

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

35 (III) Incest, pursuant to Section 285.

36 (IV) Sodomy, pursuant to Section 286, or oral copulation,
37 pursuant to Section 288a, provided that the offender notifies the
38 Department of Justice that the sodomy or oral copulation
39 conviction was for conduct between consenting adults, as
40 described in subparagraph (F) of paragraph (2) of subdivision (a),

1 and the department is able, upon the exercise of reasonable
2 diligence, to verify that fact.

3 (E) Any person ordered by any court to register pursuant to
4 this section for any offense not included specifically in this
5 section if the court finds at the time of conviction or sentencing
6 that the person committed the offense as a result of sexual
7 compulsion or for purposes of sexual gratification. The court
8 shall state on the record the reasons for its findings and the
9 reasons for requiring registration.

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

20 (I) The person submits to the Department of Justice official
21 documentary evidence, including court records or police reports,
22 that demonstrate that the person's conviction pursuant to either of
23 those sections was for conduct between consenting adults that
24 was decriminalized; or

25 (II) The person submits to the department a declaration stating
26 that the person's conviction pursuant to either of those sections
27 was for consensual conduct between adults that has been
28 decriminalized. The declaration shall be confidential and not a
29 public record, and shall include the person's name, address,
30 telephone number, date of birth, and a summary of the
31 circumstances leading to the conviction, including the date of the
32 conviction and county of the occurrence.

33 (III) The department shall determine whether the person's
34 conviction was for conduct between consensual adults that has
35 been decriminalized. If the conviction was for consensual
36 conduct between adults that has been decriminalized, and the
37 person has no other offenses for which he or she is required to
38 register pursuant to this section, the department shall, within 60
39 days of receipt of those documents, notify the person that he or
40 she is relieved of the duty to register, and shall notify the local

1 law enforcement agency with which the person is registered that
2 he or she has been relieved of the duty to register. The local law
3 enforcement agency shall remove the person's registration from
4 its files within 30 days of receipt of notification. If the
5 documentary or other evidence submitted is insufficient to
6 establish the person's claim, the department shall, within 60 days
7 of receipt of those documents, notify the person that his or her
8 claim cannot be established, and that the person shall continue to
9 register pursuant to this section. The department shall provide,
10 upon the person's request, any information relied upon by the
11 department in making its determination that the person shall
12 continue to register pursuant to this section. Any person whose
13 claim has been denied by the department pursuant to this clause
14 may petition the court to appeal the department's denial of the
15 person's claim.

16 (ii) On or before July 1, 1998, the department shall make a
17 report to the Legislature concerning the status of persons who
18 may come under the provisions of this subparagraph, including
19 the number of persons who were convicted before January 1,
20 1976, under subdivision (a) of Section 286 or Section 288a and
21 are required to register under this section, the average age of
22 these persons, the number of these persons who have any
23 subsequent convictions for a registerable sex offense, and the
24 number of these persons who have sought successfully or
25 unsuccessfully to be relieved of their duty to register under this
26 section.

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

1 person. The official in charge of the place of confinement or
2 hospital shall obtain the address where the person expects to
3 reside upon his or her discharge, parole, or release and shall
4 report the address to the Department of Justice. The official shall
5 at the same time forward a current photograph of the person to
6 the Department of Justice.

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

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

37 (2) Any person who is convicted in this state of the
38 commission or attempted commission of any of the offenses
39 specified in subdivision (a) and who is granted conditional
40 release without supervised probation, or discharged upon

1 ~~payment of a fine, shall, prior to release or discharge, be~~
2 ~~informed of the duty to register under this section in open court~~
3 ~~by the court in which the person has been convicted, and the~~
4 ~~court shall require the person to read and sign any form that may~~
5 ~~be required by the Department of Justice, stating that the duty of~~
6 ~~the person to register under this section has been explained to~~
7 ~~him or her. If the court finds that it is in the interest of the~~
8 ~~efficiency of the court, the court may assign the bailiff to require~~
9 ~~the person to read and sign forms under this section. The court~~
10 ~~shall obtain the address where the person expects to reside upon~~
11 ~~release or discharge and shall report within three days the address~~
12 ~~to the Department of Justice. The court shall give one copy of the~~
13 ~~form to the person, send one copy to the Department of Justice,~~
14 ~~and forward one copy to the appropriate law enforcement agency~~
15 ~~or agencies having local jurisdiction where the person expects to~~
16 ~~reside upon his or her discharge, parole, or release.~~

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

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

32 ~~(3) Any person described in this subdivision who committed~~
33 ~~an offense in violation of any of the following provisions shall be~~
34 ~~required to register pursuant to this section:~~

35 ~~(A) Assault with intent to commit rape, sodomy, oral~~
36 ~~copulation, or any violation of Section 264.1, 288, or 289 under~~
37 ~~Section 220.~~

38 ~~(B) Any offense defined in paragraph (1), (2), (3), (4), or (6)~~
39 ~~of subdivision (a) of Section 261, Section 264.1, 266c, or 267,~~
40 ~~paragraph (1) of subdivision (b) of, or subdivision (e) or (d) of,~~

1 Section 286, Section 288 or 288.5, paragraph (1) of subdivision
2 (b) of, or subdivision (e) or (d) of, Section 288a, subdivision (a)
3 of Section 289, or Section 647.6:

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

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

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

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

31 (A) A preregistration statement in writing, signed by the
32 person, giving information that shall be required by the
33 Department of Justice.

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

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

37 (2) A person described in paragraph (2) of subdivision (a)
38 shall register, or reregister if the person has previously registered,
39 upon release from incarceration, placement, commitment, or

1 ~~release on probation pursuant to paragraph (1) of subdivision (a).~~

2 ~~The registration shall consist of all of the following:~~

3 ~~(A) A statement in writing signed by the person, giving~~
4 ~~information as shall be required by the Department of Justice and~~
5 ~~giving the name and address of the person's employer, and the~~
6 ~~address of the person's place of employment if that is different~~
7 ~~from the employer's main address.~~

8 ~~(B) The fingerprints and a current photograph of the person~~
9 ~~taken by the registering official.~~

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

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

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

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

35 ~~(f) (1) If any person who is required to register pursuant to~~
36 ~~this section and who has a residence address changes his or her~~
37 ~~residence address, whether within the jurisdiction in which he or~~
38 ~~she is currently registered or to a new jurisdiction inside or~~
39 ~~outside the state, the person shall inform, in writing within five~~
40 ~~working days, the law enforcement agency or agencies with~~

1 which he or she last registered of the new address or transient
2 location and any plans he or she has to return to California, if
3 known. If the person does not know the new residence address or
4 location, the registrant shall inform the last registering agency or
5 agencies that he or she is moving within five working days of the
6 move, and shall later notify the agency or agencies of the new
7 address or location within five working days of moving into the
8 new residence address or location, whether temporary or
9 permanent. The law enforcement agency or agencies shall, within
10 three working days after receipt of this information, forward a
11 copy of the change of address information to the Department of
12 Justice. The Department of Justice shall forward appropriate
13 registration data to the law enforcement agency or agencies
14 having local jurisdiction of the new place of residence.

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

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

36 (g) (1) Any person who is required to register under this
37 section based on a misdemeanor conviction or juvenile
38 adjudication who willfully violates any requirement of this
39 section is guilty of a misdemeanor punishable by imprisonment
40 in a county jail not exceeding one year.

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

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

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

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

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

8 ~~(6) Except as otherwise provided in paragraph (5), any person~~
9 ~~who is required to register or reregister pursuant to clause of (i)~~
10 ~~of subparagraph (C) of paragraph (1) of subdivision (a) and~~
11 ~~willfully fails to comply with the requirement that he or she~~
12 ~~reregister no less than every 30 days is guilty of a misdemeanor~~
13 ~~and shall be punished by imprisonment in a county jail at least 30~~
14 ~~days, but not exceeding six months. A person who willfully fails~~
15 ~~to comply with the requirement that he or she reregister no less~~
16 ~~than every 30 days shall not be charged with this violation more~~
17 ~~often than once for a failure to register in any period of 90 days.~~
18 ~~Any person who willfully commits a third or subsequent~~
19 ~~violation of the requirements of subparagraph (C) of paragraph~~
20 ~~(1) of subdivision (a) that he or she reregister no less than every~~
21 ~~30 days shall be punished in accordance with either paragraph (1)~~
22 ~~of (2) of this subdivision.~~

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

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

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

37 ~~(h) Whenever any person is released on parole or probation~~
38 ~~and is required to register under this section but fails to do so~~
39 ~~within the time prescribed, the parole authority, the Youthful~~
40 ~~Offender Parole Board, or the court, as the case may be, shall~~

1 order the parole or probation of the person revoked. For purposes
2 of this subdivision, “parole authority” has the same meaning as
3 described in Section 3000.

4 (i) Except as provided in Sections 290.01, 290.4, and 290.45,
5 290.46, and Section 14133.225 of the Welfare and Institutions
6 Code, the statements, photographs, and fingerprints required by
7 this section shall not be open to inspection by the public or by
8 any person other than a regularly employed peace officer or other
9 law enforcement officer.

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

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

27 (l) (1) Every person who, prior to January 1, 1997, is required
28 to register under this section, shall be notified whenever he or she
29 next reregisters of the reduction of the registration period from
30 14 to 5 working days. This notice shall be provided in writing by
31 the registering agency or agencies. Failure to receive this
32 notification shall be a defense against the penalties prescribed by
33 subdivision (g) if the person did register within 14 days.

34 (2) Every person who, as a sexually violent predator, as
35 defined in Section 6600 of the Welfare and Institutions Code, is
36 required to verify his or her registration every 90 days, shall be
37 notified wherever he or she next registers of his or her increased
38 registration obligations. This notice shall be provided in writing
39 by the registering agency or agencies. Failure to receive this

1 ~~notice shall be a defense against the penalties prescribed by~~
2 ~~paragraph (5) of subdivision (g).~~

3 ~~(m) The registration provisions of this section are applicable to~~
4 ~~every person described in this section, without regard to when his~~
5 ~~or her crime or crimes were committed or his or her duty to~~
6 ~~register pursuant to this section arose, and to every offense~~
7 ~~described in this section, regardless of when it was committed.~~

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

9 3003. (a) Except as otherwise provided in this section, an
10 inmate who is released on parole shall be returned to the county
11 that was the last legal residence of the inmate prior to his or her
12 incarceration.

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

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

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

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

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

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

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

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

6 (d) In making its decision about an inmate who participated in
7 a joint venture program pursuant to Article 1.5 (commencing
8 with Section 2717.1) of Chapter 5, the paroling authority shall
9 give serious consideration to releasing him or her to the county
10 where the joint venture program employer is located if that
11 employer states to the paroling authority that he or she intends to
12 employ the inmate upon release.

13 (e) (1) The following information, if available, shall be
14 released by the Department of Corrections to local law
15 enforcement agencies regarding a paroled inmate who is released
16 in their jurisdictions:

17 (A) Last, first, and middle name.

18 (B) Birth date.

19 (C) Sex, race, height, weight, and hair and eye color.

20 (D) Date of parole and discharge.

21 (E) Registration status, if the inmate is required to register as a
22 result of a controlled substance, sex, or arson offense.

23 (F) California Criminal Information Number, FBI number,
24 social security number, and driver's license number.

25 (G) County of commitment.

26 (H) A description of scars, marks, and tattoos on the inmate.

27 (I) Offense or offenses for which the inmate was convicted
28 that resulted in parole in this instance.

29 (J) Address, including all of the following information:

30 (i) Street name and number. Post office box numbers are not
31 acceptable for purposes of this subparagraph.

32 (ii) City and ZIP Code.

33 (iii) Date that the address provided pursuant to this
34 subparagraph was proposed to be effective.

35 (K) Contact officer and unit, including all of the following
36 information:

37 (i) Name and telephone number of each contact officer.

38 (ii) Contact unit type of each contact officer such as units
39 responsible for parole, registration, or county probation.

1 (L) A digitized image of the photograph and at least a single
2 digit fingerprint of the parolee.

3 (M) A geographic coordinate for the parolee's residence
4 location for use with a Geographical Information System (GIS)
5 or comparable computer program.

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

9 (3) All of the information required by this subdivision shall be
10 provided utilizing a computer-to-computer transfer in a format
11 usable by a desktop computer system. The transfer of this
12 information shall be continually available to local law
13 enforcement agencies upon request.

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

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

28 (g) Notwithstanding any other law, an inmate who is released
29 on parole for any violation of Section 288 or 288.5 shall not be
30 placed or reside, for the duration of his or her period of parole,
31 within one-quarter mile of any public or private school including
32 any or all of kindergarten and grades 1 to 12, inclusive. *In*
33 *addition to this prohibition and not in lieu of it, and*
34 *notwithstanding any other law, effective July 1, 2006, an inmate*
35 *who is released on parole for a violation of subdivision (c) of*
36 *Section 288 shall not be placed or reside, for the duration of his*
37 *or her period of parole, within one-quarter mile of any public or*
38 *private school including any or all of grades 9 to 12, inclusive.*

39 (h) Notwithstanding any other law, an inmate who is released
40 on parole for an offense involving stalking shall not be returned

1 to a location within 35 miles of the victim's actual residence or
2 place of employment if the victim or witness has requested
3 additional distance in the placement of the inmate on parole, and
4 if the Board of Prison Terms or the Department of Corrections
5 finds that there is a need to protect the life, safety, or well-being
6 of the victim.

7 (i) The authority shall give consideration to the equitable
8 distribution of parolees and the proportion of out-of-county
9 commitments from a county compared to the number of
10 commitments from that county when making parole decisions.

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

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

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

21 SEC. 3. Section 14133.225 is added to the Welfare and
22 Institutions Code, to read:

23 14133.225. Notwithstanding any other law, the department
24 shall not provide or pay for any prescription drug or other
25 therapy to treat erectile dysfunction for any person who is
26 required to register pursuant to Section 290 of the Penal Code,
27 except to the extent required under federal law. The department
28 may request from the Department of Justice the information
29 necessary to implement this section. ~~The Department of Justice
30 shall, upon request, make available sex offender information to
31 any state governmental entity responsible for authorizing or
32 providing publicly funded prescription drugs to treat erectile
33 dysfunction in those persons. State governmental entities shall
34 use information received pursuant to this section to protect public
35 safety by preventing the use of prescription drugs or other
36 therapies to treat erectile dysfunction by convicted sex offenders.~~

37 SEC. 4. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety
39 within the meaning of Article IV of the Constitution and shall go
40 into immediate effect. The facts constituting the necessity are: In

- 1 order to protect members of the public from sex offenders who
- 2 place them and their families at risk, it is necessary this act take
- 3 effect immediately.

O