

Introduced by Senator DenhamFebruary 16, 2006

An act to amend Section 3000 of, and to add Sections 1203.068 and 3003.6 to the Penal Code, relating to sex offenders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1313, as introduced, Denham. Sexually violent predators.

Existing law provides that a person who is convicted of the commission of lewd or lascivious acts on a child who is under 14 years of age is ineligible for probation or a suspended sentence, except as specified.

This bill would provide that if probation is granted to a person convicted of violating these provisions on a person who is less than 12 years of age, he or she shall be required to agree to electronic monitoring or supervision as a condition of probation.

Because this bill would change the terms of probation for an existing crime, this bill would impose a state-mandated local program.

Existing law provides that the period of parole for an inmate sentenced for commission of lewd or lascivious act on a person less than 14 years of age shall not exceed 5 years.

This bill would provide that in the case of any inmate sentenced for commission of lewd or lascivious acts on a person less than 12 years of age, the period of parole shall be 20 years.

Existing law provides that the parole authority may require that an inmate or parolee agree to electronic monitoring or supervision as a condition of parole.

This bill would require a person who is convicted of the commission of lewd or lascivious acts on a person who is less than 12 years of age

to agree to electronic monitoring or supervision as a condition of parole.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

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

1 SECTION 1. Section 1203.068 is added to the Penal Code, to
 2 read:
 3 1203.068. If probation is granted to any person convicted of
 4 violating Section 288 on a victim who is less than 12 years of age
 5 he or she shall, as a condition of probation, agree in writing to the
 6 use of electronic monitoring or supervising devices for the
 7 purposes of helping to verify his or her compliance with all other
 8 terms of probation, consistent with Section 3004.
 9 SEC. 2. Section 3000 of the Penal Code is amended to read:
 10 3000. (a) (1) The Legislature finds and declares that the
 11 period immediately following incarceration is critical to
 12 successful reintegration of the offender into society and to
 13 positive citizenship. It is in the interest of public safety for the
 14 state to provide for the supervision of and surveillance of
 15 parolees, including the judicious use of revocation actions, and to
 16 provide educational, vocational, family and personal counseling
 17 necessary to assist parolees in the transition between
 18 imprisonment and discharge. A sentence pursuant to Section
 19 1168 or 1170 shall include a period of parole, unless waived, as
 20 provided in this section.
 21 (2) The Legislature finds and declares that it is not the intent
 22 of this section to diminish resources allocated to the Department
 23 of Corrections *and Rehabilitation* for parole functions for which
 24 the department is responsible. It is also not the intent of this
 25 section to diminish the resources allocated to the Board of ~~Prison~~

1 ~~Terms~~ *Parole Hearings* to execute its duties with respect to
2 parole functions for which the board is responsible.

3 (3) The Legislature finds and declares that diligent effort must
4 be made to ensure that parolees are held accountable for their
5 criminal behavior, including, but not limited to, the satisfaction
6 of restitution fines and orders.

7 (4) Any finding made pursuant to Article 4 (commencing
8 with Section 6600) of Chapter 2 of Part 2 of Division 6 of the
9 Welfare and Institutions Code, that a person is a sexually violent
10 predator shall not toll, discharge, or otherwise affect that person's
11 period of parole.

12 (b) Notwithstanding any provision to the contrary in Article 3
13 (commencing with Section 3040) of this chapter, the following
14 shall apply:

15 (1) At the expiration of a term of imprisonment of one year
16 and one day, or a term of imprisonment imposed pursuant to
17 Section 1170 or at the expiration of a term reduced pursuant to
18 Section 2931 or 2933, if applicable, the inmate shall be released
19 on parole for a period not exceeding three years, except that any
20 inmate sentenced for an offense specified in paragraph (3), (4),
21 (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5
22 shall be released on parole for a period not exceeding five years,
23 unless in either case the parole authority for good cause waives
24 parole and discharges the inmate from the custody of the
25 department.

26 (2) In the case of any inmate sentenced under Section 1168,
27 the period of parole shall not exceed five years in the case of an
28 inmate imprisoned for any offense other than first or second
29 degree murder for which the inmate has received a life sentence,
30 and shall not exceed three years in the case of any other inmate,
31 unless in either case the parole authority for good cause waives
32 parole and discharges the inmate from custody of the department.
33 This subdivision shall also be applicable to inmates who
34 committed crimes prior to July 1, 1977, to the extent specified in
35 Section 1170.2.

36 (3) Notwithstanding paragraphs (1) and (2), in the case of any
37 offense for which the inmate has received a life sentence
38 pursuant to Section 667.61 or 667.71, the period of parole shall
39 be five years. Upon the request of the Department of Corrections
40 *and Rehabilitation*, and on the grounds that the paroled inmate

1 may pose a substantial danger to public safety, the Board of
2 ~~Prison Terms Parole Hearings~~ shall conduct a hearing to
3 determine if the parolee shall be subject to a single additional
4 five-year period of parole. The board shall conduct the hearing
5 pursuant to the procedures and standards governing parole
6 revocation. The request for parole extension shall be made no
7 less than 180 days prior to the expiration of the initial five-year
8 period of parole.

9 (4) *Notwithstanding any other provision, in the case of any*
10 *inmate sentenced pursuant to Section 288 for lewd or lascivious*
11 *acts on a child under 12 years of age, the period of parole shall*
12 *be 20 years.*

13 (5) The parole authority shall consider the request of any
14 inmate regarding the length of his or her parole and the
15 conditions thereof.

16 ~~(5)~~

17 (6) Upon successful completion of parole, or at the end of the
18 maximum statutory period of parole specified for the inmate
19 under paragraph (1), (2), or (3), as the case may be, whichever is
20 earlier, the inmate shall be discharged from custody. The date of
21 the maximum statutory period of parole under this subdivision
22 and paragraphs (1), (2), and (3) shall be computed from the date
23 of initial parole or from the date of extension of parole pursuant
24 to paragraph (3) and shall be a period chronologically
25 determined. Time during which parole is suspended because the
26 prisoner has absconded or has been returned to custody as a
27 parole violator shall not be credited toward any period of parole
28 unless the prisoner is found not guilty of the parole violation.
29 However, in no case, except as provided in Section 3064, may a
30 prisoner subject to three years on parole be retained under parole
31 supervision or in custody for a period longer than four years from
32 the date of his or her initial parole, and, except as provided in
33 Section 3064, in no case may a prisoner subject to five years on
34 parole be retained under parole supervision or in custody for a
35 period longer than seven years from the date of his or her initial
36 parole or from the date of extension of parole pursuant to
37 paragraph (3).

38 ~~(6)~~

39 (7) The Department of Corrections *and Rehabilitation* shall
40 meet with each inmate at least 30 days prior to his or her good

1 time release date and shall provide, under guidelines specified by
2 the parole authority, the conditions of parole and the length of
3 parole up to the maximum period of time provided by law. The
4 inmate has the right to reconsideration of the length of parole and
5 conditions thereof by the parole authority. The Department of
6 Corrections *and Rehabilitation* or the Board of ~~Prison Terms~~
7 *Parole Hearings* may impose as a condition of parole that a
8 prisoner make payments on the prisoner's outstanding restitution
9 fines or orders imposed pursuant to subdivision (a) or (c) of
10 Section 13967 of the Government Code, as operative prior to
11 September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

12 ~~(7)~~

13 (8) For purposes of this chapter, the Board of ~~Prison Terms~~
14 *Parole Hearings* shall be considered the parole authority.

15 ~~(8)~~

16 (9) The sole authority to issue warrants for the return to actual
17 custody of any state prisoner released on parole rests with the
18 Board of ~~Prison Terms~~ *Parole Hearings*, except for any escaped
19 state prisoner or any state prisoner released prior to his or her
20 scheduled release date who should be returned to custody, and
21 Section 3060 shall apply.

22 ~~(9)~~

23 (10) It is the intent of the Legislature that efforts be made with
24 respect to persons who are subject to subparagraph (C) of
25 paragraph (1) of subdivision (a) of Section 290 who are on parole
26 to engage them in treatment.

27 SEC. 3. Section 3003.6 is added to the Penal Code, to read:

28 3003.6. The parole authority shall require, as a condition of
29 release on parole or reinstatement on parole, that an inmate or
30 parolee convicted of violating Section 288 with a victim who is
31 less than 12 years of age agree in writing to the use of electronic
32 monitoring or supervising devices for the duration of parole for
33 the purpose of helping to verify his or her compliance with all
34 other conditions of parole consistent with Section 3004.

35 SEC. 4. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.

4 SEC. 5. This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety
6 within the meaning of Article IV of the Constitution and shall go
7 into immediate effect. The facts constituting the necessity are:

8 In order to protect the community from dangerous sexually
9 violent predators, it is necessary that this act take effect
10 immediately.