

AMENDED IN SENATE MAY 5, 2009
AMENDED IN SENATE APRIL 14, 2009

SENATE BILL

No. 668

Introduced by Senator Hollingsworth

February 27, 2009

An act to amend Section 290.018 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 668, as amended, Hollingsworth. Sex offenders.

Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California, and requires preregistration and reregistration, as specified. Existing law also provides that the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is punishable by imprisonment in a county jail not to exceed one year.

~~This bill would instead provide that the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year, or by imprisonment in the state prison, depending on whether the sex offense which was the basis for requiring registration was either a misdemeanor or felony provide that nothing in the latter provision shall be construed to limit or prevent prosecution under any applicable provision of law.~~

~~By changing an offense punishable only as a misdemeanor to one punishable as either a misdemeanor or a felony, additional local costs~~

~~associated with felony offenses will be incurred in those cases prosecuted as a felony, and thus this bill would create a state-mandated local program.~~

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

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

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

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

1 SECTION 1. Section 290.018 of the Penal Code is amended
2 to read:

3 290.018. (a) Any person who is required to register under the
4 Act based on a misdemeanor conviction or juvenile adjudication
5 who willfully violates any requirement of the Act is guilty of a
6 misdemeanor punishable by imprisonment in a county jail not
7 exceeding one year.

8 (b) Except as provided in subdivisions (f), (h), and (j), any
9 person who is required to register under the Act based on a felony
10 conviction or juvenile adjudication who willfully violates any
11 requirement of the Act or who has a prior conviction or juvenile
12 adjudication for the offense of failing to register under the Act and
13 who subsequently and willfully violates any requirement of the
14 Act is guilty of a felony and shall be punished by imprisonment
15 in the state prison for 16 months, or two or three years.

16 (c) If probation is granted or if the imposition or execution of
17 sentence is suspended, it shall be a condition of the probation or
18 suspension that the person serve at least 90 days in a county jail.
19 The penalty described in subdivision (b) or this subdivision shall
20 apply whether or not the person has been released on parole or has
21 been discharged from parole.

22 (d) Any person determined to be a mentally disordered sex
23 offender or who has been found guilty in the guilt phase of trial
24 for an offense for which registration is required under the Act, but
25 who has been found not guilty by reason of insanity in the sanity
26 phase of the trial, or who has had a petition sustained in a juvenile
27 adjudication for an offense for which registration is required

1 pursuant to Section 290.008, but who has been found not guilty
2 by reason of insanity, who willfully violates any requirement of
3 the Act is guilty of a misdemeanor and shall be punished by
4 imprisonment in a county jail not exceeding one year. For any
5 second or subsequent willful violation of any requirement of the
6 Act, the person is guilty of a felony and shall be punished by
7 imprisonment in the state prison for 16 months, or two or three
8 years.

9 (e) If, after discharge from parole, the person is convicted of a
10 felony or suffers a juvenile adjudication as specified in this act,
11 he or she shall be required to complete parole of at least one year,
12 in addition to any other punishment imposed under this section.
13 A person convicted of a felony as specified in this section may be
14 granted probation only in the unusual case where the interests of
15 justice would best be served. When probation is granted under this
16 act, the court shall specify on the record and shall enter into the
17 minutes the circumstances indicating that the interests of justice
18 would best be served by the disposition.

19 (f) Any person who has ever been adjudicated a sexually violent
20 predator, as defined in Section 6600 of the Welfare and Institutions
21 Code, and who fails to verify his or her registration every 90 days
22 as required pursuant to subdivision (b) of Section 290.012, shall
23 be punished by imprisonment in the state prison, or in a county
24 jail not exceeding one year.

25 (g) Except as otherwise provided in subdivision (f), any person
26 who is required to register or reregister pursuant to Section 290.011
27 and willfully fails to comply with the requirement that he or she
28 reregister no less than every 30 days is guilty of a misdemeanor
29 and shall be punished by imprisonment in a county jail for at least
30 30 days, but not exceeding six months. A person who willfully
31 fails to comply with the requirement that he or she reregister no
32 less than every 30 days shall not be charged with this violation
33 more often than once for a failure to register in any period of 90
34 days. Any person who willfully commits a third or subsequent
35 violation of the requirements of Section 290.011 that he or she
36 reregister no less than every 30 days shall be punished in
37 accordance with either subdivision (a) or (b).

38 (h) Any person who fails to provide proof of residence as
39 required by paragraph (5) of subdivision (a) of Section 290.015,
40 regardless of the offense upon which the duty to register is based,

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

3 (i) Any person who is required to register under the Act who
4 willfully violates any requirement of the Act is guilty of a
5 continuing offense as to each requirement he or she violated.

6 (j) In addition to any other penalty imposed under this section,
7 the failure to provide information required on registration and
8 reregistration forms of the Department of Justice, or the provision
9 of false information, is a crime punishable by imprisonment in a
10 county jail for a period not exceeding one year, or by imprisonment
11 in the state prison, as follows:

12 ~~(1) Any person required to register under the Act based on a~~
13 ~~misdemeanor conviction or juvenile adjudication who violates this~~
14 ~~subdivision is guilty of a misdemeanor punishable by imprisonment~~
15 ~~in a county jail for a period not exceeding one year.~~

16 ~~(2) Any person required to register under the Act based on a~~
17 ~~felony conviction or juvenile adjudication who violates this~~
18 ~~subdivision is guilty of a felony punishable by imprisonment in~~
19 ~~state prison for 16 months, or two or three years. county jail for a~~
20 ~~period not exceeding one year. Nothing in this subdivision shall~~
21 ~~be construed to limit or prevent prosecution under any applicable~~
22 ~~provision of law.~~

23 (k) Whenever any person is released on parole or probation and
24 is required to register under the Act but fails to do so within the
25 time prescribed, the parole authority or the court, as the case may
26 be, shall order the parole or probation of the person revoked. For
27 purposes of this subdivision, “parole authority” has the same
28 meaning as described in Section 3000.

29 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
30 ~~Section 6 of Article XIII B of the California Constitution because~~
31 ~~the only costs that may be incurred by a local agency or school~~
32 ~~district will be incurred because this act creates a new crime or~~
33 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
34 ~~for a crime or infraction, within the meaning of Section 17556 of~~
35 ~~the Government Code, or changes the definition of a crime within~~
36 ~~the meaning of Section 6 of Article XIII B of the California~~
37 ~~Constitution.~~

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