

**Introduced by Senator Hollingsworth**February 27, 2009

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An act to amend Section 1566.3 of the Health and Safety Code, and to amend Section 3003.5 of the Penal Code, relating to sex offenders.

## LEGISLATIVE COUNSEL'S DIGEST

SB 689, as introduced, Hollingsworth. Sex offenders: residency restrictions.

Existing law prohibits a parolee who served a term of imprisonment in state prison for any sex offense requiring registration, from, during the period of parole, residing in any single family dwelling with any other person also required to register as a sex offender, unless those persons are legally related by blood, marriage, or adoption. Existing law excludes a residential facility that serves 6 or fewer persons from the definition of a single family dwelling for this purpose.

This bill would remove the exclusion of a residential facility that serves 6 or fewer persons from the definition of a single family dwelling and would, instead, allow a county or city to include a residential facility that serves 6 or fewer persons within the local definition of a single family dwelling for purposes of the restriction on sex offenders living together. This bill would also allow a county or city to prohibit a person released on parole, after having served a term of imprisonment in state prison for any offense for which registration as a sex offender is required, from residing, during the period of parole, in any single family dwelling with any other person also on parole after having served a term of imprisonment in state prison for any offense for which registration as a sex offender is required, unless those persons are legally related by blood, marriage, or adoption.

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

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

1 SECTION 1. Section 1566.3 of the Health and Safety Code is  
2 amended to read:

3 1566.3. (a) Whether or not unrelated persons are living  
4 together, a residential facility that serves six or fewer persons shall  
5 be considered a residential use of property for the purposes of this  
6 article. In addition, the residents and operators of such a facility  
7 shall be considered a family for the purposes of any law or zoning  
8 ordinance which relates to the residential use of property pursuant  
9 to this article, *except as provided in subdivision (h)*.

10 (b) For the purpose of all local ordinances, a residential facility  
11 that serves six or fewer persons shall not be included within the  
12 definition of a boarding house, rooming house, institution or home  
13 for the care of minors, the aged, or the mentally infirm, foster care  
14 home, guest home, rest home, sanitarium, mental hygiene home,  
15 or other similar term which implies that the residential facility is  
16 a business run for profit or differs in any other way from a family  
17 dwelling, *except as provided in subdivision (h)*.

18 (c) This section shall not be construed to prohibit any city,  
19 county, or other local public entity from placing restrictions on  
20 building heights, setback, lot dimensions, or placement of signs  
21 of a residential facility which serves six or fewer persons as long  
22 as such restrictions are identical to those applied to other family  
23 dwellings of the same type in the same zone.

24 (d) This section shall not be construed to prohibit the application  
25 to a residential care facility of any local ordinance that deals with  
26 health and safety, building standards, environmental impact  
27 standards, or any other matter within the jurisdiction of a local  
28 public entity if the ordinance does not distinguish residential care  
29 facilities which serve six or fewer persons from other family  
30 dwellings of the same type in the same zone and if the ordinance  
31 does not distinguish residents of the residential care facilities from  
32 persons who reside in other family dwellings of the same type in  
33 the same zone. Nothing in this section shall be construed to limit  
34 the ability of a local public entity to fully enforce a local ordinance,  
35 including, but not limited to, the imposition of fines and other

1 penalties associated with violations of local ordinances covered  
2 by this section.

3 (e) No conditional use permit, zoning variance, or other zoning  
4 clearance shall be required of a residential facility which serves  
5 six or fewer persons which is not required of a family dwelling of  
6 the same type in the same zone.

7 (f) Use of a family dwelling for purposes of a residential facility  
8 serving six or fewer persons shall not constitute a change of  
9 occupancy for purposes of Part 1. 5 (commencing with Section  
10 17910) of Division 13 or local building codes. However, nothing  
11 in this section is intended to supersede Section 13143 or 13143.6,  
12 to the extent such sections are applicable to residential facilities  
13 providing care for six or fewer residents.

14 (g) For the purposes of this section, “family dwelling,” includes,  
15 but is not limited to, ~~single-family~~ *single family* dwellings, units  
16 in multifamily dwellings, including units in duplexes and units in  
17 apartment dwellings, mobilehomes, including mobilehomes located  
18 in mobilehome parks, units in cooperatives, units in condominiums,  
19 units in townhouses, and units in planned unit developments.

20 (h) *Notwithstanding any other provision of law, a city or county*  
21 *may adopt a local ordinance prohibiting a person released on*  
22 *parole after having served a term of imprisonment in state prison*  
23 *for any offense for which registration is required pursuant to*  
24 *Section 290 of the Penal Code, from residing, during the period*  
25 *of parole, in any single family dwelling with any other person also*  
26 *on parole after having served a term of imprisonment in the state*  
27 *prison for any offense for which registration as a sex offender is*  
28 *required pursuant to Section 290, unless those persons are legally*  
29 *related by blood, marriage, or adoption. For purposes of this*  
30 *subdivision, a city or county may include a residential facility*  
31 *which serves six or fewer persons, including, but not limited to, a*  
32 *“sober living facility” within the definition of a “single family*  
33 *dwelling.”*

34 SEC. 2. Section 3003.5 of the Penal Code is amended to read:

35 3003.5. (a) Notwithstanding any other provision of law, when  
36 a person is released on parole after having served a term of  
37 imprisonment in state prison for any offense for which registration  
38 is required pursuant to Section 290, that person may not, during  
39 the period of parole, reside in any single family dwelling with any  
40 other person also required to register pursuant to Section 290,

1 unless those persons are legally related by blood, marriage, or  
2 adoption. For purposes of this section, ~~“single family dwelling”~~  
3 ~~shall not include a residential facility which serves six or fewer~~  
4 ~~persons.~~ *a city or county may adopt a local ordinance to include*  
5 *a “residential facility that serves six or fewer persons,” including*  
6 *a “sober living facility,” within the definition of a “single family*  
7 *dwelling.”*

8 (b) Notwithstanding any other provision of law, it is unlawful  
9 for any person for whom registration is required pursuant to Section  
10 290 to reside within ~~2000~~ 2,000 feet of any public or private school,  
11 or park where children regularly gather.

12 (c) Nothing in this section shall prohibit municipal jurisdictions  
13 from enacting local ordinances that further restrict the residency  
14 of any person for whom registration is required pursuant to Section  
15 290.