

AMENDED IN ASSEMBLY AUGUST 20, 2010

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY JUNE 16, 2010

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 5, 2010

**SENATE BILL**

**No. 1201**

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**Introduced by Senator DeSaulnier**

February 18, 2010

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An act to amend Section 290.06 of, and to add Section 2963 to, the Penal Code, and to amend Sections 6601 and 6601.3 of the Welfare and Institutions Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1201, as amended, DeSaulnier. Sex offenders: assessments.

(1) Existing law, the Sex Offender Registration Act, provides that persons convicted of specified sex offenses are required to register with law enforcement, as specified. Existing law requires that persons required to register as sex offenders be subject to assessment by the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO), as specified. Existing law requires the Department of Corrections and Rehabilitation and the State Department of Mental Health to perform a risk assessment of every eligible person under their jurisdiction, as specified. Existing law provides that the definition of "eligible person" for this purpose means a person convicted of an offense that requires him or her to register pursuant to a specified provision of the act and who is eligible for assessment. The act, in addition to the provision specified in this definition of "eligible person," also provides registration

requirements for the registration of, among others, persons convicted of registerable offenses in out-of-state, federal, or military courts, and registration of out-of-state residents working or attending school in California.

This bill would require the Department of Corrections and Rehabilitation to assess every person on parole transferred from any other state or by the federal government to this state who has been, or is hereafter convicted in any other court, including any state, federal, or military court, of any offense that, if committed or attempted in this state, would require the person to register as a sex offender, as specified. The bill would specify that this assessment shall occur no later than 60 days after a determination by the Department of Justice that the person is required to register as a sex offender, as specified. The bill would revise the definition of “eligible person” for the purpose in the paragraph above to include all persons required to register as sex offenders pursuant to the Sex Offender Registration Act.

(2) Existing law requires that a prisoner who meets specified criteria for having a severe mental disorder shall, as a condition of parole, be required to receive treatment from the State Department of Mental Health, either on an outpatient or inpatient basis. In order to impose this parole condition the prisoner must have been evaluated by the State Department of Mental Health, as provided, and the chief psychiatrist of the Department of Corrections and Rehabilitation must have certified to the Board of Parole Hearings that the prisoner has a severe mental disorder. Existing law provides for additional mental health examinations in the event of a disagreement among the evaluators. Under existing law these evaluations and this certification must be performed prior to the prisoner’s release on parole.

This bill would authorize the Board of Parole Hearings to order that a person remain in custody for no more than 45 days beyond the person’s release date, upon a showing of good cause, in order to perform the evaluations described above. The bill would define good cause for these purposes as meaning circumstances where there is a recalculation of credits or restoration of credits, a resentencing by a court, the receipt of the prisoner into custody, or an equivalent exigent circumstance which results in there being less than 45 days prior to the person’s release on parole to perform the evaluations.

(3) Existing law requires the Secretary of the Department of Corrections and Rehabilitation to refer a prisoner for evaluation by the State Department of Mental Health when he or she determines that the

person may be a sexually violent predator. Existing law requires that this referral be made at least 6 months before the prisoner's release date and specifies a sexually violent predator evaluation procedure. Under existing law, the Board of Prison Terms may, upon a showing of good cause, order that the person referred to the State Department of Mental Health pursuant to these provisions remain in custody for no more than 45 days beyond the person's scheduled release date for a full evaluation.

This bill would define good cause for these purposes as meaning circumstances where there is a recalculation of credits or restoration of credits, a resentencing by a court, the receipt of the prisoner into custody, or an equivalent exigent circumstance which results in there being less than 45 days prior to the person's scheduled release date to perform the evaluation.

(4) Existing law requires, prior to release from the custody of the Department of Corrections and Rehabilitation of a person who has been convicted of certain crimes of a sexual nature, that the Secretary of the Department of Corrections and Rehabilitation refer that person to the State Department of Mental Health for evaluation if the secretary determines that person may be a sexually violent predator. The evaluation is to be performed by 2 practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the director shall forward a request for a petition for commitment to the applicable county. If the evaluators do not agree as to whether the person meets the criteria for a sexually violent predator, the director is required to arrange for examination by 2 independent professionals who are not employees of the state and who meet specified requirements.

Existing law specifies that the psychologists or psychiatrists performing the original evaluation may be independent professionals. Existing law provides that this provision shall be repealed, and a different provision of existing law that does not provide that the psychologists or psychiatrists performing the original evaluation may be independent professionals shall become operative, on the date that the director executes a declaration specifying that sufficient qualified state employees have been hired to conduct the evaluations, or January 1, 2011, whichever occurs first.

This bill would extend this final date for the expiration of the authorization for independent professionals to perform these examinations from January 1, 2011, to January 1, 2012.

*This bill would incorporate amendments to Section 290.06 of the Penal Code proposed by AB 1844 and SB 1062 contingent on the prior enactment of those bills.*

Vote: majority. 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 290.06 of the Penal Code is amended to  
2 read:

3 290.06. The SARATSO, as set forth in Section 290.04, shall  
4 be administered as follows:

5 (a) (1) The Department of Corrections and Rehabilitation shall  
6 assess every eligible person who is incarcerated in state prison.  
7 Whenever possible, the assessment shall take place at least four  
8 months, but no sooner than 10 months, prior to release from  
9 incarceration.

10 (2) The department shall assess every eligible person who is on  
11 parole if the person was not assessed prior to release from state  
12 prison. Whenever possible, the assessment shall take place at least  
13 four months, but no sooner than 10 months, prior to termination  
14 of parole. The department shall record in a database the risk  
15 assessment scores of persons assessed pursuant to this paragraph  
16 and paragraph (1), and any risk assessment score that was  
17 submitted to the department by a probation officer pursuant to  
18 Section 1203.

19 (3) The department shall assess every person on parole  
20 transferred from any other state or by the federal government to  
21 this state who has been, or is hereafter convicted in any other court,  
22 including any state, federal, or military court, of any offense that,  
23 if committed or attempted in this state, would have been punishable  
24 as one or more of the offenses described in subdivision (c) of  
25 Section 290. The assessment required by this paragraph shall occur  
26 no later than 60 days after a determination by the Department of  
27 Justice that the person is required to register as a sex offender in  
28 California pursuant to Section 290.005.

1 (4) The State Department of Mental Health shall assess every  
2 eligible person who is committed to that department. Whenever  
3 possible, the assessment shall take place at least four months, but  
4 no sooner than 10 months, prior to release from commitment. The  
5 State Department of Mental Health shall record in a database the  
6 risk assessment scores of persons assessed pursuant to this  
7 paragraph and any risk assessment score that was submitted to the  
8 department by a probation officer pursuant to Section 1203.

9 (5) Commencing January 1, 2010, the Department of Corrections  
10 and Rehabilitation and the State Department of Mental Health  
11 shall send the scores obtained in accordance with paragraphs (2),  
12 (3), and (4) to the Department of Justice Sex Offender Tracking  
13 Program not later than 30 days after the date of the assessment.  
14 The risk assessment score of an offender shall be made part of his  
15 or her file maintained by the Department of Justice Sex Offender  
16 Tracking Program as soon as possible without financial impact,  
17 but no later than January 1, 2012.

18 (6) Each probation department shall assess every eligible person  
19 for whom it prepares a report pursuant to Section 1203.

20 (7) Each probation department shall assess every eligible person  
21 under its supervision who was not assessed pursuant to paragraph  
22 ~~(5)~~ (6). The assessment shall take place prior to the termination of  
23 probation, but no later than January 1, 2010.

24 (b) Eligible persons not assessed pursuant to subdivision (a)  
25 may be assessed as follows:

26 (1) Upon request of the law enforcement agency in the  
27 jurisdiction in which the person is registered pursuant to Sections  
28 290 to 290.023, inclusive, the person shall be assessed. The law  
29 enforcement agency may enter into a memorandum of  
30 understanding with a probation department to perform the  
31 assessment. In the alternative, the law enforcement agency may  
32 arrange to have personnel trained to perform the risk assessment  
33 in accordance with subdivision (d) of Section 290.05.

34 (2) Eligible persons not assessed pursuant to subdivision (a)  
35 may request that a risk assessment be performed. A request form  
36 shall be available at registering law enforcement agencies. The  
37 person requesting the assessment shall pay a fee for the assessment  
38 that shall be sufficient to cover the cost of the assessment. The risk  
39 assessment so requested shall be performed either by the probation  
40 department, if a memorandum of understanding is established

1 between the law enforcement agency and the probation department,  
2 or by personnel who have been trained to perform risk assessment  
3 in accordance with subdivision (d) of Section 290.05.

4 (c) On or before January 1, 2008, the SARATSO Review  
5 Committee shall research the appropriateness and feasibility of  
6 providing a means by which an eligible person subject to  
7 assessment may, at his or her own expense, be assessed with the  
8 SARATSO by a governmental entity prior to his or her scheduled  
9 assessment. If the committee unanimously agrees that such a  
10 process is appropriate and feasible, it shall advise the Governor  
11 and the Legislature of the selected tool, and it shall post its decision  
12 on the Department of Corrections and Rehabilitation's Internet  
13 Web site. Sixty days after the decision is posted, the established  
14 process shall become effective.

15 (d) For purposes of this section, "eligible person" means a person  
16 who was convicted of an offense that requires him or her to register  
17 as a sex offender pursuant to the Sex Offender Registration Act  
18 and who is eligible for assessment, pursuant to the official Coding  
19 Rules designated for use with the risk assessment instrument by  
20 the author of any risk assessment instrument (SARATSO) selected  
21 by the SARATSO Review Committee.

22 (e) Persons authorized to perform risk assessments pursuant to  
23 this section, Section 1203, and Section 706 of the Welfare and  
24 Institutions Code shall be immune from liability for good faith  
25 conduct under this act.

26 *SEC. 1.3. Section 290.06 of the Penal Code is amended to*  
27 *read:*

28 ~~290.06. Effective on or before July 1, 2008, the~~ *The static*  
29 *SARATSO, as set forth in Section 290.04, shall be administered*  
30 *as follows:*

31 (a) (1) The Department of Corrections and Rehabilitation shall  
32 assess every eligible person who is incarcerated in state prison.  
33 Whenever possible, the assessment shall take place at least four  
34 months, but no sooner than 10 months, prior to release from  
35 incarceration.

36 (2) The department shall assess every eligible person who is on  
37 parole if the person was not assessed prior to release from state  
38 prison. Whenever possible, the assessment shall take place at least  
39 four months, but no sooner than 10 months, prior to termination  
40 of parole. The department shall record in a database the risk

1 assessment scores of persons assessed pursuant to this paragraph  
2 and paragraph (1), and any risk assessment score that was  
3 submitted to the department by a probation officer pursuant to  
4 Section 1203.

5 *(3) The department shall assess every person on parole*  
6 *transferred from any other state or by the federal government to*  
7 *this state who has been, or is hereafter convicted in any other*  
8 *court, including any state, federal, or military court, of any offense*  
9 *that, if committed or attempted in this state, would have been*  
10 *punishable as one or more of the offenses described in subdivision*  
11 *(c) of Section 290. The assessment required by this paragraph*  
12 *shall occur no later than 60 days after a determination by the*  
13 *Department of Justice that the person is required to register as a*  
14 *sex offender in California pursuant to Section 290.005.*

15 ~~(3)~~

16 (4) The State Department of Mental Health shall assess every  
17 eligible person who is committed to that department. Whenever  
18 possible, the assessment shall take place at least four months, but  
19 no sooner than 10 months, prior to release from commitment. The  
20 State Department of Mental Health shall record in a database the  
21 risk assessment scores of persons assessed pursuant to this  
22 paragraph and any risk assessment score that was submitted to the  
23 department by a probation officer pursuant to Section 1203.

24 ~~(4)~~

25 (5) Commencing January 1, 2010, the Department of Corrections  
26 and Rehabilitation and the State Department of Mental Health  
27 shall send the scores obtained in accordance with paragraphs ~~(2)~~  
28 ~~and (3) respectively, (2), (3), and (4)~~ to the Department of Justice  
29 Sex Offender Tracking Program not later than 30 days after the  
30 date of the assessment. The risk assessment score of an offender  
31 shall be made part of his or her file maintained by the Department  
32 of Justice Sex Offender Tracking Program as soon as possible  
33 without financial impact, but no later than January 1, 2012.

34 ~~(5)~~

35 (6) Each probation department shall assess every eligible person  
36 for whom it prepares a report pursuant to Section 1203.

37 ~~(6)~~

38 (7) Each probation department shall assess every eligible person  
39 under its supervision who was not assessed pursuant to paragraph

1 ~~(5)~~ (6). The assessment shall take place prior to the termination of  
2 probation, but no later than January 1, 2010.

3 (b) Eligible persons not assessed pursuant to subdivision (a)  
4 may be assessed as follows:

5 (1) Upon request of the law enforcement agency in the  
6 jurisdiction in which the person is registered pursuant to Sections  
7 290 to 290.023, inclusive, the person shall be assessed. The law  
8 enforcement agency may enter into a memorandum of  
9 understanding with a probation department to perform the  
10 assessment. In the alternative, the law enforcement agency may  
11 arrange to have personnel trained to perform the risk assessment  
12 in accordance with subdivision (d) of Section 290.05.

13 (2) Eligible persons not assessed pursuant to subdivision (a)  
14 may request that a risk assessment be performed. A request form  
15 shall be available at registering law enforcement agencies. The  
16 person requesting the assessment shall pay a fee for the assessment  
17 that shall be sufficient to cover the cost of the assessment. The risk  
18 assessment so requested shall be performed either by the probation  
19 department, if a memorandum of understanding is established  
20 between the law enforcement agency and the probation department,  
21 or by personnel who have been trained to perform risk assessment  
22 in accordance with subdivision (d) of Section 290.05.

23 ~~(e) On or before January 1, 2008, the SARATSO Review~~  
24 ~~Committee shall research the appropriateness and feasibility of~~  
25 ~~providing a means by which an eligible person subject to~~  
26 ~~assessment may, at his or her own expense, be assessed with the~~  
27 ~~SARATSO by a governmental entity prior to his or her scheduled~~  
28 ~~assessment. If the committee unanimously agrees that such a~~  
29 ~~process is appropriate and feasible, it shall advise the Governor~~  
30 ~~and the Legislature of the selected tool, and it shall post its decision~~  
31 ~~on the Department of Corrections and Rehabilitation's Internet~~  
32 ~~Web site. Sixty days after the decision is posted, the established~~  
33 ~~process shall become effective.~~

34 ~~(d)~~

35 (c) For purposes of this section, "eligible person" means a person  
36 who was convicted of an offense that requires him or her to register  
37 as a sex offender pursuant to ~~Section 290 the Sex Offender~~  
38 ~~Registration Act~~ and who is eligible for assessment, pursuant to  
39 the official Coding Rules designated for use with the risk  
40 assessment instrument by the author of any risk assessment

1 instrument (SARATSO) selected by the SARATSO Review  
2 Committee.

3 (e)

4 (d) Persons authorized to perform risk assessments pursuant to  
5 this section, Section 1203, and Section 706 of the Welfare and  
6 Institutions Code shall be immune from liability for good faith  
7 conduct under this act.

8 *SEC. 1.5. Section 290.06 of the Penal Code is amended to*  
9 *read:*

10 290.06. ~~Effective on or before July 1, 2008, the~~ *The* SARATSO,  
11 as set forth in Section 290.04, shall be administered as follows:

12 (a) (1) The Department of Corrections and Rehabilitation shall  
13 assess every eligible person who is incarcerated in state prison.  
14 Whenever possible, the assessment shall take place at least four  
15 months, but no sooner than 10 months, prior to release from  
16 incarceration.

17 (2) The department shall assess every eligible person who is on  
18 parole if the person was not assessed prior to release from state  
19 prison. Whenever possible, the assessment shall take place at least  
20 four months, but no sooner than 10 months, prior to termination  
21 of parole. The department shall record in a database the risk  
22 assessment scores of persons assessed pursuant to this paragraph  
23 and paragraph (1), and any risk assessment score that was  
24 submitted to the department by a probation officer pursuant to  
25 Section 1203.

26 (3) *The department shall assess every person on parole*  
27 *transferred from any other state or by the federal government to*  
28 *this state who has been, or is hereafter convicted in any other*  
29 *court, including any state, federal, or military court, of any offense*  
30 *that, if committed or attempted in this state, would have been*  
31 *punishable as one or more of the offenses described in subdivision*  
32 *(c) of Section 290. The assessment required by this paragraph*  
33 *shall occur no later than 60 days after a determination by the*  
34 *Department of Justice that the person is required to register as a*  
35 *sex offender in California pursuant to Section 290.005.*

36 (3)

37 (4) The State Department of Mental Health shall assess every  
38 eligible person who is committed to that department. Whenever  
39 possible, the assessment shall take place at least four months, but  
40 no sooner than 10 months, prior to release from commitment. The

1 State Department of Mental Health shall record in a database the  
2 risk assessment scores of persons assessed pursuant to this  
3 paragraph and any risk assessment score that was submitted to the  
4 department by a probation officer pursuant to Section 1203.

5 ~~(4)~~

6 (5) Commencing January 1, 2010, the Department of Corrections  
7 and Rehabilitation and the State Department of Mental Health  
8 shall send the scores obtained in accordance with paragraphs ~~(2)~~  
9 ~~and (3) respectively, (2), (3), and (4)~~ to the Department of Justice  
10 Sex Offender Tracking Program not later than 30 days after the  
11 date of the assessment. The risk assessment score of an offender  
12 shall be made part of his or her file maintained by the Department  
13 of Justice Sex Offender Tracking Program as soon as possible  
14 without financial impact, but no later than January 1, 2012.

15 ~~(5)~~

16 (6) Each probation department shall, *prior to sentencing*, assess  
17 every eligible person ~~for whom it prepares a report as defined in~~  
18 *subdivision (d), whether or not a report is prepared* pursuant to  
19 Section 1203.

20 ~~(6)~~

21 (7) Each probation department shall assess every eligible person  
22 under its supervision who was not assessed pursuant to paragraph  
23 ~~(5)~~ (6). The assessment shall take place prior to the termination of  
24 probation, but no later than January 1, 2010.

25 (b) Eligible persons not assessed pursuant to subdivision (a)  
26 may be assessed as follows:

27 (1) Upon request of the law enforcement agency in the  
28 jurisdiction in which the person is registered pursuant to Sections  
29 290 to 290.023, inclusive, the person shall be assessed. The law  
30 enforcement agency may enter into a memorandum of  
31 understanding with a probation department to perform the  
32 assessment. In the alternative, the law enforcement agency may  
33 arrange to have personnel trained to perform the risk assessment  
34 in accordance with subdivision (d) of Section 290.05.

35 (2) Eligible persons not assessed pursuant to subdivision (a)  
36 may request that a risk assessment be performed. A request form  
37 shall be available at registering law enforcement agencies. The  
38 person requesting the assessment shall pay a fee for the assessment  
39 that shall be sufficient to cover the cost of the assessment. The risk  
40 assessment so requested shall be performed either by the probation

1 department, if a memorandum of understanding is established  
2 between the law enforcement agency and the probation department,  
3 or by personnel who have been trained to perform risk assessment  
4 in accordance with subdivision (d) of Section 290.05.

5 (c) On or before January 1, 2008, the SARATSO Review  
6 Committee shall research the appropriateness and feasibility of  
7 providing a means by which an eligible person subject to  
8 assessment may, at his or her own expense, be assessed with the  
9 SARATSO by a governmental entity prior to his or her scheduled  
10 assessment. If the committee unanimously agrees that such a  
11 process is appropriate and feasible, it shall advise the Governor  
12 and the Legislature of the selected tool, and it shall post its decision  
13 on the Department of Corrections and Rehabilitation’s Internet  
14 Web site. Sixty days after the decision is posted, the established  
15 process shall become effective.

16 (d) For purposes of this section, “eligible person” means a person  
17 who was convicted of an offense that requires him or her to register  
18 as a sex offender pursuant to ~~Section 290~~ *the Sex Offender*  
19 *Registration Act* and who is eligible for assessment, pursuant to  
20 the official Coding Rules designated for use with the risk  
21 assessment instrument by the author of any risk assessment  
22 instrument (SARATSO) selected by the SARATSO Review  
23 Committee.

24 (e) Persons authorized to perform risk assessments pursuant to  
25 this section, Section 1203, and Section 706 of the Welfare and  
26 Institutions Code shall be immune from liability for good faith  
27 conduct under this act.

28 *SEC. 1.7. Section 290.06 of the Penal Code is amended to*  
29 *read:*

30 290.06. ~~Effective on or before July 1, 2008, the~~ *The static*  
31 SARATSO, as set forth in Section 290.04, shall be administered  
32 as follows:

33 (a) (1) The Department of Corrections and Rehabilitation shall  
34 assess every eligible person who is incarcerated in state prison.  
35 Whenever possible, the assessment shall take place at least four  
36 months, but no sooner than 10 months, prior to release from  
37 incarceration.

38 (2) The department shall assess every eligible person who is on  
39 parole if the person was not assessed prior to release from state  
40 prison. Whenever possible, the assessment shall take place at least

1 four months, but no sooner than 10 months, prior to termination  
2 of parole. The department shall record in a database the risk  
3 assessment scores of persons assessed pursuant to this paragraph  
4 and paragraph (1), and any risk assessment score that was  
5 submitted to the department by a probation officer pursuant to  
6 Section 1203.

7 *(3) The department shall assess every person on parole*  
8 *transferred from any other state or by the federal government to*  
9 *this state who has been, or is hereafter convicted in any other*  
10 *court, including any state, federal, or military court, of any offense*  
11 *that, if committed or attempted in this state, would have been*  
12 *punishable as one or more of the offenses described in subdivision*  
13 *(c) of Section 290. The assessment required by this paragraph*  
14 *shall occur no later than 60 days after a determination by the*  
15 *Department of Justice that the person is required to register as a*  
16 *sex offender in California pursuant to Section 290.005.*

17 ~~(3)~~

18 (4) The State Department of Mental Health shall assess every  
19 eligible person who is committed to that department. Whenever  
20 possible, the assessment shall take place at least four months, but  
21 no sooner than 10 months, prior to release from commitment. The  
22 State Department of Mental Health shall record in a database the  
23 risk assessment scores of persons assessed pursuant to this  
24 paragraph and any risk assessment score that was submitted to the  
25 department by a probation officer pursuant to Section 1203.

26 ~~(4)~~

27 (5) Commencing January 1, 2010, the Department of Corrections  
28 and Rehabilitation and the State Department of Mental Health  
29 shall send the scores obtained in accordance with paragraphs ~~(2)~~  
30 ~~and (3) respectively;~~ (2), (3), and (4) to the Department of Justice  
31 Sex Offender Tracking Program not later than 30 days after the  
32 date of the assessment. The risk assessment score of an offender  
33 shall be made part of his or her file maintained by the Department  
34 of Justice Sex Offender Tracking Program as soon as possible  
35 without financial impact, but no later than January 1, 2012.

36 ~~(5)~~

37 (6) Each probation department shall, *prior to sentencing*, assess  
38 every eligible person ~~for whom it prepares a report as defined in~~  
39 *subdivision (c), whether or not a report is prepared pursuant to*  
40 Section 1203.

1     ~~(6)~~

2     (7) Each probation department shall assess every eligible person  
3 under its supervision who was not assessed pursuant to paragraph  
4 ~~(5)~~ (6). The assessment shall take place prior to the termination of  
5 probation, but no later than January 1, 2010.

6     (b) Eligible persons not assessed pursuant to subdivision (a)  
7 may be assessed as follows:

8     (1) Upon request of the law enforcement agency in the  
9 jurisdiction in which the person is registered pursuant to Sections  
10 290 to 290.023, inclusive, the person shall be assessed. The law  
11 enforcement agency may enter into a memorandum of  
12 understanding with a probation department to perform the  
13 assessment. In the alternative, the law enforcement agency may  
14 arrange to have personnel trained to perform the risk assessment  
15 in accordance with subdivision (d) of Section 290.05.

16     (2) Eligible persons not assessed pursuant to subdivision (a)  
17 may request that a risk assessment be performed. A request form  
18 shall be available at registering law enforcement agencies. The  
19 person requesting the assessment shall pay a fee for the assessment  
20 that shall be sufficient to cover the cost of the assessment. The risk  
21 assessment so requested shall be performed either by the probation  
22 department, if a memorandum of understanding is established  
23 between the law enforcement agency and the probation department,  
24 or by personnel who have been trained to perform risk assessment  
25 in accordance with subdivision (d) of Section 290.05.

26     ~~(e) On or before January 1, 2008, the SARATSO Review~~  
27 ~~Committee shall research the appropriateness and feasibility of~~  
28 ~~providing a means by which an eligible person subject to~~  
29 ~~assessment may, at his or her own expense, be assessed with the~~  
30 ~~SARATSO by a governmental entity prior to his or her scheduled~~  
31 ~~assessment. If the committee unanimously agrees that such a~~  
32 ~~process is appropriate and feasible, it shall advise the Governor~~  
33 ~~and the Legislature of the selected tool, and it shall post its decision~~  
34 ~~on the Department of Corrections and Rehabilitation's Internet~~  
35 ~~Web site. Sixty days after the decision is posted, the established~~  
36 ~~process shall become effective.~~

37     ~~(d)~~

38     (c) For purposes of this section, "eligible person" means a person  
39 who was convicted of an offense that requires him or her to register  
40 as a sex offender pursuant to ~~Section 290~~ *the Sex Offender*

1 *Registration Act* and who is eligible for assessment, pursuant to  
2 the official Coding Rules designated for use with the risk  
3 assessment instrument by the author of any risk assessment  
4 instrument (SARATSO) selected by the SARATSO Review  
5 Committee.

6 ~~(e)~~

7 (d) Persons authorized to perform risk assessments pursuant to  
8 this section, Section 1203, and Section 706 of the Welfare and  
9 Institutions Code shall be immune from liability for good faith  
10 conduct under this act.

11 SEC. 2. Section 2963 is added to the Penal Code, to read:

12 2963. (a) Upon a showing of good cause, the Board of Parole  
13 Hearings may order that a person remain in custody for no more  
14 than 45 days beyond the person's scheduled release date for full  
15 evaluation pursuant to paragraph (1) of subdivision (d) of Section  
16 2962 and any additional evaluations pursuant to paragraph (2) of  
17 subdivision (d) of Section 2962.

18 (b) For purposes of this section, good cause means circumstances  
19 where there is a recalculation of credits or a restoration of denied  
20 or lost credits, a resentencing by a court, the receipt of the prisoner  
21 into custody, or equivalent exigent circumstances which result in  
22 there being less than 45 days prior to the person's scheduled release  
23 date for the evaluations described in subdivision (d) of Section  
24 2962.

25 SEC. 3. Section 6601 of the Welfare and Institutions Code, as  
26 amended by Section 2 of Chapter 601 of the Statutes of 2008, is  
27 amended to read:

28 6601. (a) (1) Whenever the Secretary of the Department of  
29 Corrections and Rehabilitation determines that an individual who  
30 is in custody under the jurisdiction of the Department of  
31 Corrections and Rehabilitation, and who is either serving a  
32 determinate prison sentence or whose parole has been revoked,  
33 may be a sexually violent predator, the secretary shall, at least six  
34 months prior to that individual's scheduled date for release from  
35 prison, refer the person for evaluation in accordance with this  
36 section. However, if the inmate was received by the department  
37 with less than nine months of his or her sentence to serve, or if the  
38 inmate's release date is modified by judicial or administrative  
39 action, the secretary may refer the person for evaluation in

1 accordance with this section at a date that is less than six months  
2 prior to the inmate's scheduled release date.

3 (2) A petition may be filed under this section if the individual  
4 was in custody pursuant to his or her determinate prison term,  
5 parole revocation term, or a hold placed pursuant to Section 6601.3,  
6 at the time the petition is filed. A petition shall not be dismissed  
7 on the basis of a later judicial or administrative determination that  
8 the individual's custody was unlawful, if the unlawful custody was  
9 the result of a good faith mistake of fact or law. This paragraph  
10 shall apply to any petition filed on or after January 1, 1996.

11 (b) The person shall be screened by the Department of  
12 Corrections and Rehabilitation and the Board of Parole Hearings  
13 based on whether the person has committed a sexually violent  
14 predatory offense and on a review of the person's social, criminal,  
15 and institutional history. This screening shall be conducted in  
16 accordance with a structured screening instrument developed and  
17 updated by the State Department of Mental Health in consultation  
18 with the Department of Corrections and Rehabilitation. If as a  
19 result of this screening it is determined that the person is likely to  
20 be a sexually violent predator, the Department of Corrections and  
21 Rehabilitation shall refer the person to the State Department of  
22 Mental Health for a full evaluation of whether the person meets  
23 the criteria in Section 6600.

24 (c) The State Department of Mental Health shall evaluate the  
25 person in accordance with a standardized assessment protocol,  
26 developed and updated by the State Department of Mental Health,  
27 to determine whether the person is a sexually violent predator as  
28 defined in this article. The standardized assessment protocol shall  
29 require assessment of diagnosable mental disorders, as well as  
30 various factors known to be associated with the risk of reoffense  
31 among sex offenders. Risk factors to be considered shall include  
32 criminal and psychosexual history, type, degree, and duration of  
33 sexual deviance, and severity of mental disorder.

34 (d) Pursuant to subdivision (c), the person shall be evaluated  
35 by two practicing psychiatrists or psychologists, or one practicing  
36 psychiatrist and one practicing psychologist, designated by the  
37 Director of Mental Health, one or both of whom may be  
38 independent professionals as defined in subdivision (g). If both  
39 evaluators concur that the person has a diagnosed mental disorder  
40 so that he or she is likely to engage in acts of sexual violence

1 without appropriate treatment and custody, the Director of Mental  
2 Health shall forward a request for a petition for commitment under  
3 Section 6602 to the county designated in subdivision (i). Copies  
4 of the evaluation reports and any other supporting documents shall  
5 be made available to the attorney designated by the county pursuant  
6 to subdivision (i) who may file a petition for commitment.

7 (e) If one of the professionals performing the evaluation pursuant  
8 to subdivision (d) does not concur that the person meets the criteria  
9 specified in subdivision (d), but the other professional concludes  
10 that the person meets those criteria, the Director of Mental Health  
11 shall arrange for further examination of the person by two  
12 independent professionals selected in accordance with subdivision  
13 (g).

14 (f) If an examination by independent professionals pursuant to  
15 subdivision (e) is conducted, a petition to request commitment  
16 under this article shall only be filed if both independent  
17 professionals who evaluate the person pursuant to subdivision (e)  
18 concur that the person meets the criteria for commitment specified  
19 in subdivision (d). The professionals selected to evaluate the person  
20 pursuant to subdivision (g) shall inform the person that the purpose  
21 of their examination is not treatment but to determine if the person  
22 meets certain criteria to be involuntarily committed pursuant to  
23 this article. It is not required that the person appreciate or  
24 understand that information.

25 (g) Any independent professional who is designated by the  
26 Secretary of the Department of Corrections and Rehabilitation or  
27 the Director of Mental Health for purposes of this section shall not  
28 be a state government employee, shall have at least five years of  
29 experience in the diagnosis and treatment of mental disorders, and  
30 shall include psychiatrists and licensed psychologists who have a  
31 doctoral degree in psychology. The requirements set forth in this  
32 section also shall apply to any professionals appointed by the court  
33 to evaluate the person for purposes of any other proceedings under  
34 this article.

35 (h) If the State Department of Mental Health determines that  
36 the person is a sexually violent predator as defined in this article,  
37 the Director of Mental Health shall forward a request for a petition  
38 to be filed for commitment under this article to the county  
39 designated in subdivision (i). Copies of the evaluation reports and  
40 any other supporting documents shall be made available to the

1 attorney designated by the county pursuant to subdivision (i) who  
2 may file a petition for commitment in the superior court.

3 (i) If the county's designated counsel concurs with the  
4 recommendation, a petition for commitment shall be filed in the  
5 superior court of the county in which the person was convicted of  
6 the offense for which he or she was committed to the jurisdiction  
7 of the Department of Corrections and Rehabilitation. The petition  
8 shall be filed, and the proceedings shall be handled, by either the  
9 district attorney or the county counsel of that county. The county  
10 board of supervisors shall designate either the district attorney or  
11 the county counsel to assume responsibility for proceedings under  
12 this article.

13 (j) The time limits set forth in this section shall not apply during  
14 the first year that this article is operative.

15 (k) If the person is otherwise subject to parole, a finding or  
16 placement made pursuant to this article shall toll the term of parole  
17 pursuant to Article 1 (commencing with Section 3000) of Chapter  
18 8 of Title 1 of Part 3 of the Penal Code.

19 (l) Pursuant to subdivision (d), the attorney designated by the  
20 county pursuant to subdivision (i) shall notify the State Department  
21 of Mental Health of its decision regarding the filing of a petition  
22 for commitment within 15 days of making that decision.

23 (m) (1) The department shall provide the fiscal and policy  
24 committees of the Legislature, including the Chairperson of the  
25 Joint Legislative Budget Committee, and the Department of  
26 Finance, with a semiannual update on the progress made to hire  
27 qualified state employees to conduct the evaluation required  
28 pursuant to subdivision (d). The first update shall be provided no  
29 later than July 10, 2009.

30 (2) On or before January 2, 2010, the department shall report  
31 to the Legislature on all of the following:

32 (A) The costs to the department for the sexual offender  
33 commitment program attributable to the provisions in Proposition  
34 83 of the November 2006 general election, otherwise known as  
35 Jessica's Law.

36 (B) The number and proportion of inmates evaluated by the  
37 department for commitment to the program as a result of the  
38 expanded evaluation and commitment criteria in Jessica's Law.

39 (C) The number and proportion of those inmates who have  
40 actually been committed for treatment in the program.

1 (3) This section shall remain in effect and be repealed on the  
2 date that the director executes a declaration, which shall be  
3 provided to the fiscal and policy committees of the Legislature,  
4 including the Chairperson of the Joint Legislative Budget  
5 Committee, and the Department of Finance, specifying that  
6 sufficient qualified state employees have been hired to conduct  
7 the evaluations required pursuant to subdivision (d), or January 1,  
8 2012, whichever occurs first.

9 SEC. 4. Section 6601 of the Welfare and Institutions Code, as  
10 added by Section 3 of Chapter 601 of the Statutes of 2008, is  
11 amended to read:

12 6601. (a) (1) Whenever the Secretary of the Department of  
13 Corrections and Rehabilitation determines that an individual who  
14 is in custody under the jurisdiction of the Department of  
15 Corrections and Rehabilitation, and who is either serving a  
16 determinate prison sentence or whose parole has been revoked,  
17 may be a sexually violent predator, the secretary shall, at least six  
18 months prior to that individual's scheduled date for release from  
19 prison, refer the person for evaluation in accordance with this  
20 section. However, if the inmate was received by the department  
21 with less than nine months of his or her sentence to serve, or if the  
22 inmate's release date is modified by judicial or administrative  
23 action, the secretary may refer the person for evaluation in  
24 accordance with this section at a date that is less than six months  
25 prior to the inmate's scheduled release date.

26 (2) A petition may be filed under this section if the individual  
27 was in custody pursuant to his or her determinate prison term,  
28 parole revocation term, or a hold placed pursuant to Section 6601.3,  
29 at the time the petition is filed. A petition shall not be dismissed  
30 on the basis of a later judicial or administrative determination that  
31 the individual's custody was unlawful, if the unlawful custody was  
32 the result of a good faith mistake of fact or law. This paragraph  
33 shall apply to any petition filed on or after January 1, 1996.

34 (b) The person shall be screened by the Department of  
35 Corrections and Rehabilitation and the Board of Parole Hearings  
36 based on whether the person has committed a sexually violent  
37 predatory offense and on a review of the person's social, criminal,  
38 and institutional history. This screening shall be conducted in  
39 accordance with a structured screening instrument developed and  
40 updated by the State Department of Mental Health in consultation

1 with the Department of Corrections and Rehabilitation. If as a  
2 result of this screening it is determined that the person is likely to  
3 be a sexually violent predator, the Department of Corrections and  
4 Rehabilitation shall refer the person to the State Department of  
5 Mental Health for a full evaluation of whether the person meets  
6 the criteria in Section 6600.

7 (c) The State Department of Mental Health shall evaluate the  
8 person in accordance with a standardized assessment protocol,  
9 developed and updated by the State Department of Mental Health,  
10 to determine whether the person is a sexually violent predator as  
11 defined in this article. The standardized assessment protocol shall  
12 require assessment of diagnosable mental disorders, as well as  
13 various factors known to be associated with the risk of reoffense  
14 among sex offenders. Risk factors to be considered shall include  
15 criminal and psychosexual history, type, degree, and duration of  
16 sexual deviance, and severity of mental disorder.

17 (d) Pursuant to subdivision (c), the person shall be evaluated  
18 by two practicing psychiatrists or psychologists, or one practicing  
19 psychiatrist and one practicing psychologist, designated by the  
20 Director of Mental Health. If both evaluators concur that the person  
21 has a diagnosed mental disorder so that he or she is likely to engage  
22 in acts of sexual violence without appropriate treatment and  
23 custody, the Director of Mental Health shall forward a request for  
24 a petition for commitment under Section 6602 to the county  
25 designated in subdivision (i). Copies of the evaluation reports and  
26 any other supporting documents shall be made available to the  
27 attorney designated by the county pursuant to subdivision (i) who  
28 may file a petition for commitment.

29 (e) If one of the professionals performing the evaluation pursuant  
30 to subdivision (d) does not concur that the person meets the criteria  
31 specified in subdivision (d), but the other professional concludes  
32 that the person meets those criteria, the Director of Mental Health  
33 shall arrange for further examination of the person by two  
34 independent professionals selected in accordance with subdivision  
35 (g).

36 (f) If an examination by independent professionals pursuant to  
37 subdivision (e) is conducted, a petition to request commitment  
38 under this article shall only be filed if both independent  
39 professionals who evaluate the person pursuant to subdivision (e)  
40 concur that the person meets the criteria for commitment specified

1 in subdivision (d). The professionals selected to evaluate the person  
2 pursuant to subdivision (g) shall inform the person that the purpose  
3 of their examination is not treatment but to determine if the person  
4 meets certain criteria to be involuntarily committed pursuant to  
5 this article. It is not required that the person appreciate or  
6 understand that information.

7 (g) Any independent professional who is designated by the  
8 Secretary of the Department of Corrections and Rehabilitation or  
9 the Director of Mental Health for purposes of this section shall not  
10 be a state government employee, shall have at least five years of  
11 experience in the diagnosis and treatment of mental disorders, and  
12 shall include psychiatrists and licensed psychologists who have a  
13 doctoral degree in psychology. The requirements set forth in this  
14 section also shall apply to any professionals appointed by the court  
15 to evaluate the person for purposes of any other proceedings under  
16 this article.

17 (h) If the State Department of Mental Health determines that  
18 the person is a sexually violent predator as defined in this article,  
19 the Director of Mental Health shall forward a request for a petition  
20 to be filed for commitment under this article to the county  
21 designated in subdivision (i). Copies of the evaluation reports and  
22 any other supporting documents shall be made available to the  
23 attorney designated by the county pursuant to subdivision (i) who  
24 may file a petition for commitment in the superior court.

25 (i) If the county's designated counsel concurs with the  
26 recommendation, a petition for commitment shall be filed in the  
27 superior court of the county in which the person was convicted of  
28 the offense for which he or she was committed to the jurisdiction  
29 of the Department of Corrections and Rehabilitation. The petition  
30 shall be filed, and the proceedings shall be handled, by either the  
31 district attorney or the county counsel of that county. The county  
32 board of supervisors shall designate either the district attorney or  
33 the county counsel to assume responsibility for proceedings under  
34 this article.

35 (j) The time limits set forth in this section shall not apply during  
36 the first year that this article is operative.

37 (k) If the person is otherwise subject to parole, a finding or  
38 placement made pursuant to this article shall toll the term of parole  
39 pursuant to Article 1 (commencing with Section 3000) of Chapter  
40 8 of Title 1 of Part 3 of the Penal Code.

1 (l) Pursuant to subdivision (d), the attorney designated by the  
2 county pursuant to subdivision (i) shall notify the State Department  
3 of Mental Health of its decision regarding the filing of a petition  
4 for commitment within 15 days of making that decision.

5 (m) This section shall become operative on the date that the  
6 director executes a declaration, which shall be provided to the  
7 fiscal and policy committees of the Legislature, including the  
8 Chairperson of the Joint Legislative Budget Committee, and the  
9 Department of Finance, specifying that sufficient qualified state  
10 employees have been hired to conduct the evaluations required  
11 pursuant to subdivision (d), or January 1, 2012, whichever occurs  
12 first.

13 SEC. 5. Section 6601.3 of the Welfare and Institutions Code  
14 is amended to read:

15 6601.3. (a) Upon a showing of good cause, the Board of Prison  
16 Terms may order that a person referred to the State Department  
17 of Mental Health pursuant to subdivision (b) of Section 6601  
18 remain in custody for no more than 45 days beyond the person's  
19 scheduled release date for full evaluation pursuant to subdivisions  
20 (c) to (i), inclusive, of Section 6601.

21 (b) For purposes of this section, good cause means circumstances  
22 where there is a recalculation of credits or a restoration of denied  
23 or lost credits, a resentencing by a court, the receipt of the prisoner  
24 into custody, or equivalent exigent circumstances which result in  
25 there being less than 45 days prior to the person's scheduled release  
26 date for the full evaluation described in subdivisions (c) to (i),  
27 inclusive, of Section 6601.

28 SEC. 6. (a) Section 1.3 of this bill incorporates amendments  
29 to Section 290.06 of the Penal Code proposed by both this bill and  
30 AB 1844. It shall only become operative if (1) both bills are enacted  
31 and become effective on or before January 1, 2011, (2) each bill  
32 amends Section 290.06 of the Penal Code, (3) SB 1062 is not  
33 enacted or as enacted does not amend that section, and (4) this  
34 bill is enacted after AB 1844, in which case Sections 1, 1.5, and  
35 1.7 of this bill shall not become operative.

36 (b) Section 1.5 of this bill incorporates amendments to Section  
37 290.06 of the Penal Code proposed by both this bill and SB 1062.  
38 It shall only become operative if (1) both bills are enacted and  
39 become effective on or before January 1, 2011, (2) each bill  
40 amends Section 290.06 of the Penal Code, (3) AB 1844 is not

1 *enacted or as enacted does not amend that section, and (4) this*  
2 *bill is enacted after SB 1062, in which case Sections 1, 1.3, and*  
3 *1.7 of this bill shall not become operative.*

4 *(c) Section 1.7 of this bill incorporates amendments to Section*  
5 *290.06 of the Penal Code proposed by this bill, AB 1844, and SB*  
6 *1062. It shall only become operative if (1) all three bills are*  
7 *enacted and become effective on or before January 1, 2011, (2)*  
8 *all three bills amend Section 290.06 of the Penal Code, and (3)*  
9 *this bill is enacted after AB 1844, and SB 1062, in which case*  
10 *Sections 1, 1.3, and 1.5 of this bill shall not become operative.*

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