

AMENDED IN SENATE APRIL 12, 2010

AMENDED IN SENATE MARCH 25, 2010

SENATE BILL

No. 1204

Introduced by Senator Runner
(Coauthor: Senator Harman)
(Coauthor: Assembly Member Lieu)

February 18, 2010

An act to amend Sections 290.013 and 290.015 of, and to add Section 290.0125 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1204, as amended, Runner. Sex offenders: social networking prohibition: online address notification requirement.

Existing law requires persons who have been convicted of specified crimes, and other persons as required by a court, to register as a sex offender. Existing law sets forth the procedure for doing so and provides that a violation of the sex offender registration law is a crime, punishable as specified.

This bill would prohibit a person who is required to register as a sex offender, as a condition of any parole, from opening an account on, or otherwise participating in, a social networking Internet Web site, as defined. The prohibition would apply to all registrants who are paroled on or after January 1, 2011, and to all previously registered parolees 10 days after receiving notice or after reregistration. *The bill would provide that it shall not be construed to limit the parole authority from requiring additional parole conditions which may be appropriate. By creating new crimes, this bill would impose a state-mandated local program.*

The bill would ~~provide that~~ make it a misdemeanor for a person who is required to register as a sex offender *to fail to* notify the Department

of Justice of any or all of his or her online addresses, e-mail addresses, and instant messaging user names, as specified. *The bill would also provide that the department may permit social networking Internet Web sites to access data that is necessary to purge accounts of registered sex offenders. By creating new crimes, this bill would impose 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.

State-mandated local program: yes.

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

1 SECTION 1. Section 290.0125 is added to the Penal Code, to
2 read:

3 290.0125. (a) Every person who is required to register pursuant
4 to the Act shall, as a condition of any parole, be prohibited from
5 opening an account on, or otherwise participating in, a social
6 networking Internet Web site, as defined in subdivision (c).

7 (b) Subdivision (a) shall apply to all registrants who are paroled
8 on or after January 1, 2011, and to all previously registered parolees
9 10 days after receiving notice or after reregistration.

10 (c) For purposes of this chapter, a “social networking Internet
11 Web site” is defined as any of the following:

12 (1) An Internet Web site that permits members, often including
13 juveniles, to communicate with acquaintances and strangers, and
14 ~~that does~~ *allows individuals to do* all of the following:

15 ~~(A) Allows individuals to construct~~ *Construct* a public or
16 semi-public profile within a bounded system.

17 ~~(B) Allows individuals to articulate~~ *Articulate* a list of other
18 users with whom they share a connection.

19 ~~(C) Allows individuals to view~~ *View* and traverse their list of
20 connections and those made by others within the system.

21 (2) An Internet-based service that explicitly calls itself a dating
22 Internet Web site.

23 (3) An Internet-based service that expressly prohibits
24 participation by convicted sex offenders.

1 (d) A “social networking Internet Web site” shall not include a
2 professional networking Internet Web site or an electronic
3 commerce Internet Web site, unless the Internet-based service
4 prohibits participation by convicted sex offenders by its own terms.

5 (1) A “professional networking Internet Web site” is defined
6 as an Internet-based service that exists primarily for the purpose
7 of allowing individuals to build a list of professional or business
8 connections.

9 (2) An “electronic commerce Internet Web site” is defined as
10 an Internet-based service that exists primarily for the sale, purchase,
11 or auction of goods.

12 (e) *This section shall not be construed to limit the parole*
13 *authority from requiring additional parole conditions which may*
14 *be appropriate.*

15 SEC. 2. Section 290.013 of the Penal Code is amended to read:

16 290.013. (a) Any person who was last registered at a residence
17 address pursuant to the Act who changes his or her residence
18 address, whether within the jurisdiction in which he or she is
19 currently registered or to a new jurisdiction inside or outside the
20 state, shall, in person, within five working days of the move, inform
21 the law enforcement agency or agencies with which he or she last
22 registered of the move, the new address or transient location, if
23 known, and any plans he or she has to return to California.

24 (b) If the person does not know the new residence address or
25 location at the time of the move, the registrant shall, in person,
26 within five working days of the move, inform the last registering
27 agency or agencies that he or she is moving. The person shall later
28 notify the last registering agency or agencies, in writing, sent by
29 certified or registered mail, of the new address or location within
30 five working days of moving into the new residence address or
31 location, whether temporary or permanent.

32 (c) The law enforcement agency or agencies shall, within three
33 working days after receipt of this information, forward a copy of
34 the change of address information to the Department of Justice.
35 The Department of Justice shall forward appropriate registration
36 data to the law enforcement agency or agencies having local
37 jurisdiction of the new place of residence.

38 (d) If the person’s new address is in a Department of Corrections
39 and Rehabilitation facility or state mental institution, an official
40 of the place of incarceration, placement, or commitment shall,

1 within 90 days of receipt of the person, forward the registrant's
2 change of address information to the Department of Justice. The
3 agency need not provide a physical address for the registrant but
4 shall indicate that he or she is serving a period of incarceration or
5 commitment in a facility under the agency's jurisdiction. This
6 subdivision shall apply to persons received in a department facility
7 or state mental institution on or after January 1, 1999. The
8 Department of Justice shall forward the change of address
9 information to the agency with which the person last registered.

10 (e) A person required to register pursuant to the Act shall notify
11 the Department of Justice regarding all of his or her online
12 addresses, e-mail addresses, and instant messaging user names no
13 later than December 31, 2011, and thereafter, within 30 days of
14 establishing a new online account. Notification may be filed in the
15 same manner as a change of address or may be completed and
16 verified online as permitted by the Department of Justice. *The*
17 *department may permit social networking Internet Web sites to*
18 *access data that is necessary to purge accounts of registered sex*
19 *offenders.*

20 (f) *Notwithstanding any other law, violation of subdivision (e)*
21 *shall constitute a misdemeanor punishable by imprisonment in the*
22 *county jail not exceeding six months, or by a fine not exceeding*
23 *one thousand dollars (\$1,000), or by both.*

24 SEC. 3. Section 290.015 of the Penal Code is amended to read:

25 290.015. (a) A person who is subject to the Act shall register,
26 or reregister if the person has previously registered, upon release
27 from incarceration, placement, commitment, or release on probation
28 pursuant to subdivision (b) of Section 290. This section shall not
29 apply to a person who is incarcerated for less than 30 days if he
30 or she has registered as required by the Act, he or she returns after
31 incarceration to the last registered address, and the annual update
32 of registration that is required to occur within five working days
33 of his or her birthday, pursuant to subdivision (a) of Section
34 290.012, did not fall within that incarceration period. The
35 registration shall consist of all of the following:

36 (1) (A) A statement in writing signed by the person, giving
37 information as shall be required by the Department of Justice and
38 giving the name and address of the person's employer, and the
39 address of the person's place of employment if that is different
40 from the employer's main address.

1 (B) An acknowledgment that the person, while on parole, is
2 prohibited under Section 290.0125 from opening an account on,
3 or otherwise participating in, a social networking Internet Web
4 site, as defined in subdivision (c) of Section 290.0125.

5 (C) An acknowledgment that the person is required under
6 Section 290.0125 to notify the Department of Justice regarding all
7 of his or her online addresses, e-mail addresses, and instant
8 messaging user names no later than December 31, 2011, and,
9 thereafter, within 30 days of establishing a new online account.

10 (2) The fingerprints and a current photograph of the person
11 taken by the registering official.

12 (3) The license plate number of any vehicle owned by, regularly
13 driven by, or registered in the name of the person.

14 (4) Notice to the person that, in addition to the requirements of
15 the Act, he or she may have a duty to register in any other state
16 where he or she may relocate.

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

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

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

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

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