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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Perea

(Principal coauthor: Senator Alquist)

(Coauthors: Assembly Members Alejo, Beall, Block, Blumenfield, Bonilla, Fletcher, Halderman, Huffman, Mendoza, Miller, Nestande, Olsen, V. Manuel Pérez, Portantino, Silva, Solorio, Torres, and Williams)

(Coauthors: Senators Cannella, Correa, De León, Lieu, and Rubio)

February 15, 2011

An act to amend Section 1596.86 of the Health and Safety Code, to add Sections 290.96 and 3003.6 to the Penal Code, and to add Sections 361.35, 10613.3, and 10613.4 to the Welfare and Institutions Code, relating to registered sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as amended, Perea. Registered sex offenders: community care facilities.

Existing

(1) 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. Willful failure to register, as required, is a misdemeanor, or a felony, depending on the underlying offense. Existing law provides for the licensing and regulation of various community care and child care facilities by the State Department of Social Services.

This bill would prohibit a person required to register under the act from residing, except as specified, working, or volunteering in ~~specified, among other places,~~ foster homes or facilities licensed by the State Department of Social Services or a county child welfare services agency; ~~as specified.~~ Violation of this prohibition would be a misdemeanor. The bill would also authorize a juvenile court to waive this prohibition if the residence involved is that of a noncustodial parent, relative, or nonrelative extended family member who receives the placement of a child who is or may be declared a dependent of the court and the court finds that placing the child in that residence is in the child's best interest.

This bill would require specified officials who register a person under the act to make a specified determination regarding the registration, notify the person when his or her registered residence or place of employment would be prohibited by the bill, and take appropriate law enforcement action, or make a specified notification, including notifying the county child welfare agency *and the Department of Social Services*, as specified, if the person registers at a prohibited residence or place of employment.

This bill would also require the State Department of Social Services to, *by January 1, 2014*, provide specified public officers and persons or entities that register a person who is required to register with the addresses *or other equivalent data* of, among other things, *foster homes* or facilities that serve children under 18 years of age and that are licensed by the department or a county child welfare agency.

(2) Existing law, the California Child Day Care Act, requires the Director of Social Services to annually publish and make available certain lists covering all licensed child day care facilities, other than small family day care homes, as defined, and the services for which each facility has been licensed. Existing law requires the State Department of Social Services to prevent the use of lists containing names, addresses, and other identifying information of small family day care homes, except for specified purposes, including, among others,

providing the names and addresses of these small family day care homes to certain state agencies, programs, or plans.

This bill would include a local law enforcement agency among the agencies that may receive lists containing the names, addresses, and other identifying information of small family day care homes, as specified.

This bill would create a new crime and impose additional duties upon local officials, thereby creating 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 1596.86 of the Health and Safety Code
2 is amended to read:

3 1596.86. (a) The director shall annually publish and make
4 available to interested persons a list or lists covering all licensed
5 child day care facilities, other than small family day care homes,
6 and the services for which each facility has been licensed or issued
7 a special permit. The lists shall also specify the licensed capacity
8 of the facility and whether it is licensed by the department or by
9 another public agency.

10 (b) To encourage the recruitment of small family day care
11 homes and protect their personal privacy, the department shall
12 prevent the use of lists containing names, addresses and other
13 identifying information of facilities identified as small family day
14 care homes, except as ~~necessary for administering~~ follows:

15 (1) *To the extent necessary to administer* the licensing program;
16 ~~facilitating.~~

17 (2) *To the extent necessary to facilitate* the placement of children
18 in these facilities, ~~and providing.~~

1 (3) To provide the names and addresses—resource of these
 2 facilities to the following entities:

3 (A) Resource and referral agencies funded by the State
 4 Department of Education, food.

5 (B) Food and nutrition programs funded by the State Department
 6 of Education, alternative.

7 (C) Alternative payment programs funded by the State
 8 Department of Education, county.

9 (D) County programs under the Greater Avenues for
 10 Independence Act of 1985 (Article 3.2 (commencing with Section
 11 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
 12 Institutions Code), family day care organizations, or specialized.

13 (E) Specialized health care service plans licensed under the
 14 Knox-Keene Health Care Service Plan Act of 1975, as contained
 15 in Chapter 2.5 (commencing with Section 1340), which that
 16 provide employee assistance program services that include child
 17 care referral services. Upon

18 (F) A local law enforcement agency for the purpose of carrying
 19 out the duties described in Section 290.96 of the Penal Code.

20 (G) Upon request, parents seeking local day care services may
 21 receive the names and telephone numbers of local small family
 22 day care providers.

23 (c) The department, in consultation with the Child Development
 24 Division of the State Department of Education, shall adopt
 25 regulations relating to the confidentiality of information provided
 26 pursuant to subdivision (b) on small family day care homes. These
 27 regulations shall include procedures for updating lists or other
 28 information on small family day care providers to ensure referral
 29 only to licensed homes in good standing with the department. Any
 30 person or entity violating the regulations under this subdivision
 31 may be denied access by the department to information on small
 32 family day care homes and shall be reported by the department to
 33 the appropriate funding or licensing department.

34 **SECTION 4.**

35 *SEC. 2.* Section 290.96 is added to the Penal Code, to read:

36 290.96. A county sheriff, a chief of police of a city or a campus
 37 of the University of California, the California State University, or
 38 community college, or any other person or entity that registers a
 39 person required to register pursuant to the Sex Offender

1 Registration Act (Sections 290 to 290.023, inclusive) shall, at the
2 time of registration, do all of the following:

3 (a) Determine whether the person required to register under the
4 Sex Offender Registration Act is registering at a residence or place
5 of employment that is prohibited by Section 3003.6, by using the
6 information provided under Section 10613.3 of the Welfare and
7 Institutions Code and any additional information available for this
8 purpose.

9 (b) Notify the person required to register under the Sex Offender
10 Registration Act when his or her registered residence or place of
11 employment would be prohibited by Section 3003.6.

12 (c) Take appropriate law enforcement action if it has jurisdiction
13 or notify an appropriate law enforcement entity with jurisdiction
14 if, after being notified under subdivision (b), the person registers
15 at a residence or place of employment that is prohibited by Section
16 3003.51.

17 (d) Immediately, or as soon as practicably possible, report in
18 writing or by telephone, facsimile, or electronic transmission to
19 the county child welfare agency *and the Department of Social*
20 *Services* regarding the registration of a person at a residence or
21 place of employment at which a child who has been, or may be,
22 declared a dependent of the court pursuant to Section 300 of the
23 Welfare and Institutions Code resides. If a law enforcement agency
24 makes a report by telephone, the agency shall mail, or send by
25 facsimile or electronic transmission, a written report within 36
26 hours of its telephone report.

27 ~~SEC. 2.~~

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

29 3003.6. (a) A person required to register under the Sex
30 Offender Registration Act (Sections 290 to 290.023, inclusive)
31 shall not reside, except as a client, and shall not work or volunteer,
32 in any of the following, unless a juvenile court has waived the
33 prohibition in accordance with Section 361.35 of the Welfare and
34 Institutions Code:

35 (1) ~~A foster home or facility that serves children under 18 years~~
36 ~~of age and~~ that is licensed by the State Department of Social
37 Services or a county child welfare services agency ~~as a community~~
38 ~~care facility, a child day care facility, a day care center, a family~~
39 ~~day care home, or a similar home or facility.~~

40 (2) A certified home of a foster family agency.

1 (3) A home or facility that receives a placement of a child who
2 has been, or may be, declared a dependent child of the juvenile
3 court pursuant to Section 300 of the Welfare and Institutions Code.

4 (b) A person who violates subdivision (a) is guilty of a
5 misdemeanor.

6 ~~SEC. 3.~~

7 SEC. 4. Section 361.35 is added to the Welfare and Institutions
8 Code, to read:

9 361.35. A court may waive the prohibition in subdivision (a)
10 of Section 3003.6 of the Penal Code if both of the following are
11 true:

12 (a) The residence is that of a noncustodial parent, a relative, or
13 a nonrelative extended family member who receives a placement
14 of a child who has been, or may be, declared a dependent child of
15 the juvenile court under Section 300.

16 (b) The court makes a finding that the placement of the child
17 in the residence is in the best interest of the child.

18 ~~SEC. 4.~~

19 SEC. 5. Section 10613.3 is added to the Welfare and Institutions
20 Code, to read:

21 10613.3. The State Department of Social Services shall, *no*
22 *later than January 1, 2014*, provide to each county sheriff, each
23 chief of police of a city or a campus of the University of California,
24 the California State University, or community college, and every
25 other person or entity that registers a person required to register
26 under the Sex Offender Registration Act (Sections 290 to 290.023,
27 inclusive, of the Penal Code) the addresses, *or other equivalent*
28 *data*, of all of the following within the jurisdiction of the sheriff,
29 chief of police, or other person or entity:

30 (a) ~~Each community care foster home or facility, child day care~~
31 ~~facility, day care center, family day care home, or similar home~~
32 ~~or facility that serves children under 18 years of age and that is~~
33 licensed by the State Department of Social Services or a county
34 child welfare agency.

35 (b) Each home certified by a foster family agency.

36 (c) Each home or facility whose address is not otherwise
37 provided under subdivision (a) or (b) that has been approved to
38 receive a placement of a child who has been, or may be, declared
39 a dependent child of the juvenile court under Section 300.

1 ~~SEC. 5.~~

2 *SEC. 6.* Section 10613.4 is added to the Welfare and Institutions
3 Code, to read:

4 10613.4. (a) Peace officers from the State Department of Social
5 Services shall, no less frequently than each calendar quarter,
6 compare the residence and employment addresses of persons
7 required to register under the Sex Offender Registration Act
8 (Sections 290 to 290.023, inclusive, of the Penal Code) against
9 the addresses of all of the following:

10 (1) ~~Each community care foster home or facility, child day care~~
11 ~~facility, day care center, family day care home, or similar home~~
12 ~~or facility that serves children under 18 years of age and that is~~
13 licensed by the department or a county child welfare agency.

14 (2) Each home certified by a foster family agency.

15 (3) Each home or facility that has been approved to receive a
16 placement of a child who has been, or may be, declared a dependent
17 child of the juvenile court under Section 300.

18 (b) If peace officers from the department determine that an
19 address specified in paragraphs (1) to (3), inclusive, of subdivision
20 (a) matches the residence or employment address of a person
21 required to register under the Sex Offender Registration Act the
22 department shall take appropriate action as authorized by law to
23 further the purposes of Section 3003.6 of the Penal Code.

24 (c) The peace officer shall also immediately, or as soon as
25 practicably possible, make a report in writing or by telephone,
26 facsimile, or electronic transmission to the appropriate county
27 child welfare agency *and the Department of Social Services* of the
28 match so that the agency may evaluate what action or actions, if
29 any, would be in the best interest of the child. If a peace officer
30 makes a report by telephone, the officer shall mail or send by
31 facsimile or electronic transmission a written report within 36
32 hours of his or her telephone report.

33 ~~SEC. 6.~~

34 *SEC. 7.* No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution for certain
36 costs that may be incurred by a local agency or school district
37 because, in that regard, this act creates a new crime or infraction,
38 eliminates a crime or infraction, or changes the penalty for a crime
39 or infraction, within the meaning of Section 17556 of the
40 Government Code, or changes the definition of a crime within the

1 meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 However, if the Commission on State Mandates determines that
4 this act contains other costs mandated by the state, reimbursement
5 to local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

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