

ASSEMBLY BILL

No. 543

Introduced by Assembly Member Torres

February 16, 2011

An act to amend Section 290.015 of, and to add Section 290.96 to, the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 543, as introduced, Torres. Sex offenders: social networking prohibition.

(1) 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, in addition, make it a misdemeanor for any person who is granted probation or placed on parole for the conviction of a crime that requires him or her to register as a sex offender to use any Internet social networking Web site, as defined, during that period of probation or parole if the victim of the offense was under 18 years of age at the time of the offense or the Internet was used in the commission of the crime. The bill would authorize the person to seek an exception to the prohibition for legitimate professional purposes by applying through the appropriate parole or probation supervising agency. Approval would be valid for one year, unless revoked. The bill would authorize an annual application for renewal. By creating a new crime, this bill would impose a state-mandated local program.

(2)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 290.015 of the Penal Code is amended
2 to read:

3 290.015. (a) A person who is subject to the ~~Act~~ *act* shall
4 register, or reregister if the person has previously registered, upon
5 release from incarceration, placement, commitment, or release on
6 probation pursuant to subdivision (b) of Section 290. This section
7 shall not apply to a person who is incarcerated for less than 30
8 days if he or she has registered as required by the ~~Act~~ *act*, he or
9 she returns after incarceration to the last registered address, and
10 the annual update of registration that is required to occur within
11 five working days of his or her birthday, pursuant to subdivision
12 (a) of Section 290.012, did not fall within that incarceration period.
13 The registration shall consist of all of the following:

14 (1) (A) A statement in writing signed by the person, giving
15 information as shall be required by the Department of Justice and
16 giving the name and address of the person’s employer, and the
17 address of the person’s place of employment if that is different
18 from the employer’s main address.

19 (B) *The statement shall include a notice, if applicable, that the*
20 *person is prohibited from using any Internet social networking*
21 *Web site pursuant to Section 290.96.*

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

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

26 (4) Notice to the person that, in addition to the requirements of
27 the ~~Act~~ *act*, he or she may have a duty to register in any other state
28 where he or she may relocate.

29 (5) Copies of adequate proof of residence, which shall be limited
30 to a California driver’s license, California identification card, recent

1 rent or utility receipt, printed personalized checks or other recent
2 banking documents showing that person's name and address, or
3 any other information that the registering official believes is
4 reliable. If the person has no residence and no reasonable
5 expectation of obtaining a residence in the foreseeable future, the
6 person shall so advise the registering official and shall sign a
7 statement provided by the registering official stating that fact.
8 Upon presentation of proof of residence to the registering official
9 or a signed statement that the person has no residence, the person
10 shall be allowed to register. If the person claims that he or she has
11 a residence but does not have any proof of residence, he or she
12 shall be allowed to register but shall furnish proof of residence
13 within 30 days of the date he or she is allowed to register.

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

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

19 290.96. (a) Except as provided in subdivision (c), in any case
20 in which a defendant is granted probation or placed on parole for
21 the conviction of an offense that requires him or her to register as
22 a sex offender pursuant to Section 290, and either (1) the victim
23 of the offense was under 18 years of age at the time of the offense,
24 or (2) the Internet was used in the commission of the crime, that
25 defendant shall be prohibited from accessing an Internet social
26 networking Web site during the period of time he or she is on
27 probation or parole.

28 (b) Any person who violates this section is guilty of a
29 misdemeanor punishable by imprisonment in a county jail for not
30 exceeding six months, by a fine not exceeding one thousand dollars
31 (\$1,000), or by both that imprisonment and fine.

32 (c) Any person who is prohibited from accessing an Internet
33 social networking Web site pursuant to subdivision (a) and who
34 seeks an exception to the prohibition to use an Internet social
35 networking Web site for legitimate professional purposes may
36 apply for an exception to the prohibition through the appropriate
37 parole or probation supervising agency when that person is on
38 parole or probation. Approval shall be valid for one year unless
39 revoked by the supervising agency with notice to the person

1 required to register. The person may apply to renew the exception
2 annually.

3 (d) For the purposes of this section, “Internet social networking
4 Web site” is defined as an Internet Web site that does all of the
5 following:

6 (1) Allows users, through the creation of Internet Web pages
7 or profiles or by other means, to provide information about
8 themselves that is available to the public or to other users.

9 (2) Offers a mechanism for communication with other users
10 where those users are likely to include a substantial number of
11 minors.

12 (3) Has as its primary purpose the facilitation of online social
13 interactions.

14 SEC. 3. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.