

ASSEMBLY BILL

No. 813

Introduced by Assembly Member Fletcher

February 17, 2011

An act to amend Section 11126 of the Government Code, and to amend Sections 290.09, 1203.067, 3008, 9002, and 9003 of the Penal Code, relating to sex crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 813, as introduced, Fletcher. Sex offenders: punishment: parole.

(1) Existing law creates the Sex Offender Management Board, within the jurisdiction of the Department of Corrections and Rehabilitation, empowered to address any issues, concerns, and problems related to the community management of adult sex offenders, including the main objective of the board to achieve safer communities by reducing victimization. The board is required, on or before July 1, 2011, to develop and update standards for certification of sex offender management professionals.

This bill would give board members immunity from liability for their good faith conduct. The bill would require that information submitted by a person applying for certification as a sex offender management professional do so under the penalty of perjury. Because the bill would expand the scope of the crime of perjury, it would impose a state-mandated local program.

The bill would also immunize certified sex offender management professionals and other specified professionals, as provided, from criminal and civil liability for any criminal acts committed by persons on parole, probation, or judicial commitment status who receive supervision or treatment.

(2) The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend.

This bill would exempt the board from the Bagley-Keene Open Meeting Act for purposes of discussing matters pertaining to the application of a sex offender treatment provider for certification, including review of an applicant’s qualifications for certification. The bill would make related legislative findings and declarations.

(3) This bill would make clarifying and conforming changes.

(4) 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 11126 of the Government Code is
2 amended to read:

3 11126. (a) (1) Nothing in this article shall be construed to
4 prevent a state body from holding closed sessions during a regular
5 or special meeting to consider the appointment, employment,
6 evaluation of performance, or dismissal of a public employee or
7 to hear complaints or charges brought against that employee by
8 another person or employee unless the employee requests a public
9 hearing.

10 (2) As a condition to holding a closed session on the complaints
11 or charges to consider disciplinary action or to consider dismissal,
12 the employee shall be given written notice of his or her right to
13 have a public hearing, rather than a closed session, and that notice
14 shall be delivered to the employee personally or by mail at least
15 24 hours before the time for holding a regular or special meeting.
16 If notice is not given, any disciplinary or other action taken against
17 any employee at the closed session shall be null and void.

18 (3) The state body also may exclude from any public or closed
19 session, during the examination of a witness, any or all other
20 witnesses in the matter being investigated by the state body.

1 (4) Following the public hearing or closed session, the body
2 may deliberate on the decision to be reached in a closed session.

3 (b) For the purposes of this section, “employee” does not include
4 any person who is elected to, or appointed to a public office by,
5 any state body. However, officers of the California State University
6 who receive compensation for their services, other than per diem
7 and ordinary and necessary expenses, shall, when engaged in that
8 capacity, be considered employees. Furthermore, for purposes of
9 this section, the term employee includes a person exempt from
10 civil service pursuant to subdivision (e) of Section 4 of Article VII
11 of the California Constitution.

12 (c) Nothing in this article shall be construed to do any of the
13 following:

14 (1) Prevent state bodies that administer the licensing of persons
15 engaging in businesses or professions from holding closed sessions
16 to prepare, approve, grade, or administer examinations.

17 (2) Prevent an advisory body of a state body that administers
18 the licensing of persons engaged in businesses or professions from
19 conducting a closed session to discuss matters that the advisory
20 body has found would constitute an unwarranted invasion of the
21 privacy of an individual licensee or applicant if discussed in an
22 open meeting, provided the advisory body does not include a
23 quorum of the members of the state body it advises. Those matters
24 may include review of an applicant’s qualifications for licensure
25 and an inquiry specifically related to the state body’s enforcement
26 program concerning an individual licensee or applicant where the
27 inquiry occurs prior to the filing of a civil, criminal, or
28 administrative disciplinary action against the licensee or applicant
29 by the state body.

30 (3) Prohibit a state body from holding a closed session to
31 deliberate on a decision to be reached in a proceeding required to
32 be conducted pursuant to Chapter 5 (commencing with Section
33 11500) or similar provisions of law.

34 (4) Grant a right to enter any correctional institution or the
35 grounds of a correctional institution where that right is not
36 otherwise granted by law, nor shall anything in this article be
37 construed to prevent a state body from holding a closed session
38 when considering and acting upon the determination of a term,
39 parole, or release of any individual or other disposition of an

- 1 individual case, or if public disclosure of the subjects under
2 discussion or consideration is expressly prohibited by statute.
- 3 (5) Prevent any closed session to consider the conferring of
4 honorary degrees, or gifts, donations, and bequests that the donor
5 or proposed donor has requested in writing to be kept confidential.
- 6 (6) Prevent the Alcoholic Beverage Control Appeals Board from
7 holding a closed session for the purpose of holding a deliberative
8 conference as provided in Section 11125.
- 9 (7) (A) Prevent a state body from holding closed sessions with
10 its negotiator prior to the purchase, sale, exchange, or lease of real
11 property by or for the state body to give instructions to its
12 negotiator regarding the price and terms of payment for the
13 purchase, sale, exchange, or lease.
- 14 (B) However, prior to the closed session, the state body shall
15 hold an open and public session in which it identifies the real
16 property or real properties that the negotiations may concern and
17 the person or persons with whom its negotiator may negotiate.
- 18 (C) For purposes of this paragraph, the negotiator may be a
19 member of the state body.
- 20 (D) For purposes of this paragraph, “lease” includes renewal or
21 renegotiation of a lease.
- 22 (E) Nothing in this paragraph shall preclude a state body from
23 holding a closed session for discussions regarding eminent domain
24 proceedings pursuant to subdivision (e).
- 25 (8) Prevent the California Postsecondary Education Commission
26 from holding closed sessions to consider matters pertaining to the
27 appointment or termination of the Director of the California
28 Postsecondary Education Commission.
- 29 (9) Prevent the Council for Private Postsecondary and
30 Vocational Education from holding closed sessions to consider
31 matters pertaining to the appointment or termination of the
32 Executive Director of the Council for Private Postsecondary and
33 Vocational Education.
- 34 (10) Prevent the Franchise Tax Board from holding closed
35 sessions for the purpose of discussion of confidential tax returns
36 or information the public disclosure of which is prohibited by law,
37 or from considering matters pertaining to the appointment or
38 removal of the Executive Officer of the Franchise Tax Board.
- 39 (11) Require the Franchise Tax Board to notice or disclose any
40 confidential tax information considered in closed sessions, or

1 documents executed in connection therewith, the public disclosure
2 of which is prohibited pursuant to Article 2 (commencing with
3 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
4 Revenue and Taxation Code.

5 (12) Prevent the Corrections Standards Authority from holding
6 closed sessions when considering reports of crime conditions under
7 Section 6027 of the Penal Code.

8 (13) Prevent the State Air Resources Board from holding closed
9 sessions when considering the proprietary specifications and
10 performance data of manufacturers.

11 (14) Prevent the State Board of Education or the Superintendent
12 of Public Instruction, or any committee advising the board or the
13 Superintendent, from holding closed sessions on those portions of
14 its review of assessment instruments pursuant to Chapter 5
15 (commencing with Section 60600) of, or pursuant to Chapter 9
16 (commencing with Section 60850) of, Part 33 of Division 4 of
17 Title 2 of the Education Code during which actual test content is
18 reviewed and discussed. The purpose of this provision is to
19 maintain the confidentiality of the assessments under review.

20 (15) Prevent the California Integrated Waste Management Board
21 or its auxiliary committees from holding closed sessions for the
22 purpose of discussing confidential tax returns, discussing trade
23 secrets or confidential or proprietary information in its possession,
24 or discussing other data, the public disclosure of which is
25 prohibited by law.

26 (16) Prevent a state body that invests retirement, pension, or
27 endowment funds from holding closed sessions when considering
28 investment decisions. For purposes of consideration of shareholder
29 voting on corporate stocks held by the state body, closed sessions
30 for the purposes of voting may be held only with respect to election
31 of corporate directors, election of independent auditors, and other
32 financial issues that could have a material effect on the net income
33 of the corporation. For the purpose of real property investment
34 decisions that may be considered in a closed session pursuant to
35 this paragraph, a state body shall also be exempt from the
36 provisions of paragraph (7) relating to the identification of real
37 properties prior to the closed session.

38 (17) Prevent a state body, or boards, commissions,
39 administrative officers, or other representatives that may properly
40 be designated by law or by a state body, from holding closed

1 sessions with its representatives in discharging its responsibilities
2 under Chapter 10 (commencing with Section 3500), Chapter 10.3
3 (commencing with Section 3512), Chapter 10.5 (commencing with
4 Section 3525), or Chapter 10.7 (commencing with Section 3540)
5 of Division 4 of Title 1 as the sessions relate to salaries, salary
6 schedules, or compensation paid in the form of fringe benefits.
7 For the purposes enumerated in the preceding sentence, a state
8 body may also meet with a state conciliator who has intervened
9 in the proceedings.

10 (18) (A) Prevent a state body from holding closed sessions to
11 consider matters posing a threat or potential threat of criminal or
12 terrorist activity against the personnel, property, buildings,
13 facilities, or equipment, including electronic data, owned, leased,
14 or controlled by the state body, where disclosure of these
15 considerations could compromise or impede the safety or security
16 of the personnel, property, buildings, facilities, or equipment,
17 including electronic data, owned, leased, or controlled by the state
18 body.

19 (B) Notwithstanding any other provision of law, a state body,
20 at any regular or special meeting, may meet in a closed session
21 pursuant to subparagraph (A) upon a two-thirds vote of the
22 members present at the meeting.

23 (C) After meeting in closed session pursuant to subparagraph
24 (A), the state body shall reconvene in open session prior to
25 adjournment and report that a closed session was held pursuant to
26 subparagraph (A), the general nature of the matters considered,
27 and whether any action was taken in closed session.

28 (D) After meeting in closed session pursuant to subparagraph
29 (A), the state body shall submit to the Legislative Analyst written
30 notification stating that it held this closed session, the general
31 reason or reasons for the closed session, the general nature of the
32 matters considered, and whether any action was taken in closed
33 session. The Legislative Analyst shall retain for no less than four
34 years any written notification received from a state body pursuant
35 to this subparagraph.

36 (19) *Prevent the California Sex Offender Management Board*
37 *from holding a closed session for the purpose of discussing matters*
38 *pertaining to the application of a sex offender treatment provider*
39 *for certification pursuant to Sections 290.09 and 9003 of the Penal*

1 *Code. Those matters may include review of an applicant's*
2 *qualifications for certification.*

3 (d) (1) Notwithstanding any other provision of law, any meeting
4 of the Public Utilities Commission at which the rates of entities
5 under the commission's jurisdiction are changed shall be open and
6 public.

7 (2) Nothing in this article shall be construed to prevent the
8 Public Utilities Commission from holding closed sessions to
9 deliberate on the institution of proceedings, or disciplinary actions
10 against any person or entity under the jurisdiction of the
11 commission.

12 (e) (1) Nothing in this article shall be construed to prevent a
13 state body, based on the advice of its legal counsel, from holding
14 a closed session to confer with, or receive advice from, its legal
15 counsel regarding pending litigation when discussion in open
16 session concerning those matters would prejudice the position of
17 the state body in the litigation.

18 (2) For purposes of this article, all expressions of the
19 lawyer-client privilege other than those provided in this subdivision
20 are hereby abrogated. This subdivision is the exclusive expression
21 of the lawyer-client privilege for purposes of conducting closed
22 session meetings pursuant to this article. For purposes of this
23 subdivision, litigation shall be considered pending when any of
24 the following circumstances exist:

25 (A) An adjudicatory proceeding before a court, an administrative
26 body exercising its adjudicatory authority, a hearing officer, or an
27 arbitrator, to which the state body is a party, has been initiated
28 formally.

29 (B) (i) A point has been reached where, in the opinion of the
30 state body on the advice of its legal counsel, based on existing
31 facts and circumstances, there is a significant exposure to litigation
32 against the state body.

33 (ii) Based on existing facts and circumstances, the state body
34 is meeting only to decide whether a closed session is authorized
35 pursuant to clause (i).

36 (C) (i) Based on existing facts and circumstances, the state
37 body has decided to initiate or is deciding whether to initiate
38 litigation.

39 (ii) The legal counsel of the state body shall prepare and submit
40 to it a memorandum stating the specific reasons and legal authority

1 for the closed session. If the closed session is pursuant to paragraph
2 (1), the memorandum shall include the title of the litigation. If the
3 closed session is pursuant to subparagraph (A) or (B), the
4 memorandum shall include the existing facts and circumstances
5 on which it is based. The legal counsel shall submit the
6 memorandum to the state body prior to the closed session, if
7 feasible, and in any case no later than one week after the closed
8 session. The memorandum shall be exempt from disclosure
9 pursuant to Section 6254.25.

10 (iii) For purposes of this subdivision, “litigation” includes any
11 adjudicatory proceeding, including eminent domain, before a court,
12 administrative body exercising its adjudicatory authority, hearing
13 officer, or arbitrator.

14 (iv) Disclosure of a memorandum required under this
15 subdivision shall not be deemed as a waiver of the lawyer-client
16 privilege, as provided for under Article 3 (commencing with
17 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

18 (f) In addition to subdivisions (a), (b), and (c), nothing in this
19 article shall be construed to do any of the following:

20 (1) Prevent a state body operating under a joint powers
21 agreement for insurance pooling from holding a closed session to
22 discuss a claim for the payment of tort liability or public liability
23 losses incurred by the state body or any member agency under the
24 joint powers agreement.

25 (2) Prevent the examining committee established by the State
26 Board of Forestry and Fire Protection, pursuant to Section 763 of
27 the Public Resources Code, from conducting a closed session to
28 consider disciplinary action against an individual professional
29 forester prior to the filing of an accusation against the forester
30 pursuant to Section 11503.

31 (3) Prevent the enforcement advisory committee established by
32 the California Board of Accountancy pursuant to Section 5020 of
33 the Business and Professions Code from conducting a closed
34 session to consider disciplinary action against an individual
35 accountant prior to the filing of an accusation against the
36 accountant pursuant to Section 11503. Nothing in this article shall
37 be construed to prevent the qualifications examining committee
38 established by the California Board of Accountancy pursuant to
39 Section 5023 of the Business and Professions Code from

1 conducting a closed hearing to interview an individual applicant
2 or accountant regarding the applicant’s qualifications.

3 (4) Prevent a state body, as defined in subdivision (b) of Section
4 11121, from conducting a closed session to consider any matter
5 that properly could be considered in closed session by the state
6 body whose authority it exercises.

7 (5) Prevent a state body, as defined in subdivision (d) of Section
8 11121, from conducting a closed session to consider any matter
9 that properly could be considered in a closed session by the body
10 defined as a state body pursuant to subdivision (a) or (b) of Section
11 11121.

12 (6) Prevent a state body, as defined in subdivision (c) of Section
13 11121, from conducting a closed session to consider any matter
14 that properly could be considered in a closed session by the state
15 body it advises.

16 (7) Prevent the State Board of Equalization from holding closed
17 sessions for either of the following:

18 (A) When considering matters pertaining to the appointment or
19 removal of the Executive Secretary of the State Board of
20 Equalization.

21 (B) For the purpose of hearing confidential taxpayer appeals or
22 data, the public disclosure of which is prohibited by law.

23 (8) Require the State Board of Equalization to disclose any
24 action taken in closed session or documents executed in connection
25 with that action, the public disclosure of which is prohibited by
26 law pursuant to Sections 15619 and 15641 of this code and Sections
27 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651,
28 45982, 46751, 50159, 55381, and 60609 of the Revenue and
29 Taxation Code.

30 (9) Prevent the California Earthquake Prediction Evaluation
31 Council, or other body appointed to advise the Secretary of
32 Emergency Management or the Governor concerning matters
33 relating to volcanic or earthquake predictions, from holding closed
34 sessions when considering the evaluation of possible predictions.

35 (g) This article does not prevent either of the following:

36 (1) The Teachers’ Retirement Board or the Board of
37 Administration of the Public Employees’ Retirement System from
38 holding closed sessions when considering matters pertaining to
39 the recruitment, appointment, employment, or removal of the chief
40 executive officer or when considering matters pertaining to the

1 recruitment or removal of the Chief Investment Officer of the State
2 Teachers' Retirement System or the Public Employees' Retirement
3 System.

4 (2) The Commission on Teacher Credentialing from holding
5 closed sessions when considering matters relating to the
6 recruitment, appointment, or removal of its executive director.

7 (h) This article does not prevent the Board of Administration
8 of the Public Employees' Retirement System from holding closed
9 sessions when considering matters relating to the development of
10 rates and competitive strategy for plans offered pursuant to Chapter
11 15 (commencing with Section 21660) of Part 3 of Division 5 of
12 Title 2.

13 (i) This article does not prevent the Managed Risk Medical
14 Insurance Board from holding closed sessions when considering
15 matters related to the development of rates and contracting strategy
16 for entities contracting or seeking to contract with the board,
17 entities with which the board is considering a contract, or entities
18 with which the board is considering or enters into any other
19 arrangement under which the board provides, receives, or arranges
20 services or reimbursement, pursuant to Part 6.2 (commencing with
21 Section 12693), Part 6.3 (commencing with Section 12695), Part
22 6.4 (commencing with Section 12699.50), Part 6.5 (commencing
23 with Section 12700), Part 6.6 (commencing with Section 12739.5),
24 or Part 6.7 (commencing with Section 12739.70) of Division 2 of
25 the Insurance Code.

26 (j) Nothing in this article shall be construed to prevent the board
27 of the State Compensation Insurance Fund from holding closed
28 sessions in the following:

29 (1) When considering matters related to claims pursuant to
30 Chapter 1 (commencing with Section 3200) of Division 4 of the
31 Labor Code, to the extent that confidential medical information
32 or other individually identifiable information would be disclosed.

33 (2) To the extent that matters related to audits and investigations
34 that have not been completed would be disclosed.

35 (3) To the extent that an internal audit containing proprietary
36 information would be disclosed.

37 (4) To the extent that the session would address the development
38 of rates, contracting strategy, underwriting, or competitive strategy,
39 pursuant to the powers granted to the board in Chapter 4
40 (commencing with Section 11770) of Part 3 of Division 2 of the

1 Insurance Code, when discussion in open session concerning those
2 matters would prejudice the position of the State Compensation
3 Insurance Fund.

4 (k) The State Compensation Insurance Fund shall comply with
5 the procedures specified in Section 11125.4 of the Government
6 Code with respect to any closed session or meeting authorized by
7 subdivision (j), and in addition shall provide an opportunity for a
8 member of the public to be heard on the issue of the
9 appropriateness of closing the meeting or session.

10 SEC. 2. Section 290.09 of the Penal Code is amended to read:

11 290.09. On or before July 2012, the SARATSO dynamic tool
12 and the SARATSO future violence tool, as set forth in Section
13 290.04, shall be administered as follows:

14 (a) (1) Every sex offender required to register pursuant to
15 Sections 290 to 290.023, inclusive, shall, while on parole or formal
16 supervised probation, participate in an approved sex offender
17 management program, pursuant to Sections 1203.067 and 3008.

18 (2) The sex offender management program shall meet the
19 certification requirements developed by the California Sex Offender
20 Management Board pursuant to Section 9003. Probation
21 departments and the Department of Corrections and Rehabilitation
22 shall not employ or contract with, and shall not allow a sex offender
23 to employ or contract with, any individual or entity to provide sex
24 offender evaluation or treatment services pursuant to this section
25 unless the sex offender evaluation or treatment services to be
26 provided by the individual or entity conforms with the standards
27 developed pursuant to Section 9003.

28 (b) (1) The sex offender management professionals certified
29 by the California Sex Offender Management Board in accordance
30 with Section 9003 who provide sex offender management programs
31 for any probation department or the Department of Corrections
32 and Rehabilitation shall assess each registered sex offender on
33 formal-supervised probation or parole using the SARATSO
34 dynamic tool, when a dynamic risk factor changes, and shall do a
35 final dynamic assessment within six months of the offender's
36 release from supervision. The management professional shall also
37 assess the sex offenders in the program with the SARATSO future
38 violence tool.

39 (2) The certified sex offender management professional shall,
40 as soon as possible but not later than 30 days after the assessment,

1 provide the person's score on the SARATSO dynamic tool and
2 the future violence tool to the person's parole agent or probation
3 officer. Within five working days of receipt of the score, the parole
4 or probation officer shall send the score to the Department of
5 Justice, and the score shall be accessible to law enforcement
6 through the Department of Justice's Internet Web site for the
7 California Sex and Arson Registry (CSAR).

8 (c) The certified sex offender management professional shall
9 communicate with the offender's probation officer or parole agent
10 on a regular basis, but at least once a month, about the offender's
11 progress in the program and dynamic risk assessment issues, and
12 shall share pertinent information with the certified polygraph
13 examiner as required.

14 (d) The SARATSO Training Committee shall provide annual
15 training on the SARATSO dynamic tool and the SARATSO future
16 violence tool. Certified sex offender management professionals
17 shall attend this training once to obtain authorization to perform
18 the assessments, and thereafter attend training updates as required
19 by the SARATSO Training Committee. If a sex offender
20 management professional is certified pursuant to Section 9003 to
21 conduct an approved sex offender management program prior to
22 attending SARATSO training on the dynamic and violent risk
23 assessment tools, he or she shall present to the SARATSO Training
24 Committee proof of training on these tools from a risk assessment
25 expert approved by the SARATSO Training Committee.

26 SEC. 3. Section 1203.067 of the Penal Code is amended to
27 read:

28 1203.067. (a) Notwithstanding any other law, before probation
29 may be granted to any person convicted of a felony specified in
30 Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289, who is
31 eligible for probation, the court shall do all of the following:

32 (1) Order the defendant evaluated pursuant to Section 1203.03,
33 or similar evaluation by the county probation department.

34 (2) Conduct a hearing at the time of sentencing to determine if
35 probation of the defendant would pose a threat to the victim. The
36 victim shall be notified of the hearing by the prosecuting attorney
37 and given an opportunity to address the court.

38 (3) Order any psychiatrist or psychologist appointed pursuant
39 to Section 288.1 to include a consideration of the threat to the
40 victim and the defendant's potential for positive response to

1 treatment in making his or her report to the court. Nothing in this
2 section shall be construed to require the court to order an
3 examination of the victim.

4 (b) On or after July 1, 2012, the terms of probation for persons
5 placed on formal-supervised probation for an offense that requires
6 registration pursuant to Sections 290 to 290.023, inclusive, shall
7 include all of the following:

8 (1) Persons placed on formal-supervised probation prior to July
9 1, 2012, shall participate in an approved sex offender management
10 program, following the standards developed pursuant to Section
11 9003, for a period of not less than one year or the remaining term
12 of probation if it is less than one year. The length of the period in
13 the program is to be determined by the certified sex offender
14 management professional in consultation with the probation officer
15 and as approved by the court.

16 (2) Persons placed on formal-supervised probation on or after
17 July 1, 2012, shall successfully complete a sex offender
18 management program, following the standards developed pursuant
19 to Section 9003, as a condition of release from probation. The
20 length of the period in the program shall be not less than one year,
21 up to the entire period of probation, as determined by the certified
22 sex offender management professional in consultation with the
23 probation officer and as approved by the court.

24 (3) Waiver of any privilege against self-incrimination and
25 participation in polygraph examinations, which shall be part of the
26 sex offender management program.

27 (4) Waiver of any psychotherapist-patient privilege to enable
28 communication between the sex offender management professional
29 and supervising probation officer, pursuant to Section 290.09.

30 (c) Any defendant ordered to be placed in an approved sex
31 offender management program pursuant to subdivision (b) shall
32 be responsible for paying the expense of his or her participation
33 in the program as determined by the court. The court shall take
34 into consideration the ability of the defendant to pay, and no
35 defendant shall be denied probation because of his or her inability
36 to pay.

37 SEC. 4. Section 3008 of the Penal Code is amended to read:

38 3008. (a) The Department of Corrections and Rehabilitation
39 shall ensure that all parolees under active supervision who are
40 deemed to pose a high risk to the public of committing sex crimes,

1 as determined by the State-Authorized Risk Assessment Tool for
2 Sex Offenders (SARATSO), as set forth in Sections 290.04 to
3 290.06, inclusive, are placed on intensive and specialized parole
4 supervision and are required to report frequently to designated
5 parole officers. The department may place any other parolee
6 convicted of an offense that requires him or her to register as a sex
7 offender pursuant to Section 290 who is on active supervision on
8 intensive and specialized supervision and require him or her to
9 report frequently to designated parole officers.

10 (b) The department shall develop and, at the discretion of the
11 secretary, and subject to an appropriation of the necessary funds,
12 may implement a plan for the implementation of relapse prevention
13 treatment programs, and the provision of other services deemed
14 necessary by the department, in conjunction with intensive and
15 specialized parole supervision, to reduce the recidivism of sex
16 offenders.

17 (c) The department shall develop control and containment
18 programming for sex offenders who have been deemed to pose a
19 high risk to the public of committing a sex crime, as determined
20 by the SARATSO, and shall require participation in appropriate
21 programming as a condition of parole.

22 (d) On or after July 1, 2012, the parole conditions of a person
23 released on parole for an offense that requires registration pursuant
24 to Sections 290 to 290.023, inclusive, shall include all of the
25 following:

26 (1) Persons placed on parole prior to July 1, 2012, shall
27 participate in an approved sex offender management program,
28 following the standards developed pursuant to Section 9003, for
29 a period of not less than one year or the remaining term of parole
30 if it is less than one year. The length of the period in the program
31 is to be determined by the certified sex offender management
32 professional in consultation with the parole officer and as approved
33 by the court.

34 (2) Persons placed on parole on or after July 1, 2012, shall
35 successfully complete a sex offender management program,
36 following the standards developed pursuant to Section 9003, as a
37 condition of parole. The length of the period in the program shall
38 be not less than one year, up to the entire period of parole, as
39 determined by the certified sex offender management professional
40 in consultation with the parole officer and as approved by the court.

1 (3) Waiver of any privilege against self-incrimination and
2 participation in polygraph examinations, which shall be part of the
3 sex offender management program.

4 (4) Waiver of any psychotherapist-patient privilege to enable
5 communication between the sex offender management professional
6 and supervising parole officer, pursuant to Section 290.09.

7 (e) Any defendant ordered to be placed in an approved sex
8 offender management treatment program pursuant to subdivision
9 (d) shall be responsible for paying the expense of his or her
10 participation in the program ~~as determined by the court~~. The ~~court~~
11 *department* shall take into consideration the ability of the defendant
12 to pay, and no defendant shall be denied discharge onto parole
13 because of his or her inability to pay.

14 SEC. 5. Section 9002 of the Penal Code is amended to read:

15 9002. (a) The board shall address any issues, concerns, and
16 problems related to the community management of adult sex
17 offenders. The main objective of the board, which shall be used
18 to guide the board in prioritizing resources and use of time, is to
19 achieve safer communities by reducing victimization. ~~To that end,~~
20 ~~the board shall do both of the following:~~

21 ~~(1) Conduct a thorough assessment of current management~~
22 ~~practices for adult sex offenders, primarily those under direct~~
23 ~~criminal justice or other supervision, residing in California~~
24 ~~communities. A report on the findings of this assessment shall be~~
25 ~~submitted to the Legislature and the Governor by January 1, 2008.~~
26 ~~Areas to be reviewed in this assessment shall include, but not be~~
27 ~~limited to, the following:~~

28 ~~(A) The numbers and distribution of offenders.~~

29 ~~(B) Supervision practices.~~

30 ~~(C) Treatment availability and quality.~~

31 ~~(D) Issues related to housing.~~

32 ~~(E) Recidivism patterns.~~

33 ~~(F) Response to the safety concerns of past and potential future~~
34 ~~victims.~~

35 ~~(G) Cost and cost-effectiveness of various approaches.~~

36 ~~(H) Any significant shortcomings in management practices.~~

37 ~~(2) Develop recommendations, based upon the findings in the~~
38 ~~assessment, to improve management practices of adult sex~~
39 ~~offenders under supervision in the community, with the goal of~~
40 ~~improving community safety. The plan shall address all significant~~

1 aspects of community management including supervision,
2 treatment, housing, transition to the community, interagency
3 coordination and the practices of other entities that directly or
4 indirectly affect the community management of sex offenders. The
5 board shall provide information to the Legislature and Governor
6 as to its progress by January 1, 2009. The completed plan shall be
7 submitted to the Legislature and the Governor by January 1, 2010.

8 (b) The board shall conduct public hearings, as it deems
9 necessary, to provide opportunities for gathering information and
10 receiving input regarding the work of the board from concerned
11 stakeholders and the public.

12 (c) *The members of the board shall be immune from liability*
13 *for good faith conduct under this chapter.*

14 SEC. 6. Section 9003 of the Penal Code is amended to read:

15 9003. (a) On or before July 1, 2011, the board shall develop
16 and update standards for certification of sex offender management
17 professionals. All those professionals who provide sex offender
18 management programs and risk assessments, pursuant to Section
19 290.09, shall be certified by the board according to these standards.
20 The standards shall be published on the board's Internet Web site.
21 Professionals may apply to the board for certification on or after
22 August 1, 2011.

23 (1) (A) The board shall submit to the Department of Justice
24 fingerprint images and related information required by the
25 Department of Justice of all sex offender management applicants,
26 as defined by subdivision (a), for the purposes of obtaining
27 information as to the existence and content of a record of state or
28 federal convictions and state or federal arrests and also information
29 as to the existence and content of a record of state arrests or federal
30 arrests for which the Department of Justice establishes that the
31 person is free on bail or on his or her own recognizance pending
32 trial or appeal.

33 (B) When received, the Department of Justice shall forward to
34 the Federal Bureau of Investigation requests for federal summary
35 criminal history information received pursuant to this section. The
36 Department of Justice shall review the information returned from
37 the Federal Bureau of Investigation and compile and disseminate
38 a response to the board.

1 (C) The Department of Justice shall provide a state and federal
2 response to the board pursuant to paragraph (1) of subdivision (I)
3 of Section 11105.

4 (D) The board shall request from the Department of Justice
5 subsequent arrest notification service, as provided pursuant to
6 Section 11105.2 ~~of the Penal Code~~, for persons described in
7 subdivision (a).

8 (2) The board shall require any person who applies for
9 certification under this section to submit information relevant to
10 the applicant's fitness to provide sex offender management
11 services. *That information shall be submitted under the penalty of*
12 *perjury by the person applying for certification.*

13 (3) The board shall assess a fee to the applicant not to exceed
14 one hundred eighty dollars (\$180) per application. The board shall
15 pay a fee to the Department of Justice sufficient to cover the cost
16 of processing the criminal background request specified in this
17 section.

18 (b) On or before July 1, 2011, the board shall develop and update
19 standards for certification of sex offender management programs,
20 which shall include treatment, as specified, and dynamic and future
21 violence risk assessments pursuant to Section 290.09. The standards
22 shall be published on the board's Internet Web site. All those
23 programs shall include polygraph examinations by a certified
24 polygraph examiner, which shall be conducted as needed during
25 the period that the offender is in the sex offender management
26 program. Only certified sex offender management professionals
27 whose programs meet the standards set by the board are eligible
28 to provide sex offender management programs pursuant to Section
29 290.09.

30 (c) *Certified sex offender management professionals, who*
31 *provide sex offender management programs and risk assessments*
32 *pursuant to Section 209.09, shall not be held criminally or civilly*
33 *liable for any criminal acts committed by the persons on parole,*
34 *probation, or judicial commitment status who receive supervision*
35 *or treatment. This waiver of liability shall apply to certified sex*
36 *offender management professionals, administrators of the*
37 *programs provided by those professionals, and to agencies or*
38 *persons under contract to those professionals who provide*
39 *screening, clinical evaluation, risk assessment, supervision, or*
40 *treatment to sex offender parolees, probationers, or persons on*

1 conditional release pursuant to Article 4 (commencing with Section
2 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and
3 Institutions Code.

4 (e)

5 (d) On or before July 1, 2011, the board shall develop and update
6 standards for certification of polygraph examiners. The standards
7 shall be published on the board's Internet Web site.

8 SEC. 7. The Legislature finds and declares that Section 1 of
9 this act imposes a limitation on the public's right of access to
10 meetings of public bodies within the meaning of Section 3 of
11 Article I of the California Constitution. Pursuant to that
12 constitutional provision, the Legislature makes the following
13 finding to demonstrate the interest protected by this limitation and
14 the need for protecting that interest: The Legislature finds and
15 declares that in order to protect the privacy of individuals applying
16 for certification as sex offender treatment providers, it is necessary
17 to exempt those individuals' names from disclosure.

18 SEC. 8. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.