

AMENDED IN ASSEMBLY MAY 9, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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 amended, 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.

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

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

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

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

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

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

33 (3) Prohibit a state body from holding a closed session to
34 deliberate on a decision to be reached in a proceeding required to
35 be conducted pursuant to Chapter 5 (commencing with Section
36 11500) or similar provisions of law.

37 (4) Grant a right to enter any correctional institution or the
38 grounds of a correctional institution where that right is not
39 otherwise granted by law, nor shall anything in this article be
40 construed to prevent a state body from holding a closed session

1 when considering and acting upon the determination of a term,
2 parole, or release of any individual or other disposition of an
3 individual case, or if public disclosure of the subjects under
4 discussion or consideration is expressly prohibited by statute.

5 (5) Prevent any closed session to consider the conferring of
6 honorary degrees, or gifts, donations, and bequests that the donor
7 or proposed donor has requested in writing to be kept confidential.

8 (6) Prevent the Alcoholic Beverage Control Appeals Board from
9 holding a closed session for the purpose of holding a deliberative
10 conference as provided in Section 11125.

11 (7) (A) Prevent a state body from holding closed sessions with
12 its negotiator prior to the purchase, sale, exchange, or lease of real
13 property by or for the state body to give instructions to its
14 negotiator regarding the price and terms of payment for the
15 purchase, sale, exchange, or lease.

16 (B) However, prior to the closed session, the state body shall
17 hold an open and public session in which it identifies the real
18 property or real properties that the negotiations may concern and
19 the person or persons with whom its negotiator may negotiate.

20 (C) For purposes of this paragraph, the negotiator may be a
21 member of the state body.

22 (D) For purposes of this paragraph, “lease” includes renewal or
23 renegotiation of a lease.

24 (E) Nothing in this paragraph shall preclude a state body from
25 holding a closed session for discussions regarding eminent domain
26 proceedings pursuant to subdivision (e).

27 (8) Prevent the California Postsecondary Education Commission
28 from holding closed sessions to consider matters pertaining to the
29 appointment or termination of the Director of the California
30 Postsecondary Education Commission.

31 (9) Prevent the Council for Private Postsecondary and
32 Vocational Education from holding closed sessions to consider
33 matters pertaining to the appointment or termination of the
34 Executive Director of the Council for Private Postsecondary and
35 Vocational Education.

36 (10) Prevent the Franchise Tax Board from holding closed
37 sessions for the purpose of discussion of confidential tax returns
38 or information the public disclosure of which is prohibited by law,
39 or from considering matters pertaining to the appointment or
40 removal of the Executive Officer of the Franchise Tax Board.

1 (11) Require the Franchise Tax Board to notice or disclose any
2 confidential tax information considered in closed sessions, or
3 documents executed in connection therewith, the public disclosure
4 of which is prohibited pursuant to Article 2 (commencing with
5 Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the
6 Revenue and Taxation Code.

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

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

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

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

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

1 (17) Prevent a state body, or boards, commissions,
2 administrative officers, or other representatives that may properly
3 be designated by law or by a state body, from holding closed
4 sessions with its representatives in discharging its responsibilities
5 under Chapter 10 (commencing with Section 3500), Chapter 10.3
6 (commencing with Section 3512), Chapter 10.5 (commencing with
7 Section 3525), or Chapter 10.7 (commencing with Section 3540)
8 of Division 4 of Title 1 as the sessions relate to salaries, salary
9 schedules, or compensation paid in the form of fringe benefits.
10 For the purposes enumerated in the preceding sentence, a state
11 body may also meet with a state conciliator who has intervened
12 in the proceedings.

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

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

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

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

39 (19) Prevent the California Sex Offender Management Board
40 from holding a closed session for the purpose of discussing matters

1 pertaining to the application of a sex offender treatment provider
2 for certification pursuant to Sections 290.09 and 9003 of the Penal
3 Code. Those matters may include review of an applicant's
4 qualifications for certification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Section 5023 of the Business and Professions Code from
2 conducting a closed hearing to interview an individual applicant
3 or accountant regarding the applicant’s qualifications.

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

8 (5) Prevent a state body, as defined in subdivision (d) of Section
9 11121, from conducting a closed session to consider any matter
10 that properly could be considered in a closed session by the body
11 defined as a state body pursuant to subdivision (a) or (b) of Section
12 11121.

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

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

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

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

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

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

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

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

1 executive officer or when considering matters pertaining to the
2 recruitment or removal of the Chief Investment Officer of the State
3 Teachers' Retirement System or the Public Employees' Retirement
4 System.

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

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

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

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

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

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

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

38 (4) To the extent that the session would address the development
39 of rates, contracting strategy, underwriting, or competitive strategy,
40 pursuant to the powers granted to the board in Chapter 4

1 (commencing with Section 11770) of Part 3 of Division 2 of the
2 Insurance Code, when discussion in open session concerning those
3 matters would prejudice the position of the State Compensation
4 Insurance Fund.

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

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

12 290.09. On or before July 2012, the SARATSO dynamic tool
13 and the SARATSO future violence tool, as set forth in Section
14 290.04, shall be administered as follows:

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

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

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

1 (2) The certified sex offender management professional shall,
2 as soon as possible but not later than 30 days after the assessment,
3 provide the person's score on the SARATSO dynamic tool and
4 the future violence tool to the person's parole agent or probation
5 officer. Within five working days of receipt of the score, the parole
6 or probation officer shall send the score to the Department of
7 Justice, and the score shall be accessible to law enforcement
8 through the Department of Justice's Internet Web site for the
9 California Sex and Arson Registry (CSAR).

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

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

28 SEC. 3. Section 1203.067 of the Penal Code is amended to
29 read:

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

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

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

1 (3) Order any psychiatrist or psychologist appointed pursuant
2 to Section 288.1 to include a consideration of the threat to the
3 victim and the defendant's potential for positive response to
4 treatment in making his or her report to the court. Nothing in this
5 section shall be construed to require the court to order an
6 examination of the victim.

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

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

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

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

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

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

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

1 3008. (a) The Department of Corrections and Rehabilitation
2 shall ensure that all parolees under active supervision who are
3 deemed to pose a high risk to the public of committing sex crimes,
4 as determined by the State-Authorized Risk Assessment Tool for
5 Sex Offenders (SARATSO), as set forth in Sections 290.04 to
6 290.06, inclusive, are placed on intensive and specialized parole
7 supervision and are required to report frequently to designated
8 parole officers. The department may place any other parolee
9 convicted of an offense that requires him or her to register as a sex
10 offender pursuant to Section 290 who is on active supervision on
11 intensive and specialized supervision and require him or her to
12 report frequently to designated parole officers.

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

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

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

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

37 (2) Persons placed on parole on or after July 1, 2012, shall
38 successfully complete a sex offender management program,
39 following the standards developed pursuant to Section 9003, as a
40 condition of parole. The length of the period in the program shall

1 be not less than one year, up to the entire period of parole, as
2 determined by the certified sex offender management professional
3 in consultation with the parole officer and as approved by the court.

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

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

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

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

18 9002. (a) The board shall address any issues, concerns, and
19 problems related to the community management of adult sex
20 offenders. The main objective of the board, which shall be used
21 to guide the board in prioritizing resources and use of time, is to
22 achieve safer communities by reducing victimization.

23 (b) The board shall conduct public hearings, as it deems
24 necessary, to provide opportunities for gathering information and
25 receiving input regarding the work of the board from concerned
26 stakeholders and the public.

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

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

30 9003. (a) On or before July 1, 2011, the board shall develop
31 and update standards for certification of sex offender management
32 professionals. All those professionals who provide sex offender
33 management programs and risk assessments, pursuant to Section
34 290.09, shall be certified by the board according to these standards.
35 The standards shall be published on the board's Internet Web site.
36 Professionals may apply to the board for certification on or after
37 August 1, 2011.

38 (1) (A) The board shall submit to the Department of Justice
39 fingerprint images and related information required by the
40 Department of Justice of all sex offender management applicants,

1 as defined by subdivision (a), for the purposes of obtaining
2 information as to the existence and content of a record of state or
3 federal convictions and state or federal arrests and also information
4 as to the existence and content of a record of state arrests or federal
5 arrests for which the Department of Justice establishes that the
6 person is free on bail or on his or her own recognizance pending
7 trial or appeal.

8 (B) When received, the Department of Justice shall forward to
9 the Federal Bureau of Investigation requests for federal summary
10 criminal history information received pursuant to this section. The
11 Department of Justice shall review the information returned from
12 the Federal Bureau of Investigation and compile and disseminate
13 a response to the board.

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

17 (D) The board shall request from the Department of Justice
18 subsequent arrest notification service, as provided pursuant to
19 Section 11105.2, for persons described in subdivision (a).

20 (2) The board shall require any person who applies for
21 certification under this section to submit information relevant to
22 the applicant's fitness to provide sex offender management
23 services. That information shall be submitted under the penalty of
24 perjury by the person applying for certification.

25 (3) The board shall assess a fee to the applicant not to exceed
26 one hundred eighty dollars (\$180) per application. The board shall
27 pay a fee to the Department of Justice sufficient to cover the cost
28 of processing the criminal background request specified in this
29 section.

30 (b) On or before July 1, 2011, the board shall develop and update
31 standards for certification of sex offender management programs,
32 which shall include treatment, as specified, and dynamic and future
33 violence risk assessments pursuant to Section 290.09. The standards
34 shall be published on the board's Internet Web site. All those
35 programs shall include polygraph examinations by a certified
36 polygraph examiner, which shall be conducted as needed during
37 the period that the offender is in the sex offender management
38 program. Only certified sex offender management professionals
39 whose programs meet the standards set by the board are eligible

1 to provide sex offender management programs pursuant to Section
2 290.09.

3 (c) Certified sex offender management professionals, who
4 provide sex offender management programs and risk assessments
5 pursuant to Section ~~209.09~~ 290.09, shall not be held ~~criminally or~~
6 civilly liable for any criminal acts committed by the persons on
7 parole, probation, or judicial commitment status who receive
8 supervision or treatment. This waiver of liability shall apply to
9 certified sex offender management professionals, administrators
10 of the programs provided by those professionals, and to agencies
11 or persons under contract to those professionals who provide
12 screening, clinical evaluation, risk assessment, supervision, or
13 treatment to sex offender parolees, probationers, or persons on
14 conditional release pursuant to Article 4 (commencing with Section
15 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and
16 Institutions Code.

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

20 SEC. 7. The Legislature finds and declares that Section 1 of
21 this act imposes a limitation on the public's right of access to
22 meetings of public bodies within the meaning of Section 3 of
23 Article I of the California Constitution. Pursuant to that
24 constitutional provision, the Legislature makes the following
25 finding to demonstrate the interest protected by this limitation and
26 the need for protecting that interest: The Legislature finds and
27 declares that in order to protect the privacy of individuals applying
28 for certification as sex offender treatment providers, it is necessary
29 to exempt those individuals' names from disclosure.

30 SEC. 8. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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