

Assembly Bill No. 813

Passed the Assembly August 25, 2011

Chief Clerk of the Assembly

Passed the Senate July 14, 2011

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2011, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 11126 of the Government Code, and to amend Sections 290.04, 290.09, 1203.067, 3008, 9002, and 9003 of the Penal Code, relating to sex crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 813, 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 provide that any person who knowingly provides false information in connection with an application for certification as a sex offender management professional would be subject to a civil penalty of up to \$1,500, in addition to any other remedy available to the board, and would allow any public prosecutor to bring an action for a civil penalty in the name of the people of the State of California.

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

(2) Existing law requires every person who is required to register as a sex offender to be subject to assessment with the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO) and specifies that the SARATSO for adult males shall be the STATIC-99 risk assessment scale. Existing law establishes the SARATSO Review Committee, and requires the committee, on or before January 1, 2008, to determine whether the STATIC-99 should be supplemented with an actuarial instrument that measures dynamic risk factors or whether the

STATIC-99 should be replaced with a different tool. Existing law requires the committee, on or before January 1, 2012, to select an actuarial instrument that measures dynamic risk factors and an actuarial instrument that measures the risk of future sexual violence.

This bill would instead require the committee to determine whether the STATIC-99 should be supplemented with an empirically derived instrument, and would require the committee to select an empirically derived instrument that measures dynamic risk factors and an empirically derived instrument that measures risk of future violence.

(3) 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.

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

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

SECTION 1. Section 11126 of the Government Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 2. Section 290.04 of the Penal Code is amended to read:

290.04. (a) (1) The sex offender risk assessment tools authorized by this section for use with selected populations shall be known, with respect to each population, as the State-Authorized Risk Assessment Tool for Sex Offenders (SARATSO). If a SARATSO has not been selected for a given population pursuant to this section, no duty to administer the SARATSO elsewhere in this code shall apply with respect to that population. Every person required to register as a sex offender shall be subject to assessment with the SARATSO as set forth in this section and elsewhere in this code.

(2) A representative of the Department of Corrections and Rehabilitation, in consultation with a representative of the State Department of Mental Health and a representative of the Attorney General's office, shall comprise the SARATSO Review Committee. The purpose of the committee, which shall be staffed by the Department of Corrections and Rehabilitation, shall be to ensure that the SARATSO reflects the most reliable, objective, and well-established protocols for predicting sex offender risk of recidivism, has been scientifically validated and cross validated, and is, or is reasonably likely to be, widely accepted by the courts. The committee shall consult with experts in the fields of risk assessment and the use of actuarial instruments in predicting sex offender risk, sex offending, sex offender treatment, mental health, and law, as it deems appropriate.

(b) (1) Commencing January 1, 2007, the SARATSO for adult males required to register as sex offenders shall be the STATIC-99 risk assessment scale, which shall be the SARATSO static tool for adult males.

(2) The SARATSO Review Committee shall determine whether the STATIC-99 should be supplemented with an empirically derived instrument that measures dynamic risk factors or whether the STATIC-99 should be replaced as the SARATSO with a different risk assessment tool. The SARATSO Review Committee shall select an empirically derived instrument that measures dynamic risk factors and an empirically derived instrument that measures risk of future violence. The selected instruments shall be the SARATSO dynamic tool for adult males and the SARATSO future violence tool for adult males. If the committee unanimously agrees on changes to be made to a designated SARATSO, it shall advise the Governor and the Legislature of the changes, and the Department of Corrections and Rehabilitation shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult males.

(c) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for adult females required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for adult females.

(d) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for male juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for male juveniles.

(e) On or before July 1, 2007, the SARATSO Review Committee shall research risk assessment tools for female juveniles required to register as sex offenders. If the committee unanimously agrees on an appropriate risk assessment tool to be used to assess this population, it shall advise the Governor and the Legislature of the selected tool, and the State Department of Mental Health shall post

the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for female juveniles.

(f) The committee shall periodically evaluate the SARATSO static, dynamic, and risk of future violence tools for each specified population. If the committee unanimously agrees on a change to the SARATSO for any population, it shall advise the Governor and the Legislature of the selected tool, and the Department of Corrections and Rehabilitation shall post the decision on its Internet Web site. Sixty days after the decision is posted, the selected tool shall become the SARATSO for that population.

(g) The committee shall perform other functions consistent with the provisions of this act or as may be otherwise required by law, including, but not limited to, defining tiers of risk based on the SARATSO. The committee shall be immune from liability for good faith conduct under this act.

SEC. 3. Section 290.09 of the Penal Code is amended to read:

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

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

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

(b) (1) The sex offender management professionals certified by the California Sex Offender Management Board in accordance with Section 9003 who provide sex offender management programs for any probation department or the Department of Corrections and Rehabilitation shall assess each registered sex offender on formal probation or parole using the SARATSO dynamic tool,

when a dynamic risk factor changes, and shall do a final dynamic assessment within six months of the offender's release from supervision. The management professional shall also assess the sex offenders in the program with the SARATSO future violence tool.

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

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

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

SEC. 4. Section 1203.067 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

(c) Any defendant ordered to be placed in an approved sex offender management program pursuant to subdivision (b) shall be responsible for paying the expense of his or her participation in the program as determined by the court. The court shall take

into consideration the ability of the defendant to pay, and no defendant shall be denied probation because of his or her inability to pay.

SEC. 5. Section 3008 of the Penal Code is amended to read:

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

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

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

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

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

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

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

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

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

SEC. 6. Section 9002 of the Penal Code is amended to read:

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

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

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

SEC. 7. Section 9003 of the Penal Code is amended to read:

9003. (a) On or before July 1, 2011, the board shall develop and update standards for certification of sex offender management professionals. All those professionals who provide sex offender management programs and risk assessments, pursuant to Section 290.09, shall be certified by the board according to these standards. The standards shall be published on the board's Internet Web site.

Professionals may apply to the board for certification on or after August 1, 2011.

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

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

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

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

(2) The board shall require any person who applies for certification under this section to submit information relevant to the applicant's fitness to provide sex offender management services. Any person who knowingly provides false information under this paragraph shall be subject to a civil penalty in an amount up to one thousand five hundred dollars (\$1,500), in addition to any other remedies available to the board. An action for a civil penalty under this provision may be brought by any public prosecutor in the name of the people of the State of California.

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

(b) On or before July 1, 2011, the board shall develop and update standards for certification of sex offender management programs,

which shall include treatment, as specified, and dynamic and future violence risk assessments pursuant to Section 290.09. The standards shall be published on the board's Internet Web site. All those programs shall include polygraph examinations by a certified polygraph examiner, which shall be conducted as needed during the period that the offender is in the sex offender management program. Only certified sex offender management professionals whose programs meet the standards set by the board are eligible to provide sex offender management programs pursuant to Section 290.09.

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

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

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

Approved _____, 2011

Governor