

**Introduced by Senator Runner**December 16, 2010

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An act to amend Section 3003.5 of, and to add Section 3003.51 to, the Penal Code, relating to sex offenders.

## LEGISLATIVE COUNSEL'S DIGEST

SB 54, as introduced, Runner. Sex offenders: residency restrictions: petition for relief.

Existing law, as amended by Proposition 83 of the November 7, 2006, statewide general election, prohibits any person who is required to register pursuant to the Sex Offender Registration Act from residing within 2,000 feet of any public or private school, or park where children regularly gather.

This bill would provide that the 2,000 feet shall be measured by the shortest practical pedestrian or vehicle path. The bill would permit a person who is subject to the residency restriction to petition the superior court of the county within which he or she resides for relief from the requirement. The bill would provide that original jurisdiction for the petition would lie with the appellate division of the superior court in which the petition is filed. The bill would require the petitioner to establish by clear and convincing evidence that there is a pervasive lack of compliant housing in the county and that a majority of sex offenders are unable to comply despite good faith efforts. The bill would require that, if relief is granted, it shall be narrowly crafted in order to substantially comply with the intent of the people in approving the residency requirements.

The bill would provide that if relief is granted or denied, no subsequent petition shall be heard unless the petitioner establishes in the petition,

to the satisfaction of the court, that circumstances regarding compliant housing have changed, as provided.

Proposition 83 permits the Legislature, by a vote of  $\frac{2}{3}$  of the membership of each house and in accordance with specified procedures, to amend the provisions of the act.

This bill would therefore require a  $\frac{2}{3}$  vote.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: no.

State-mandated local program: no.

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

1 SECTION 1. Section 3003.5 of the Penal Code is amended to  
2 read:

3 3003.5. (a) Notwithstanding any other provision of law, when  
4 a person is released on parole after having served a term of  
5 imprisonment in state prison for any offense for which registration  
6 is required pursuant to Section 290, that person may not, during  
7 the period of parole, reside in any ~~single-family~~ *single-family*  
8 dwelling with any other person also required to register pursuant  
9 to Section 290, unless those persons are legally related by blood,  
10 marriage, or adoption. For purposes of this section, ~~“single-family~~  
11 *“single-family dwelling”* shall not include a residential facility  
12 which serves six or fewer persons.

13 (b) (1) Notwithstanding any other provision of law, it is  
14 unlawful for any person for whom registration is required pursuant  
15 to Section 290 to reside within ~~2000~~ 2,000 feet of any public or  
16 private school, or park where children regularly gather. *The 2,000*  
17 *feet shall be measured by the shortest practical pedestrian or*  
18 *vehicle path.*

19 (2) *Any person subject to the residency restriction imposed*  
20 *pursuant to paragraph (1) may, if compliance is not reasonably*  
21 *possible within his or her county, seek relief pursuant to Section*  
22 *3003.51.*

23 (c) Nothing in this section shall prohibit municipal jurisdictions  
24 from enacting local ordinances that further restrict the residency  
25 of any person for whom registration is required pursuant to Section  
26 290.

27 SEC. 2. Section 3003.51 is added to the Penal Code, to read:

28 3003.51. (a) Any person prohibited pursuant to Section 3003.5  
29 from living within 2,000 feet of any public or private school, or

1 park where children regularly gather, may seek relief from those  
2 restrictions if he or she cannot comply with the restriction because  
3 of the unavailability of compliant housing within his or her county  
4 of domicile.

5 (b) Any person seeking relief under this section may file a  
6 petition with the superior court of the county in which he or she  
7 resides. Notice of the petition shall be timely served on the state  
8 parole authority or other entity enforcing the subject sex offender  
9 residency restrictions.

10 (c) Notwithstanding any other law, original jurisdiction for any  
11 petition filed pursuant to this section shall lie with the appellate  
12 division of the superior court in which the petition is filed.

13 (d) The appellate division of the superior court in which the  
14 petition is filed pursuant to this section may grant the petition if  
15 the petitioner establishes by clear and convincing evidence, and  
16 the court finds, both of the following:

17 (1) There is a pervasive lack of compliant housing within the  
18 petitioner's county of domicile.

19 (2) As a result of the pervasive lack of compliant housing, a  
20 majority of sex offenders subject to the 2,000-foot residency  
21 restriction have, despite good faith efforts, been unable to find  
22 compliant housing within the county.

23 (e) Relief granted pursuant to this section shall apply uniformly  
24 to all sex offenders for whom registration is required pursuant to  
25 Section 290 in all communities within the county that are subject  
26 to the 2,000-foot residency restriction and shall therefore be  
27 narrowly crafted in order to substantially comply with the intent  
28 of the people in approving the residency requirements of Section  
29 3003.5.

30 (f) If relief is granted or denied pursuant to this section, no  
31 subsequent petition shall be heard, unless the petitioner or  
32 petitioners establish in the petition, to the satisfaction of the court,  
33 both of the following:

34 (1) There has been a change of circumstances based upon a  
35 substantial decline in the availability of compliant housing.

36 (2) There has been a corresponding increase in the percentage  
37 of sex offenders who are unable to comply with the residency

- 1 restrictions due to the change of circumstances described in
- 2 paragraph (1) since the court ruling on the prior petition.

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