

AMENDED IN SENATE MAY 10, 2011
AMENDED IN SENATE MARCH 25, 2011

SENATE BILL

No. 756

Introduced by Senator Price

February 18, 2011

An act to amend Sections 290.015 and 290.018 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 756, as amended, Price. Sex offender registration.

Existing law requires persons who are subject to the Sex Offender Registration Act to, upon release from incarceration, placement, commitment, or release on probation, register or reregister with the chief of police of the city in which he or she is residing, or in which he or she is present if a transient, or the sheriff of the county if he or she is residing or is present in an unincorporated area or city that has no police department, as specified. A violation of the registration requirement is an offense that may be punished as a misdemeanor, or as a felony if additional circumstances exist.

The bill would provide that if a person fails to so register after release, the district attorney in the jurisdiction where the person was to be paroled or to be on probation, or the district attorney in another specified jurisdiction if the person was not released on parole or probation, may request that a warrant be issued for the person's arrest and shall have authority to prosecute that person as specified.

The bill would require persons subject to registering as a sex offender, *if requested while at a residence*, to provide proof of current residence upon request by a law enforcement agency investigating compliance with the requirements of the Sex Offender Registration Act, as specified.

The bill would make the failure to provide proof of residence in this context a misdemeanor punishable by imprisonment in a county jail not exceeding 6 months.

By expanding the provisions pertaining to registration as a sex offender, the violation of which is an offense, and by creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 290.015 of the Penal Code is amended
2 to read:

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

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

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

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

1 (4) Notice to the person that, in addition to the requirements of
2 the Act, he or she may have a duty to register in any other state
3 where he or she may relocate.

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

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

23 (c) (1) If a person fails to register in accordance with
24 subdivision (a) after release, the district attorney in the jurisdiction
25 where the person was to be paroled or to be on probation may
26 request that a warrant be issued for the person's arrest and shall
27 have the authority to prosecute that person pursuant to Section
28 290.018.

29 (2) If the person was not on parole or probation at the time of
30 release, the district attorney in the following applicable jurisdiction
31 shall have the authority to prosecute that person pursuant to Section
32 290.018:

33 (A) If the person was previously registered, in the jurisdiction
34 in which the person last registered.

35 (B) If there is no prior registration, but the person indicated on
36 the Department of Justice notice of sex offender registration
37 requirement form where he or she expected to reside, in the
38 jurisdiction where he or she expected to reside.

1 (C) If neither subparagraph (A) nor (B) applies, in the
2 jurisdiction where the offense subjecting the person to registration
3 pursuant to this Act was committed.

4 (d) ~~The~~ *If requested while at a residence, the person shall present*
5 proof of residence upon request by a law enforcement agency
6 investigating compliance with the requirements of this Act.

7 SEC. 2. Section 290.018 of the Penal Code is amended to read:

8 290.018. (a) Any person who is required to register under the
9 Act based on a misdemeanor conviction or juvenile adjudication
10 who willfully violates any requirement of the Act is guilty of a
11 misdemeanor punishable by imprisonment in a county jail not
12 exceeding one year.

13 (b) Except as provided in subdivisions (f), (h), and (j), any
14 person who is required to register under the Act based on a felony
15 conviction or juvenile adjudication who willfully violates any
16 requirement of the Act or who has a prior conviction or juvenile
17 adjudication for the offense of failing to register under the Act and
18 who subsequently and willfully violates any requirement of the
19 Act is guilty of a felony and shall be punished by imprisonment
20 in the state prison for 16 months, or two or three years.

21 (c) If probation is granted or if the imposition or execution of
22 sentence is suspended, it shall be a condition of the probation or
23 suspension that the person serve at least 90 days in a county jail.
24 The penalty described in subdivision (b) or this subdivision shall
25 apply whether or not the person has been released on parole or has
26 been discharged from parole.

27 (d) Any person determined to be a mentally disordered sex
28 offender or who has been found guilty in the guilt phase of trial
29 for an offense for which registration is required under the Act, but
30 who has been found not guilty by reason of insanity in the sanity
31 phase of the trial, or who has had a petition sustained in a juvenile
32 adjudication for an offense for which registration is required
33 pursuant to Section 290.008, but who has been found not guilty
34 by reason of insanity, who willfully violates any requirement of
35 the Act is guilty of a misdemeanor and shall be punished by
36 imprisonment in a county jail not exceeding one year. For any
37 second or subsequent willful violation of any requirement of the
38 Act, the person is guilty of a felony and shall be punished by
39 imprisonment in the state prison for 16 months, or two or three
40 years.

1 (e) If, after discharge from parole, the person is convicted of a
2 felony or suffers a juvenile adjudication as specified in this act,
3 he or she shall be required to complete parole of at least one year,
4 in addition to any other punishment imposed under this section.
5 A person convicted of a felony as specified in this section may be
6 granted probation only in the unusual case where the interests of
7 justice would best be served. When probation is granted under this
8 act, the court shall specify on the record and shall enter into the
9 minutes the circumstances indicating that the interests of justice
10 would best be served by the disposition.

11 (f) Any person who has ever been adjudicated a sexually violent
12 predator, as defined in Section 6600 of the Welfare and Institutions
13 Code, and who fails to verify his or her registration every 90 days
14 as required pursuant to subdivision (b) of Section 290.012, shall
15 be punished by imprisonment in the state prison, or in a county
16 jail not exceeding one year.

17 (g) Except as otherwise provided in subdivision (f), any person
18 who is required to register or reregister pursuant to Section 290.011
19 and willfully fails to comply with the requirement that he or she
20 reregister no less than every 30 days is guilty of a misdemeanor
21 and shall be punished by imprisonment in a county jail for at least
22 30 days, but not exceeding six months. A person who willfully
23 fails to comply with the requirement that he or she reregister no
24 less than every 30 days shall not be charged with this violation
25 more often than once for a failure to register in any period of 90
26 days. Any person who willfully commits a third or subsequent
27 violation of the requirements of Section 290.011 that he or she
28 reregister no less than every 30 days shall be punished in
29 accordance with either subdivision (a) or (b).

30 (h) Any person who fails to provide proof of residence as
31 required by paragraph (5) of subdivision (a) of Section 290.015
32 or subdivision (d) of Section 290.015, regardless of the offense
33 upon which the duty to register is based, is guilty of a misdemeanor
34 punishable by imprisonment in a county jail not exceeding six
35 months.

36 (i) Any person who is required to register under the Act who
37 willfully violates any requirement of the Act is guilty of a
38 continuing offense as to each requirement he or she violated.

39 (j) In addition to any other penalty imposed under this section,
40 the failure to provide information required on registration and

1 reregistration forms of the Department of Justice, or the provision
2 of false information, is a crime punishable by imprisonment in a
3 county jail for a period not exceeding one year. Nothing in this
4 subdivision shall be construed to limit or prevent prosecution under
5 any applicable provision of law.

6 (k) Whenever any person is released on parole or probation and
7 is required to register under the Act but fails to do so within the
8 time prescribed, the parole authority or the court, as the case may
9 be, shall order the parole or probation of the person revoked. For
10 purposes of this subdivision, “parole authority” has the same
11 meaning as described in Section 3000.

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