

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 326**

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**Introduced by Senator Beall**

February 19, 2013

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An act to amend Section 626.81 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 326, as amended, Beall. Sex offenders.

Existing law makes it a misdemeanor for any person who is required to register as a sex offender to come into any school building or upon any school ground without lawful business and written permission from the chief administrative official of the school.

~~This bill would make technical, nonsubstantive changes to that provision.~~ *require that the written permission indicate the date or date range and time for which permission is granted. The bill would authorize the chief administrative official of a school to grant permission only after the chief administrative official has consulted with the person's registering authority, as defined. The bill would require the registering authority to disclose to the chief administrative official specified information regarding the person. The bill would require the chief administrative official, in cases in which he or she has determined that he or she will grant permission to the person, to again consult the person's registering authority prior to granting permission. If the registering authority has concluded that the person has a low risk of reoffending or is undecided as to the person's risk of reoffending, the bill would authorize the chief administrative official to grant the person permission. If the registering authority has concluded that the person has a moderate to high risk of reoffending, the bill would authorize the*

*chief administrative official to grant the person permission provided that the chief administrative official notifies the parents of children attending the school of that fact, as specified.*

*By changing the definition of a crime, and by imposing new duties on law enforcement agencies, the 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.*

*With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
 State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 626.81 of the Penal Code is amended to  
 2 read:

3 626.81. (a) A person who is required to register as a sex  
 4 offender pursuant to Section 290, who comes into any school  
 5 building or upon any school ground without lawful business  
 6 thereon and written permission *indicating the date or dates and*  
 7 *times for which permission has been granted* from the chief  
 8 administrative official of that school, is guilty of a misdemeanor.

9 *If the chief administrative official of the school, in his or her*  
 10 *discretion, elects to consider whether to grant permission, he or*  
 11 *she shall comply with the requirements set forth in subdivision (b).*

12 (b) (1) *The chief administrative official of a school may grant*  
 13 *permission to a person who is required to register as a sex offender*  
 14 *pursuant to Section 290 to come into any school building or upon*  
 15 *any school ground only after the chief administrative official has*  
 16 *consulted with the person’s registering authority.*

17 (2) *The registering authority shall disclose to the chief*  
 18 *administrative official, during the consultation required by*  
 19 *paragraph (1), the following information:*

1 (A) *The person's most recent static State Authorized Risk*  
2 *Assessment Tool for Sex Offenders (SARATSO) assessment score,*  
3 *obtained pursuant to Section 290.06, and most recent SARATSO*  
4 *dynamic tool and SARATSO future violence tool assessment scores,*  
5 *obtained pursuant to Section 290.09, if those scores are available*  
6 *from the California Sex and Arson Registry.*

7 (B) *A brief description of the facts underlying the offense or*  
8 *offenses for which the person is required to register, if that*  
9 *information is available from the California Sex and Arson*  
10 *Registry, police reports, or presentencing reports.*

11 (C) *Any facts known to the registering authority that indicate*  
12 *the person poses a current risk to children, including, but not*  
13 *limited to, the presence of risk factors associated with committing*  
14 *sexual or violent offenses.*

15 (3) *If the chief administrative official determines after the*  
16 *consultation required by paragraph (1) that he or she will grant*  
17 *the person permission to come into a school building or upon*  
18 *school grounds, the chief administrative official shall again consult*  
19 *the person's registering authority prior to granting permission*  
20 *and advise the registering authority of that fact.*

21 (A) *If the registering authority has concluded that, based on the*  
22 *information identified in subparagraphs (A) to (C), inclusive, of*  
23 *paragraph (2), the person poses a low risk of reoffending or the*  
24 *registering authority is undecided as to the person's risk of*  
25 *reoffending, the chief administrative official may grant the person*  
26 *permission.*

27 (B) *If the registering authority has concluded that, based on the*  
28 *information identified in subparagraphs (A) to (C), inclusive, of*  
29 *paragraph (2), the person poses a moderate to high risk of*  
30 *reoffending, the registering authority shall inform the chief*  
31 *administrative official of that fact. The chief administrative official*  
32 *may grant the person permission, provided that, notwithstanding*  
33 *subdivisions (a) and (c) of Section 290.45, the chief administrative*  
34 *official notifies or causes to be notified the parents of each child*  
35 *attending the school that a person who is required to register as*  
36 *a sex offender pursuant to Section 290 has been granted permission*  
37 *to come into a school building or upon school grounds, the date*  
38 *or dates and times for which permission has been granted, and*  
39 *their right to obtain information regarding the person from a*  
40 *designated law enforcement entity pursuant to Section 290.45.*

1 (C) Any chief administrative official or school employee who  
2 in good faith disseminates the notification and information as  
3 required by subparagraph (B) shall be immune from civil liability  
4 for action taken in accordance with that provision.

5 (b)

6 (c) Punishment for a violation of this section shall be as follows:

7 (1) Upon a first conviction by a fine of not exceeding five  
8 hundred dollars (\$500), by imprisonment in a county jail for a  
9 period of not more than six months, or by both the fine and  
10 imprisonment.

11 (2) If the defendant has been previously convicted once of a  
12 violation of this section, by imprisonment in a county jail for a  
13 period of not less than 10 days or more than six months, or by both  
14 imprisonment and a fine of not exceeding five hundred dollars  
15 (\$500), and shall not be released on probation, parole, or any other  
16 basis until he or she has served not less than 10 days.

17 (3) If the defendant has been previously convicted two or more  
18 times of a violation of this section, by imprisonment in a county  
19 jail for a period of not less than 90 days or more than six months,  
20 or by both imprisonment and a fine of not exceeding five hundred  
21 dollars (\$500), and shall not be released on probation, parole, or  
22 any other basis until he or she has served not less than 90 days.

23 (e)

24 (d) Nothing in this section shall preclude or prohibit prosecution  
25 under any other provision of law.

26 (e) For purposes of this section, the “registering authority” is  
27 the law enforcement agency or agencies with which a person  
28 described in subdivision (a) is currently required to register  
29 pursuant to Section 290.

30 SEC. 2. No reimbursement is required by this act pursuant to  
31 Section 6 of Article XIII B of the California Constitution for certain  
32 costs that may be incurred by a local agency or school district  
33 because, in that regard, this act creates a new crime or infraction,  
34 eliminates a crime or infraction, or changes the penalty for a crime  
35 or infraction, within the meaning of Section 17556 of the  
36 Government Code, or changes the definition of a crime within the  
37 meaning of Section 6 of Article XIII B of the California  
38 Constitution.

39 However, if the Commission on State Mandates determines that  
40 this act contains other costs mandated by the state, reimbursement

1 *to local agencies and school districts for those costs shall be made*  
2 *pursuant to Part 7 (commencing with Section 17500) of Division*  
3 *4 of Title 2 of the Government Code.*

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