

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 326

Introduced by Senator Beall

February 19, 2013

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 require that the written permission indicate the date or date range and time for which permission is granted. The bill would, if the chief administrative official of a school elects to grant permission to a person who is not the parent or guardian with legal custody of a child who attends that school, require the chief administrative official to consult 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 and the registering authority has concluded that the person has a moderate to high risk of reoffending, to notify the parent or guardian

~~of children attending the school of that fact, as specified. would authorize the chief administrative official of the school to grant a registered sex offender who is not a family member of a pupil who attends that school, permission to come into a school building or upon the school grounds to volunteer at the school, provided that the chief administrative official notifies the parent or guardian of each child attending the school of the permission, 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: *yes-no*. State-mandated local program: *yes-no*.~~

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 (b) (1) ~~If a person who requests permission~~*The chief*
 10 *administrative official of a school may grant a person who is*
 11 *subject to this section and not a family member of a pupil who*
 12 *attends that school, permission to come into a school building or*
 13 *upon the school grounds*~~is not a parent or guardian with legal~~
 14 ~~custody of a pupil who attends that school and the chief~~
 15 ~~administrative official of the school, in his or her discretion, elects~~

1 to consider whether to grant permission to that person, he or she
2 shall comply with the requirements set forth in this subdivision.

3 (2) ~~The chief administrative official of a school may grant~~
4 ~~permission to a person who is subject to this subdivision to come~~
5 ~~into any school building or upon any school ground only after the~~
6 ~~chief administrative official has consulted with the person's~~
7 ~~registering authority.~~

8 (3) ~~The registering authority shall disclose to the chief~~
9 ~~administrative official, during the consultation required by~~
10 ~~paragraph (2), the following information:~~

11 (A) ~~The person's most recent static State Authorized Risk~~
12 ~~Assessment Tool for Sex Offenders (SARATSO) assessment score,~~
13 ~~obtained pursuant to Section 290.06, and most recent SARATSO~~
14 ~~dynamic tool and SARATSO future violence tool assessment~~
15 ~~scores, obtained pursuant to Section 290.09, if those scores are~~
16 ~~available from the California Sex and Arson Registry.~~

17 (B) ~~A brief description of the facts underlying the offense or~~
18 ~~offenses for which the person is required to register, if that~~
19 ~~information is available from the California Sex and Arson~~
20 ~~Registry, police reports, or presentencing reports.~~

21 (C) ~~Any facts known to the registering authority that indicate~~
22 ~~the person poses a current risk to children, including, but not~~
23 ~~limited to, the presence of risk factors associated with committing~~
24 ~~sexual or violent offenses.~~

25 (D) ~~The registering authorities' assessment, based on the~~
26 ~~information identified in subparagraphs (A) to (C), inclusive, of~~
27 ~~the risk that the person will reoffend.~~

28 (4) (A) ~~If the chief administrative official determines after the~~
29 ~~consultation required by paragraph (2) that he or she will grant the~~
30 ~~person permission to come into a school building or upon school~~
31 ~~grounds and the registering authority has concluded that the person~~
32 ~~poses a moderate to high risk of reoffending, the chief~~
33 ~~administrative official may grant the person permission to volunteer~~
34 ~~at the school, provided that, notwithstanding subdivisions (a) and~~
35 ~~(c) of Section 290.45, at least 14 days prior to the first date for~~
36 ~~which permission has been granted, the chief administrative official~~
37 ~~notifies or causes to be notified the parent or guardian of each child~~
38 ~~attending the school that a person who is required to register as a~~
39 ~~sex offender pursuant to Section 290 has been granted permission~~
40 ~~to come into a school building or upon school grounds, the date~~

1 or dates and times for which permission has been granted, and his
2 or her right to obtain information regarding the person from a
3 designated law enforcement entity pursuant to Section 290.45. The
4 notice required by this ~~subparagraph~~ *paragraph* shall be provided
5 by one of the methods identified in Section 48981 of the Education
6 Code.

7 ~~(B)~~

8 (2) Any chief administrative official or school employee who
9 in good faith disseminates the notification and information as
10 required by ~~subparagraph (A)~~ *paragraph (1)* shall be immune from
11 civil liability for action taken in accordance with that ~~provision~~
12 *paragraph*.

13 ~~(5) For purposes of this subdivision, the “registering authority”~~
14 ~~is the law enforcement agency or agencies with which a person~~
15 ~~described in paragraph (1) is currently required to register pursuant~~
16 ~~to Section 290.~~

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

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

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

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

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

36 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
37 ~~Section 6 of Article XIII B of the California Constitution for certain~~
38 ~~costs that may be incurred by a local agency or school district~~
39 ~~because, in that regard, this act creates a new crime or infraction,~~
40 ~~eliminates a crime or infraction, or changes the penalty for a crime~~

1 ~~or infraction, within the meaning of Section 17556 of the~~
2 ~~Government Code, or changes the definition of a crime within the~~
3 ~~meaning of Section 6 of Article XIII B of the California~~
4 ~~Constitution.~~

5 However, if the Commission on State Mandates determines that
6 this act contains other costs mandated by the state, reimbursement
7 to local agencies and school districts for those costs shall be made
8 pursuant to Part 7 (commencing with Section 17500) of Division
9 4 of Title 2 of the Government Code.

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