

Introduced by Senator Correa

February 20, 2013

An act to amend Section 290.03 of the Penal Code, relating to registered sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 386, as introduced, Correa. Registered sex offenders: local ordinances.

Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Existing law, as adopted by the voters by the passage of Proposition 83 at the November 7, 2006, statewide general election, prohibits a person who is required to register as a sex offender from living in specified places, including within 2000 feet of a school or park where children regularly gather. Existing law authorizes municipal jurisdictions to enact local ordinances that further restrict the residency of the registered sex offender. Existing law makes it a misdemeanor for a person who is on parole for specified sex offenses to enter any park where children regularly gather without express permission from the person's parole agent.

This bill would state that the Legislature does not preempt local agencies from enacting ordinances that restrict where registered sex offenders may go within a local municipality.

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

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

SECTION 1. Section 290.03 of the Penal Code is amended to read:

290.03. (a) The Legislature finds and declares that a comprehensive system of risk assessment, supervision, monitoring, and containment for registered sex offenders residing in California communities is necessary to enhance public safety and reduce the risk of recidivism posed by these offenders. The Legislature further affirms and incorporates the following findings and declarations, previously reflected in its enactment of “Megan’s Law”:

(1) Sex offenders pose a potentially high risk of committing further sex offenses after release from incarceration or commitment, and the protection of the public from reoffending by these offenders is a paramount public interest.

(2) It is a compelling and necessary public interest that the public have information concerning persons convicted of offenses involving unlawful sexual behavior collected pursuant to Sections 290 and 290.4 to allow members of the public to adequately protect themselves and their children from these persons.

(3) Persons convicted of these offenses involving unlawful sexual behavior have a reduced expectation of privacy because of the public’s interest in public safety.

(4) In balancing the offenders’ due process and other rights against the interests of public security, the Legislature finds that releasing information about sex offenders under the circumstances specified in the Sex Offender Punishment, Control, and Containment Act of 2006 will further the primary government interest of protecting vulnerable populations from potential harm.

(5) The registration of sex offenders, the public release of specified information about certain sex offenders pursuant to Sections 290 and 290.4, and public notice of the presence of certain high risk sex offenders in communities will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems that deal with these offenders.

(6) To protect the safety and general welfare of the people of this state, it is necessary to provide for continued registration of sex offenders, for the public release of specified information regarding certain more serious sex offenders, and for community notification regarding high risk sex offenders who are about to be

1 released from custody or who already reside in communities in
2 this state. This policy of authorizing the release of necessary and
3 relevant information about serious and high risk sex offenders to
4 members of the general public is a means of assuring public
5 protection and shall not be construed as punitive.

6 (7) The Legislature also declares, however, that in making
7 information available about certain sex offenders to the public, it
8 does not intend that the information be used to inflict retribution
9 or additional punishment on any person convicted of a sex offense.
10 While the Legislature is aware of the possibility of misuse, it finds
11 that the dangers to the public of nondisclosure far outweigh the
12 risk of possible misuse of the information. The Legislature is
13 further aware of studies in Oregon and Washington indicating that
14 community notification laws and public release of similar
15 information in those states have resulted in little criminal misuse
16 of the information and that the enhancement to public safety has
17 been significant.

18 (b) In enacting the Sex Offender Punishment, Control, and
19 Containment Act of 2006, the Legislature hereby creates a
20 standardized, statewide system to identify, assess, monitor and
21 contain known sex offenders for the purpose of reducing the risk
22 of recidivism posed by these offenders, thereby protecting victims
23 and potential victims from future harm.

24 (c) *The Legislature does not preempt local agencies from*
25 *enacting ordinances that restrict where persons required to register*
26 *pursuant to Section 290 may go within a municipality.*