

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 201

Introduced by Assembly Member ~~Brough~~ Members *Brough, Gipson, and Steinorth*

(Coauthors: Assembly Members *Baker, Chávez, Harper, Lackey, Melendez, Obernolte, Olsen, Rodriguez, Waldron, and Wilk*)

(Coauthors: Senators *Bates, Huff, Nielsen, Stone, and Vidak*)

January 29, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 201, as amended, Brough. 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 2,000 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 a local agency is not preempted by state law from enacting and enforcing an ordinance that restricts a registered sex offender from residing or being present at certain locations within the local agency’s jurisdiction. The bill would authorize a local agency to adopt ordinances, rules, or regulations that are more restrictive than state law relating to a registered sex offender’s ability to reside or be present at certain locations within the local agency’s jurisdiction.

Vote: majority. 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 290.03 of the Penal Code is amended to
2 read:

3 290.03. (a) The Legislature finds and declares that a
4 comprehensive system of risk assessment, supervision, monitoring
5 and containment for registered sex offenders residing in California
6 communities is necessary to enhance public safety and reduce the
7 risk of recidivism posed by these offenders. The Legislature further
8 affirms and incorporates the following findings and declarations,
9 previously reflected in its enactment of “Megan’s Law”:

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

14 (2) It is a compelling and necessary public interest that the public
15 have information concerning persons convicted of offenses
16 involving unlawful sexual behavior collected pursuant to Sections
17 290 and 290.4 to allow members of the public to adequately protect
18 themselves and their children from these persons.

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

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

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

7 (6) To protect the safety and general welfare of the people of
8 this state, it is necessary to provide for continued registration of
9 sex offenders, for the public release of specified information
10 regarding certain more serious sex offenders, and for community
11 notification regarding ~~high-risk~~ *high-risk* sex offenders who are
12 about to be released from custody or who already reside in
13 communities in this state. This policy of authorizing the release
14 of necessary and relevant information about serious and ~~high-risk~~
15 *high-risk* sex offenders to members of the general public is a means
16 of assuring public protection and shall not be construed as punitive.

17 (7) The Legislature also declares, however, that in making
18 information available about certain sex offenders to the public, it
19 does not intend that the information be used to inflict retribution
20 or additional punishment on any person convicted of a sex offense.
21 While the Legislature is aware of the possibility of misuse, it finds
22 that the dangers to the public of nondisclosure far outweigh the
23 risk of possible misuse of the information. The Legislature is
24 further aware of studies in Oregon and Washington indicating that
25 community notification laws and public release of similar
26 information in those states have resulted in little criminal misuse
27 of the information and that the enhancement to public safety has
28 been significant.

29 (b) In enacting the Sex Offender Punishment, Control, and
30 Containment Act of 2006, the Legislature hereby creates a
31 standardized, statewide system to identify, assess, monitor and
32 contain known sex offenders for the purpose of reducing the risk
33 of recidivism posed by these offenders, thereby protecting victims
34 and potential victims from future harm.

35 (c) (1) A local agency is not preempted by state law from
36 enacting and enforcing an ordinance that restricts a person required
37 to register pursuant to Section 290 from residing or being present
38 at certain locations within the local agency's jurisdiction.

39 (2) A local agency may adopt ordinances, rules, or regulations
40 that are more restrictive than state law relating to *the ability of a*

1 ~~person's ability~~ *person required to register pursuant to Section*
2 *290 to reside or be present at certain locations within the local*
3 *agency's jurisdiction when the person is required to register*
4 ~~pursuant to Section 290.~~ *jurisdiction.*

5 (3) For purposes of this subdivision, "local agency" means a
6 city, county, or city and county.