

AMENDED IN ASSEMBLY MAY 2, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996
AMENDED IN ASSEMBLY APRIL 8, 1996

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 2127

Introduced by Assembly Member Alby

February 1, 1996

An act to amend Sections 243.4, 290, ~~290.2, and 290.4~~ and 290.2 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2127, as amended, Alby. Sex offenders: registration.

(1) Existing law provides that upon conviction of a felony for the commission or attempted commission of sexual battery, the court may enter an order requiring that the defendant register as a sex offender, as specified.

This bill would require the court to enter an order requiring that the defendant register as a sex offender.

(2) Existing law requires any person who is required to register as a sex offender and who changes his or her residence address to inform, in writing within 10 days, the law enforcement agency or agencies with whom he or she last registered of the new address, who shall forward this information to the Department of Justice. A violation of this provision is a misdemeanor or felony, as specified.

This bill, in addition, would make these provisions applicable to name changes. This bill would impose a

state-mandated local program by expanding the scope of an existing crime and increasing the duties of local agencies relating to forwarding name changes to the Department of Justice.

(3) Existing law requires any person who is required to register as a sex offender, or who is convicted of murder, or who is convicted of a felony or assault or battery, as specified, and who is discharged or paroled from the state prison, a county jail, or any Youth Authority institution, or is granted probation, or is released from a state hospital where he or she was committed as a mentally disordered sex offender, prior to discharge, parole, the granting of probation, or release, to provide blood specimens and a saliva sample for analysis of deoxyribonucleic acid (DNA) and other genetic typing analysis at the Department of Justice's DNA laboratory.

This bill instead would require these persons to provide these blood specimens and saliva sample regardless of whether discharged or paroled from the state prison, county jail, a Youth Authority institution, or state mental hospital and regardless of the time of discharge, parole, granting of probation, or release. The bill would additionally require any person granted probation or discharged, paroled, or released from these facilities to provide the blood specimens and saliva sample.

~~(4) Existing law requires the Department of Justice to compile information about specified sex offenders and to operate a "900" telephone number that members of the public may call to obtain specified information about those sex offenders.~~

~~This bill would make nonsubstantive changes to these provisions.~~

~~(5) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~



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. State-mandated local program: yes.

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

1 SECTION 1. Section 243.4 of the Penal Code is
2 amended to read:
3 243.4. (a) Any person who touches an intimate part
4 of another person while that person is unlawfully
5 restrained by the accused or an accomplice, and if the
6 touching is against the will of the person touched and is
7 for the purpose of sexual arousal, sexual gratification, or
8 sexual abuse, is guilty of sexual battery. A violation of this
9 subdivision is punishable by imprisonment in a county jail
10 for not more than one year, and by a fine not exceeding
11 two thousand dollars (\$2,000); or by imprisonment in the
12 state prison for two, three, or four years, and by a fine not
13 exceeding ten thousand dollars (\$10,000).
14 (b) Any person who touches an intimate part of
15 another person who is institutionalized for medical
16 treatment and who is seriously disabled or medically
17 incapacitated, if the touching is against the will of the
18 person touched, and if the touching is for the purpose of
19 sexual arousal, sexual gratification, or sexual abuse, is
20 guilty of sexual battery. A violation of this subdivision is
21 punishable by imprisonment in a county jail for not more
22 than one year, and by a fine not exceeding two thousand
23 dollars (\$2,000); or by imprisonment in the state prison
24 for two, three, or four years, and by a fine not exceeding
25 ten thousand dollars (\$10,000).
26 (c) Any person who, for the purpose of sexual arousal,
27 sexual gratification, or sexual abuse, causes another,



1 against that person's will while that person is unlawfully
2 restrained either by the accused or an accomplice, or is
3 institutionalized for medical treatment and is seriously
4 disabled or medically incapacitated, to masturbate or
5 touch an intimate part of either of those persons or a third
6 person, is guilty of sexual battery. A violation of this
7 subdivision is punishable by imprisonment in a county jail
8 for not more than one year, and by a fine not exceeding
9 two thousand dollars (\$2,000); or by imprisonment in the
10 state prison for two, three, or four years, and by a fine not
11 exceeding ten thousand dollars (\$10,000).

12 (d) (1) Any person who touches an intimate part of
13 another person, if the touching is against the will of the
14 person touched, and is for the specific purpose of sexual
15 arousal, sexual gratification, or sexual abuse, is guilty of
16 misdemeanor sexual battery, punishable by a fine not
17 exceeding two thousand dollars (\$2,000), or by
18 imprisonment in a county jail not exceeding six months,
19 or by both that fine and imprisonment. However, if the
20 defendant was an employer and the victim was an
21 employee of the defendant, the misdemeanor sexual
22 battery shall be punishable by a fine not exceeding three
23 thousand dollars (\$3,000), by imprisonment in a county
24 jail not exceeding six months, or by both that fine and
25 imprisonment. Notwithstanding any other provision of
26 law, any amount of a fine above two thousand dollars
27 (\$2,000) which is collected from a defendant for a
28 violation of this subdivision shall be transmitted to the
29 State Treasury and, upon appropriation by the
30 Legislature, distributed to the Department of Fair
31 Employment and Housing for the purpose of
32 enforcement of the California Fair Employment and
33 Housing Act (Part 2.8 (commencing with Section 12900)
34 of Division 3 of Title 2 of the Government Code),
35 including, but not limited to, laws that proscribe sexual
36 harassment in places of employment. However, in no
37 event shall an amount over two thousand dollars (\$2,000)
38 be transmitted to the State Treasury until all fines,
39 including any restitution fines that may have been
40 imposed upon the defendant, have been paid in full.



1 (2) As used in this subdivision, “touches” means
2 physical contact with another person, whether
3 accomplished directly, through the clothing of the person
4 committing the offense, or through the clothing of the
5 victim.

6 (e) As used in subdivisions (a), (b), and (c), “touches”
7 means physical contact with the skin of another person
8 whether accomplished directly or through the clothing of
9 the person committing the offense.

10 (f) As used in this section, the following terms have the
11 following meanings:

12 (1) “Intimate part” means the sexual organ, anus,
13 groin, or buttocks of any person, and the breast of a
14 female.

15 (2) “Sexual battery” does not include the crimes
16 defined in Section 261 or 289.

17 (3) “Seriously disabled” means a person with severe
18 physical or sensory disabilities.

19 (4) “Medically incapacitated” means a person who is
20 incapacitated as a result of prescribed sedatives,
21 anesthesia, or other medication.

22 (5) “Institutionalized” means a person who is located
23 voluntarily or involuntarily in a hospital, medical
24 treatment facility, nursing home, acute care facility, or
25 mental hospital.

26 (6) “Minor” means a person under 18 years of age.

27 (g) This section shall not be construed to limit or
28 prevent prosecution under any other law which also
29 proscribes a course of conduct that also is proscribed by
30 this section.

31 (h) In the case of a felony conviction for a violation of
32 this section, the fact that the defendant was an employer
33 and the victim was an employee of the defendant shall be
34 a factor in aggravation in sentencing.

35 (i) A person who commits a violation of subdivision
36 (a), (b), or (c) against a minor when the person has a
37 prior felony conviction for a violation of this section shall
38 be guilty of a felony, punishable by imprisonment in the
39 state prison for two, three, or four years and a fine not
40 exceeding ten thousand dollars (\$10,000).



1 (j) Upon conviction of a felony for a violation or
2 attempted violation of this section committed on or after
3 January 1, 1993, the court shall enter an order requiring
4 that the defendant register pursuant to Section 290.

5 SEC. 2. Section 290 of the Penal Code is amended to
6 read:

7 290. (a) (1) Every person described in paragraph
8 (2), for the rest of his or her life while residing in
9 California, shall be required to register with the chief of
10 police of the city in which he or she is domiciled, or the
11 sheriff of the county if he or she is domiciled in an
12 unincorporated area, and, additionally, with the chief of
13 police of a campus of the University of California or the
14 California State University if he or she is domiciled upon
15 the campus or in any of its facilities, within 14 days of
16 coming into any city, county, or city and county in which
17 he or she temporarily resides or is domiciled for that
18 length of time. The person shall be required annually
19 thereafter, within 10 days of his or her birthday, to update
20 his or her registration with the entities described in this
21 paragraph, including, verifying his or her name and
22 address on a form as may be required by the Department
23 of Justice.

24 (2) The following persons shall be required to register
25 pursuant to paragraph (1):

26 (A) Any person who, since July 1, 1944, has been or is
27 hereafter convicted in any court in this state or in any
28 federal or military court of a violation of subdivision (b)
29 of Section 207, kidnapping, as punishable pursuant to
30 subdivision (d) of Section 208, Section 220, except assault
31 to commit mayhem, Section 243.4, paragraph (1), (2),
32 (3), (4), or (6) of subdivision (a) of Section 261 or
33 paragraph (1) of subdivision (a) of Section 262 involving
34 the use of force or violence for which the person is
35 sentenced to the state prison, Section 264.1, 266, 266c,
36 266j, 267, 285, 286, 288, 288a, 288.5, or 289, subdivision (b),
37 (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10,
38 311.11, or 647.6, former Section 647a, subdivision (d) of
39 Section 647, subdivision 1 or 2 of Section 314, any offense
40 involving lewd and lascivious conduct under Section 272,



1 or any felony violation of Section 288.2; or any person who
2 since that date has been or is hereafter convicted of the
3 attempt to commit any of the above-mentioned offenses.

4 (B) Any person who, since July 1, 1944, has been or
5 hereafter is released, discharged, or paroled from a penal
6 institution where he or she was confined because of the
7 commission or attempted commission of one of the
8 offenses described in subparagraph (A).

9 (C) Any person who, since July 1, 1944, has been or
10 hereafter is determined to be a mentally disordered sex
11 offender under Article 1 (commencing with Section
12 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare
13 and Institutions Code.

14 (D) Any person who, since July 1, 1944, has been, or is
15 hereafter convicted in any other court, including any
16 federal or military court, of any offense which, if
17 committed or attempted in this state, would have been
18 punishable as one or more of the offenses described in
19 subparagraph (A).

20 (E) Any person ordered by any court to register
21 pursuant to this section for any offense not included
22 specifically in this section if the court finds at the time of
23 conviction that the person committed the offense as a
24 result of sexual compulsion or for purposes of sexual
25 gratification. The court shall state on the record the
26 reasons for its findings and the reasons for requiring
27 registration.

28 (b) Any person who, after August 1, 1950, is released,
29 discharged, or paroled from a jail, state or federal prison,
30 school, road camp, or other institution where he or she
31 was confined because of the commission or attempted
32 commission of one of the offenses specified in subdivision
33 (a) or is released from a state hospital to which he or she
34 was committed as a mentally disordered sex offender
35 under Article 1 (commencing with Section 6300) of
36 Chapter 2 of Part 2 of Division 6 of the Welfare and
37 Institutions Code, shall, prior to discharge, parole, or
38 release, be informed of his or her duty to register under
39 this section by the official in charge of the place of
40 confinement or hospital, and the official shall require the



1 person to read and sign any form that may be required by
2 the Department of Justice, stating that the duty of the
3 person to register under this section has been explained
4 to the person. The official in charge of the place of
5 confinement or hospital shall obtain the address where
6 the person expects to reside upon his or her discharge,
7 parole, or release and shall report the address to the
8 Department of Justice. The official in charge of the place
9 of confinement or hospital shall give one copy of the form
10 to the person and shall send one copy to the Department
11 of Justice and one copy to the appropriate law
12 enforcement agency or agencies having jurisdiction over
13 the place the person expects to reside upon discharge,
14 parole, or release. If the conviction which makes the
15 person subject to this section is a felony conviction, the
16 official in charge shall, not later than 45 days prior to the
17 scheduled release of the person, send one copy to the
18 appropriate law enforcement agency or agencies having
19 local jurisdiction where the person expects to reside upon
20 discharge, parole, or release; one copy to the prosecuting
21 agency which prosecuted the person; and one copy to the
22 Department of Justice. The official in charge of the place
23 of confinement shall retain one copy. All forms shall, if the
24 conviction which makes the person subject to this section
25 is a felony conviction, be transmitted within those times
26 as to be received by the local law enforcement agency or
27 agencies and prosecuting agency 30 days prior to the
28 discharge, parole, or release of the person.

29 (c) Any person who, after August 1, 1950, is convicted
30 in this state of the commission or attempted commission
31 of any of the offenses specified in subdivision (a) and who
32 is released on probation or discharged upon payment of
33 a fine shall, prior to release or discharge, be informed of
34 the duty to register under this section by the court in
35 which the person has been convicted, and the court shall
36 require the person to read and sign any form that may be
37 required by the Department of Justice, stating that the
38 duty of the person to register under this section has been
39 explained to him or her. The court shall obtain the address
40 where the person expects to reside upon release or



1 discharge and shall report within three days the address
2 to the Department of Justice. The court shall give one
3 copy of the form to the person, send one copy to the
4 Department of Justice, and forward one copy to the
5 appropriate law enforcement agency or agencies having
6 local jurisdiction where the person expects to reside upon
7 his or her discharge, parole, or release.

8 (d) (1) Any person who, on or after January 1, 1986,
9 is discharged or paroled from the Department of the
10 Youth Authority to the custody of which he or she was
11 committed after having been adjudicated a ward of the
12 court pursuant to Section 602 of the Welfare and
13 Institutions Code because of the commission or
14 attempted commission of the offenses described in
15 paragraph (3) shall be subject to registration under the
16 procedures of this section.

17 (2) Any person who, on or after January 1, 1995, is
18 discharged or paroled from a facility in another state that
19 is equivalent to the Department of the Youth Authority,
20 to the custody of which he or she was committed because
21 of an offense which, if committed or attempted in this
22 state, would have been punishable by one or more the
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1 by any foreign object in concert with force or fear of
2 bodily injury.

3 (4) Any person who is discharged or paroled from the
4 Department of the Youth Authority to the custody of
5 which he or she was committed after having been
6 adjudicated a ward of the court pursuant to Section 602
7 of the Welfare and Institutions Code because of the
8 commission or attempted commission of the offense set
9 forth in Section 647.6, occurring on or after January 1,
10 1988, shall be subject to registration under the procedures
11 of this section.

12 (5) Prior to discharge or parole from the Department
13 of the Youth Authority, any person who is subject to
14 registration shall be informed of the duty to register
15 under the procedures set forth in this section.
16 Department of the Youth Authority officials shall
17 transmit the required forms and information to the
18 Department of Justice.

19 (6) All records specifically relating to the registration
20 in the custody of the Department of Justice, law
21 enforcement agencies, and other agencies or public
22 officials shall be destroyed when the person who is
23 required to register or has his or her records sealed under
24 the procedures set forth in Section 781 of the Welfare and
25 Institutions Code. This subdivision shall not be construed
26 as requiring the destruction of other criminal offender or
27 juvenile records relating to the case which are
28 maintained by the Department of Justice, law
29 enforcement agencies, the juvenile court, or other
30 agencies and public officials unless ordered by a court
31 under Section 781 of the Welfare and Institutions Code.

32 (e) (1) The registration shall consist of the following:

33 (A) A statement in writing signed by the person,
34 giving information as may be required by the
35 Department of Justice.

36 (B) The fingerprints and photograph of the person.

37 (C) The license plate number of any vehicle owned by
38 or registered in the name of the person.

39 (2) Within three days thereafter, the registering law
40 enforcement agency or agencies shall forward the



1 statement, fingerprints, photograph, and vehicle license
2 plate number, if any, to the Department of Justice.

3 (f) If any person who is required to register pursuant
4 to this section changes his or her name or residence
5 address, the person shall inform, in writing within 10 days,
6 the law enforcement agency or agencies with whom he
7 or she last registered of the new name or address. The law
8 enforcement agency or agencies shall, within three days
9 after receipt of this information, forward it to the
10 Department of Justice. The Department of Justice shall
11 forward appropriate registration data to the law
12 enforcement agency or agencies having local jurisdiction
13 of a new place of residence.

14 (g) (1) Any person who is required to register under
15 this section based on a misdemeanor conviction who
16 willfully violates this section is guilty of a misdemeanor
17 punishable by imprisonment in a county jail not
18 exceeding one year.

19 (2) Notwithstanding paragraph (1), any person who
20 has been convicted of assault with intent to commit rape,
21 oral copulation, or sodomy under Section 220, any
22 violation of Section 264.1 or 289 under Section 220, any
23 violation of Section 261, any offense defined in paragraph
24 (1) of subdivision (a) of Section 262 involving the use of
25 force or violence for which the person is sentenced to
26 state prison, any violation of Section 264.1, 286, 288, 288a,
27 288.5, or 289, subdivision (b) of Section 207, or
28 kidnapping, as punishable pursuant to subdivision (d) of
29 Section 208, and who is required to register under this
30 section who willfully violates this section is guilty of a
31 felony punishable by imprisonment in the state prison for
32 16 months, or two or three years.

33 (3) Any person required to register under this section
34 based on a felony conviction who willfully violates this
35 section or who has a prior conviction for the offense of
36 failing to register under this section and who
37 subsequently and willfully commits that offense is, upon
38 each subsequent conviction, guilty of a felony and shall be
39 punished by imprisonment in the state prison for 16
40 months or two or three years.



1 A person punished pursuant to this paragraph or
2 paragraph (2) shall be sentenced to serve a term of not
3 less than 90 days nor more than one year in a county jail.
4 In no event does the court have the power to absolve a
5 person who willfully violates this section from the
6 obligation of spending at least 90 days of confinement in
7 a county jail and of completing probation of at least one
8 year.

9 If the person has been sentenced to a term of
10 imprisonment in the state prison, the penalty described
11 in this paragraph shall apply whether or not the person
12 has been released on parole or has been discharged from
13 parole.

14 (4) If, after discharge from parole, the person is
15 convicted of a felony as specified in this subdivision, he or
16 she shall be required to complete parole of at least one
17 year, in addition to any other punishment imposed under
18 this subdivision. A person convicted of a felony as
19 specified in this subdivision may be granted probation
20 only in the unusual case where the interests of justice
21 would best be served. When probation is granted under
22 this paragraph, the court shall specify on the record and
23 shall enter into the minutes the circumstances indicating
24 that the interests of justice would best be served by the
25 disposition.

26 (h) Whenever any person is released on parole or
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1 conviction is to be temporarily sent outside the institution
2 where he or she is confined on any assignment within a
3 city or county including firefighting, disaster control, or
4 of whatever nature the assignment may be, the local law
5 enforcement agency having jurisdiction over the place or
6 places where the assignment shall occur shall be notified
7 within a reasonable time prior to removal from the
8 institution. This provision shall not apply to any person
9 who is temporarily released under guard from the
10 institution where he or she is confined.

11 (k) As used in this section, “mentally disordered sex
12 offender” includes any person who has been determined
13 to be a sexual psychopath or a mentally disordered sex
14 offender under any provision which, on or before January
15 1, 1976, was contained in Division 6 (commencing with
16 Section 6000) of the Welfare and Institutions Code.

17 (l) Every person who, prior to January 1, 1985, is
18 required to register under this section, shall be notified
19 whenever he or she next reregisters of the reduction of
20 the registration period from 30 to 14 days. This notice shall
21 be provided in writing by the registering agency or
22 agencies. Failure to receive this notification shall be a
23 defense against the penalties prescribed by subdivision
24 (g) if the person did register within 30 days.

25 SEC. 3. Section 290.2 of the Penal Code is amended to
26 read:

27 290.2. (a) Any person who is required to register
28 under Section 290 because of the commission of, or the
29 attempt to commit, a felony offense specified in Section
30 290, or who is convicted of murder in violation of Section
31 190 or 190.05, or who is convicted of a felony offense of
32 assault or battery in violation of Section 217.1, 220, 241.1,
33 243, 243.1, 243.3, 243.4, 243.7, 244, 245, 245.2, 245.3, or 245.5,
34 or who is discharged or paroled from a state prison,
35 county jail, or any institution under the jurisdiction of the
36 Department of the Youth Authority where he or she was
37 confined, or is granted probation, or is released from a
38 state hospital to which he or she was committed as a
39 mentally disordered sex offender under Article 1
40 (commencing with Section 6300) of Chapter 2 of Part 2



1 of Division 6 of the Welfare and Institutions Code, shall
2 be required to provide two specimens of blood and a
3 saliva sample to that institution or, in the case of a person
4 granted probation, to a person and at a location within the
5 county designated for testing. The county shall make
6 every effort to utilize one location for testing a person
7 under this section.

8 The withdrawal of blood shall be performed in a
9 medically approved manner. Only a physician, registered
10 nurse, licensed vocational nurse, duly licensed clinical
11 laboratory technologist, or clinical laboratory bioanalyst
12 may withdraw the blood specimens for purposes of this
13 section.

14 In addition, the subject shall also provide a right
15 thumbprint and a full palm print impression of each hand
16 on a form prescribed by the Department of Justice to be
17 forwarded to and maintained by the Bureau of Criminal
18 Identification and Information of the Department of
19 Justice. The right thumbprint shall be taken at the time
20 of the withdrawal of blood and shall be placed on the form
21 and the blood vial label. The full palm prints shall be
22 taken of subjects who are discharged or paroled from a
23 state prison, county jail, or any institution under the
24 jurisdiction of the Department of the Youth Authority
25 where he or she was confined, or is granted probation, or
26 is released from a state hospital to which he or she was
27 committed as a mentally disordered sex offender under
28 Article 1 (commencing with Section 6300) of Chapter 2
29 of Part 2 of Division 6 of the Welfare and Institutions
30 Code, prior to discharge, parole, the granting of
31 probation, or release. In the case of a person granted
32 probation, the full palm prints shall be taken of the
33 subject by a person and at a location within the county
34 designated for taking the palm print impressions, and at
35 the time the subject is required to reregister as delineated
36 in Section 290f.

37 (b) The Department of Corrections shall provide full
38 palm prints on a form prescribed by the Department of
39 Justice to the Bureau of Criminal Identification and



1 Information of the Department of Justice to be retained
2 in a file for law enforcement purposes.

3 (c) The Department of Justice shall provide all blood
4 specimen vials, mailing tubes, labels, and instructions for
5 the collection of the blood specimens, saliva samples, and
6 thumbprints. The specimens and samples shall thereafter
7 be forwarded to the Department of Justice for analysis of
8 deoxyribonucleic acid (DNA) and other genetic typing
9 analysis at the department's DNA laboratory. The
10 Department of Justice may provide samples from these
11 specimens to local public DNA laboratories for law
12 enforcement purposes provided that the other privacy
13 provisions of this section are followed by the local
14 laboratory.

15 The Department of Justice shall perform DNA analysis
16 and other genetic typing analysis only for law
17 enforcement purposes.

18 Additionally, the Department of Justice shall provide
19 all full palm print cards, mailing envelopes, and
20 instructions for the collection of full palm prints. The full
21 palm prints, on a form prescribed by the Department of
22 Justice, shall thereafter be forwarded to the Department
23 of Justice for maintenance in a file for law enforcement
24 purposes.

25 (d) Additional specimens may be collected pursuant
26 to subdivision (a) and sent to a local public DNA
27 laboratory for DNA analysis and other genetic typing
28 analysis if each of the following conditions are met:

29 (1) The methodologies and procedures used by the
30 local public DNA laboratory for analysis are the same as
31 those established by the Department of Justice pursuant
32 to subdivision (k).

33 (2) Only tests of value to law enforcement for
34 identification purposes are performed and a copy of the
35 results of the analysis are sent to the Department of
36 Justice.

37 (3) All provisions concerning privacy and security
38 enumerated in this section are followed.

1 (4) The local public DNA laboratory assumes all costs
2 of securing the sample and provides appropriate tubes,
3 labels, and instructions necessary to secure the samples.

4 (e) The Department of Justice DNA laboratory shall
5 perform genetic typing only for those markers having
6 value for law enforcement purposes.

7 For purposes of this subdivision, “marker” shall have
8 the meaning generally ascribed to it by members of the
9 scientific community experienced in the use of DNA
10 technology.

11 The Bureau of Criminal Identification and Information
12 of the Department of Justice shall perform analysis of full
13 palm prints only for law enforcement purposes.

14 (f) (1) The DNA and other genetic typing
15 information shall be filed with the offender’s file
16 maintained by the Sex Registration Unit of the
17 Department of Justice or in a computerized data bank
18 system.

19 (2) The DNA and other genetic typing information
20 shall not be included in the state summary criminal
21 history information.

22 (3) The computerized data bank system shall be
23 limited to containing information only on individuals
24 convicted of crimes specified in subdivision (a), or
25 evidence accumulated from crime scenes during ongoing
26 investigations and believed to have been left by a person
27 suspected of having committed a violent felony specified
28 in subdivision (c) of Section 667.5 or an offense specified
29 in Section 290. Evidence accumulated pursuant to this
30 provision from any crime scene with respect to a
31 particular person shall be stricken from the data bank
32 when it is determined that the person is no longer a
33 suspect in the case.

34 The full palm prints of each hand shall be filed and
35 maintained by the Automated Latent Print Section of the
36 Bureau of Criminal Identification and Information of the
37 Department of Justice, and may be included in the state
38 summary criminal history information.

39 The full palm print file shall be limited to containing
40 information only on individuals convicted of crimes



1 specified in subdivision (a). These full palm prints shall
2 be maintained until the subject is no longer required to
3 register pursuant to Section 290.

4 (g) The DNA and other genetic typing information,
5 and full palm prints, shall be released only to law
6 enforcement agencies, including, but not limited to,
7 parole officers of the Department of Corrections, hearing
8 officers of the parole authority, and district attorneys'
9 offices, at the request of the agency, except as specified
10 in this section. Dissemination of this information to law
11 enforcement agencies and district attorneys' offices
12 outside the state shall be done in conformity with the
13 provisions of this section.

14 (h) Any person who knowingly discloses DNA or other
15 genetic typing information or full palm print comparison
16 results developed pursuant to this section to
17 unauthorized individuals or agencies, or for other than
18 law enforcement purposes, shall be guilty of a
19 misdemeanor.

20 (i) Furnishing DNA or other genetic typing
21 information or full palm print comparison results to
22 defense counsel for criminal defense purposes in
23 compliance with discovery is not a violation of this
24 section.

25 (j) It is not a violation of this section to disseminate
26 statistical or research information obtained from the
27 offender's file, the computerized data bank system, or the
28 full palm print file, provided that the subject of the file is
29 not identified and cannot be identified from the
30 information disclosed. It is also not a violation of this
31 section to include information obtained from a file as
32 follows: (1) in a transcript or record of a judicial
33 proceeding, or (2) in any other public record when the
34 inclusion of the information in the public record is
35 authorized by a court, statute, or decisional law.

36 (k) The Department of Justice shall make public the
37 methodology and procedures to be used in its DNA
38 program prior to the commencement of DNA testing in
39 its laboratories. The Department of Justice shall review
40 and consider on an ongoing basis the findings and results



1 of any peer review and validation studies submitted to the
2 department by members of the relevant scientific
3 community experienced in the use of DNA technology.

4 ~~SEC. 4. Section 290.4 of the Penal Code is amended to~~
5 ~~read:~~

6 ~~290.4. (a) (1) The Department of Justice shall~~
7 ~~continually compile information as described in~~
8 ~~paragraph (2) regarding any person required to register~~
9 ~~under Section 290 for a conviction of Section 261 if the~~
10 ~~victim is a minor, Section 266 or 267, subdivision (b) of~~
11 ~~Section 207, subdivision (b) or (c) of Section 286, Section~~
12 ~~288, paragraph (2) of subdivision (b) or subdivision (c)~~
13 ~~of Section 288a, Section 288.5, subdivision (i) or (j) of~~
14 ~~Section 289, Section 647.6, kidnapping, as punishable~~
15 ~~pursuant to subdivision (d) of Section 208 if the victim is~~
16 ~~a minor, or the statutory predecessor of any of these~~
17 ~~offenses. This requirement does not apply to a person~~
18 ~~whose duty to register has been terminated pursuant to~~
19 ~~paragraphs (6) and (7) of subdivision (d) of Section 290,~~
20 ~~or to a person who has been relieved of his or her duty to~~
21 ~~register under Section 290.5.~~

22 ~~(2) The information shall include the names of these~~
23 ~~persons categorized by community of residence and ZIP~~
24 ~~Code. The information shall include a physical~~
25 ~~description and criminal history and the address of these~~
26 ~~persons.~~

27 ~~(3) The department shall operate a "900" telephone~~
28 ~~number that members of the public may call and inquire~~
29 ~~whether a named individual is listed among those~~
30 ~~described in this subdivision. The caller shall furnish his~~
31 ~~or her first name, middle initial, and last name. The~~
32 ~~department shall ascertain whether a named person~~
33 ~~reasonably appears to be a person so listed and provide~~
34 ~~the caller with the information described in paragraph~~
35 ~~(2), except the department shall not disclose the address~~
36 ~~or criminal history of a person listed, except to describe~~
37 ~~the specific crimes for which the registrant was required~~
38 ~~to register. The department shall decide whether the~~
39 ~~named person reasonably appears to be a person listed,~~
40 ~~based upon information from the caller providing~~



1 information that shall include (A) an exact street address,
2 including apartment number, social security number,
3 California driver's license or identification number, or
4 birth date along with additional information that may
5 include any of the following: name, hair color, eye color,
6 height, weight, distinctive markings, ethnicity; or (B) any
7 combination of at least six of the above listed
8 characteristics if an exact birth date or address is not
9 available. If three of the characteristics provided include
10 ethnicity, hair color, and eye color, a seventh identifying
11 characteristic shall be provided. Any information
12 identifying the victim by name, birth date, address, or
13 relation to the registrant shall be excluded by the
14 department.

15 (4) (A) The income from the operation of the "900"
16 number shall be deposited in the Sexual Predator Public
17 Information Account, which is hereby established within
18 the Department of Justice for the purpose of the
19 implementation of this section by the Department of
20 Justice, including all actual and reasonable costs related
21 to establishing and maintaining the information
22 described in subdivision (a) and the subdirectory
23 described in this subdivision.

24 (B) The moneys in the Sexual Predator Public
25 Information Account shall consist of income from the
26 operation of the "900" telephone number program
27 authorized by this section, proceeds of the loan made
28 pursuant to Section 6 of the act adding this section, and
29 any other funds made available to the account by the
30 Legislature. Moneys in the account shall be available to
31 the Department of Justice upon appropriation by the
32 Legislature for the purpose specified in subparagraph
33 (A).

34 (C) When the "900" number is called, a preamble shall
35 be played before charges begin to accrue. The preamble
36 shall run at least the length of time required by federal
37 law and shall provide the following information:

38 (i) Notice that the caller's telephone number will be
39 recorded.

40 (ii) The charges for use of the "900" number.



- 1 ~~(iii) Notice that the caller is required to identify~~
2 ~~himself or herself to the operator.~~
- 3 ~~(iv) Notice that the caller is required to be 18 years of~~
4 ~~age or older.~~
- 5 ~~(v) A warning that it is illegal to use information~~
6 ~~obtained through the “900” number to commit a crime~~
7 ~~against any registrant or to engage in illegal~~
8 ~~discrimination or harassment against any registrant.~~
- 9 ~~(vi) Notice that the caller is required to have the birth~~
10 ~~date, California driver’s license or identification number,~~
11 ~~social security number, or address or other identifying~~
12 ~~information regarding the person about whom~~
13 ~~information is sought in order to achieve a positive~~
14 ~~identification of that person.~~
- 15 ~~(vii) A statement that the number is not a crime~~
16 ~~hotline and that any suspected criminal activity should be~~
17 ~~reported to local authorities.~~
- 18 ~~(viii) A statement that the caller should have a~~
19 ~~reasonable suspicion that a child is at risk.~~
- 20 ~~(D) The Department of Justice shall expend no more~~
21 ~~than six hundred thousand dollars (\$600,000) per year~~
22 ~~from any moneys appropriated by the Legislature from~~
23 ~~the account.~~
- 24 ~~(b) (1) The Department of Justice shall maintain a~~
25 ~~subdirectory of persons described in subdivision (a) who~~
26 ~~are deemed by the department to be sexual habitual~~
27 ~~offenders and a threat to the public safety. The~~
28 ~~subdirectory shall include a photograph of the offender~~
29 ~~along with the following information, if available: name,~~
30 ~~physical description, age, and distinctive markings. The~~
31 ~~subdirectory shall not include the exact address or the~~
32 ~~criminal history of the person listed, except to describe~~
33 ~~the specific crimes for which the registrant was required~~
34 ~~to register.~~
- 35 ~~(2) The subdirectory shall be organized by county and~~
36 ~~ZIP Code.~~
- 37 ~~(3) A copy of the subdirectory shall annually be~~
38 ~~distributed to the offices of county sheriffs and police~~
39 ~~departments for purposes of public access.~~



1 ~~(4) County sheriff's and police departments may~~
2 ~~require that a person express an articulable purpose in~~
3 ~~order to have access to the subdirectory.~~

4 ~~(5) Any information identifying the victim by name,~~
5 ~~birthdate, address, or relation to the registrant shall be~~
6 ~~excluded from the subdirectory distributed for purposes~~
7 ~~of public access.~~

8 ~~(c) (1) Any person who uses information disclosed~~
9 ~~pursuant to this section to commit a felony shall be~~
10 ~~punished, in addition and consecutive to, any other~~
11 ~~punishment, by a five year term of imprisonment in the~~
12 ~~state prison.~~

13 ~~(2) Any person who uses information disclosed~~
14 ~~pursuant to this section to commit a misdemeanor shall be~~
15 ~~subject to, in addition to any other penalty or fine~~
16 ~~imposed, a fine of not less than five hundred dollars~~
17 ~~(\$500) and not more than one thousand dollars (\$1,000).~~

18 ~~(d) Any person who makes a photocopy of any part of~~
19 ~~the subdirectory of sexual habitual offenders is guilty of~~
20 ~~a misdemeanor, punishable by imprisonment in the~~
21 ~~county jail not to exceed six months or by a fine not~~
22 ~~exceeding one thousand dollars (\$1,000), or by both. This~~
23 ~~subdivision shall not apply to a law enforcement officer~~
24 ~~who makes a photocopy as part of his or her official duties~~
25 ~~in the course of a criminal investigation or court case.~~

26 ~~(e) Unauthorized removal of the subdirectory of~~
27 ~~sexual habitual offenders from the offices of county~~
28 ~~sheriffs or any police department is a misdemeanor,~~
29 ~~punishable by imprisonment in the county jail not to~~
30 ~~exceed one year or by a fine not exceeding one thousand~~
31 ~~dollars (\$1,000), or by both.~~

32 ~~(f) (1) A person is authorized to use information~~
33 ~~disclosed pursuant to this section only to protect a child~~
34 ~~at risk. Authorized use includes, but is not limited to,~~
35 ~~either of the following:~~

36 ~~(A) A person in a position of authority or special trust~~
37 ~~who by reason of that position is able to exercise undue~~
38 ~~influence over a minor. A position of authority includes,~~
39 ~~but is not limited to, a natural parent, adoptive parent,~~
40 ~~stepparent, foster parent, relative, household member,~~



1 ~~adult youth leader, recreational director who is an adult,~~
2 ~~adult athletic manager, adult coach, teacher, counselor,~~
3 ~~religious leader, doctor, or employer.~~

4 (B) ~~A person possessing a license or holding an~~
5 ~~employment or volunteer position with supervisory or~~
6 ~~disciplinary power over a minor or any person under his~~
7 ~~or her care, a person who supervises a slumber party, or~~
8 ~~a babysitter.~~

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1 violation of paragraph (2) of subdivision (f), the Attorney
2 General, any district attorney, or city attorney, or any
3 person aggrieved by the misuse of that number is
4 authorized to bring a civil action in the appropriate court
5 requesting preventive relief, including an application for
6 a permanent or temporary injunction, restraining order,
7 or other order against the person or group of persons
8 responsible for the pattern or practice of misuse. The
9 foregoing remedies shall be independent of any other
10 remedies or procedures that may be available to an
11 aggrieved party under other provisions of law, including
12 Part 2 (commencing with Section 43) of Division 1 of the
13 Civil Code.

14 (g) This section does not authorize the publication,
15 distribution, or disclosure of the address of any person
16 about whom information can be published, distributed, or
17 disclosed pursuant to this section.

18 (h) The Department of Justice shall submit to the
19 Legislature an annual report on the operation of the
20 "900" telephone number required by paragraph (3) of
21 subdivision (a) on July 1, 1996, July 1, 1997, and July 1,
22 1998. The annual report shall include all of the following:

- 23 (1) Number of calls received.
- 24 (2) Amount of income earned per year through
25 operation of the "900" telephone number.
- 26 (3) A detailed outline of the amount of money
27 expended and the manner in which it was expended for
28 purposes of this section.
- 29 (4) Number of calls that resulted in an affirmative
30 response and the number of calls that resulted in a
31 negative response with regard to whether a named
32 individual was listed pursuant to subdivision (a).
- 33 (5) Number of persons listed pursuant to subdivision
34 (a).
- 35 (6) A summary of the success of the "900" telephone
36 number program based upon selected factors.

37 (i) The "900" telephone number program authorized
38 by this section shall terminate operation on January 1,
39 1998.



1 ~~(j) This section shall become operative on July 1, 1995,~~
 2 ~~and shall become inoperative on January 1, 1999, and as~~
 3 ~~of that date is repealed unless a later enacted statute,~~
 4 ~~which becomes effective on or before January 1, 1999,~~
 5 ~~deletes or extends the dates on which it becomes~~
 6 ~~inoperative and is repealed.~~

7 ~~SEC. 5.~~

8 *SEC. 4.* No reimbursement is required by this act
 9 pursuant to Section 6 of Article XIII B of the California
 10 Constitution for certain costs that may be incurred by a
 11 local agency or school district because in that regard this
 12 act creates a new crime or infraction, eliminates a crime
 13 or infraction, or changes the penalty for a crime or
 14 infraction, within the meaning of Section 17556 of the
 15 Government Code, or changes the definition of a crime
 16 within the meaning of Section 6 of Article XIII B of the
 17 California Constitution.

18 However, notwithstanding Section 17610 of the
 19 Government Code, if the Commission on State Mandates
 20 determines that this act contains other costs mandated by
 21 the state, reimbursement to local agencies and school
 22 districts for those costs shall be made pursuant to Part 7
 23 (commencing with Section 17500) of Division 4 of Title
 24 2 of the Government Code. If the statewide cost of the
 25 claim for reimbursement does not exceed one million
 26 dollars (\$1,000,000), reimbursement shall be made from
 27 the State Mandates Claims Fund.

28 Notwithstanding Section 17580 of the Government
 29 Code, unless otherwise specified, the provisions of this act
 30 shall become operative on the same date that the act
 31 takes effect pursuant to the California Constitution.

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