

AMENDED IN SENATE AUGUST 24, 2006

AMENDED IN SENATE AUGUST 22, 2006

AMENDED IN SENATE AUGUST 8, 2006

AMENDED IN SENATE JUNE 19, 2006

AMENDED IN SENATE MAY 23, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2712

**Introduced by Assembly Member Leno
(Coauthor: Assembly Member Parra)**

February 24, 2006

An act to add Section 2079.10b to the Civil Code, and to amend Sections 290.4 and 290.46 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2712, as amended, Leno. Housing: sex offenders.

Existing law requires persons who have been convicted of specified sex offenses to register as sex offenders with the Department of Justice and local law enforcement agencies in which they reside. Existing law also requires the department to make certain information regarding registered sex offenders available on the department's Web site. Existing law further provides that a lease or rental agreement and every contract for sale of real property to a registered sex offender contain a notice, as specified.

Existing law generally provides that upon delivery of this notice to the lessee or transferee of real property, the lessor, seller, or broker is

not required to provide any additional information other than that regarding proximity of sex offenders.

This bill would provide that no duty shall arise for a lessor solely for renting or leasing residential real property to a person who is required to register as a sex offender in this state or has been convicted as a sex offender in another jurisdiction.

Existing law provides that a person may use information obtained from the Department of Justice Sex Offender Web site only to protect a person at risk.

This bill would specify that this authorization creates no duty to use the information.

This bill would declare the Legislature's intent with respect to the lessor's rights and obligations when property is rented or leased to registered sex offenders.

This bill would incorporate additional changes in Section 290.46 of the Penal Code proposed by AB 1849 and SB 1128 contingent upon the prior enactment of one or both of those bills.

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. The Legislature finds and declares the
2 following:

3 (a) Lessors have certain duties under existing law in
4 connection with tenants of residential real property. However,
5 current law needs to be clarified regarding a lessor's duties
6 related to the tenancy of an individual who is required to register
7 as a sex offender under Section 290 of the Penal Code.

8 (b) Therefore, it is the intent of the Legislature to clarify
9 landlord duties related to such tenancies by finding that the
10 following is declaratory of existing law:

11 (1) Paragraph (1) of subdivision (l) of Section 290.46 of the
12 Penal Code, and ~~subparagraph~~ *paragraph* (1) of subdivision (d)
13 of Section 290.4 of the Penal Code do not impose a duty on
14 lessors to use information available on the Megan's Law Web
15 site to make decisions about housing accommodations.

16 (2) No duty is created solely because a lessor rents or
17 continues to rent to a person who is registered or is required to

1 register under Section 290 of the Penal Code, or has been
2 convicted of a sex offense in another state or foreign jurisdiction.

3 (c) The Legislature further finds and declares that these
4 provisions do not enlarge or diminish other duties or rights that a
5 lessor may have under other laws.

6 SEC. 2. Section 2079.10b is added to the Civil Code, to read:

7 2079.10b. (a) No duty shall arise for a lessor solely for
8 renting or leasing residential real property to a person who is
9 registered or who is required to register under Section 290 of the
10 Penal Code, or who is a person who has been convicted as a sex
11 offender in another state or foreign jurisdiction.

12 (b) This section shall not alter in any way any other duty or
13 right that a lessor may have under other laws with respect to a
14 tenant or lessee of residential real property or a mobilehome park
15 or manufactured housing community.

16 (c) This section shall not alter in any way duties that a
17 transferor or his or her agent may have for the sale of residential
18 real property comprised of one to four dwelling units.

19 (c) (1) For purposes of this section, “lessor” includes all of the
20 following:

21 (A) A landlord, or his or her agent, of residential real property.

22 (B) An owner or his or her agent of a mobilehome park or
23 manufactured housing community.

24 (2) For purposes of this section, “lessee” includes all persons
25 who hire dwelling units located within this state, as provided in
26 Section 1940, and all persons who hire a site or lot within a
27 mobilehome park or manufactured housing community.

28 SEC. 3. Section 290.4 of the Penal Code is amended to read:

29 290.4. (a) The department shall operate a service through
30 which members of the public may provide a list of at least six
31 persons on a form approved by the Department of Justice and
32 inquire whether any of those persons is required to register as a
33 sex offender and is subject to public notification. The
34 Department of Justice shall respond with information on any
35 person as to whom information may be available to the public via
36 the Internet Web site as provided in Section 290.46, to the extent
37 that information may be disclosed pursuant to Section 290.46.
38 The Department of Justice may establish a fee for requests,
39 including all actual and reasonable costs associated with the
40 service.

(b) The income from the operation of the service specified in subdivision (a) shall be deposited in the Sexual Predator Public Information Account within the Department of Justice for the purpose of the implementation of this section by the Department of Justice.

The moneys in the account shall consist of income from the operation of the service authorized by subdivision (a), and any other funds made available to the account by the Legislature. Moneys in the account shall be available to the Department of Justice upon appropriation by the Legislature for the purpose specified in subdivision (a).

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

(2) Any person who, without authorization, uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000).

(d) (1) A person is authorized to use information disclosed pursuant to this section only to protect a person at risk. This authorization does not create a duty to use the information.

(2) Except as authorized under paragraph (1) or any other provision of law, use of any information that is disclosed pursuant to this section for purposes relating to any of the following is prohibited:

- (A) Health insurance.
- (B) Insurance.
- (C) Loans.
- (D) Credit.
- (E) Employment.
- (F) Education, scholarships, or fellowships.
- (G) Housing or accommodations.
- (H) Benefits, privileges, or services provided by any business establishment.

(3) This section shall not affect authorized access to, or use of, information pursuant to, among other provisions, Sections 11105 and 11105.3 of this code, Section 226.55 of the Civil Code, Sections 777.5 and 14409.2 of the Financial Code, Sections

1 1522.01 and 1596.871 of the Health and Safety Code, and
2 Section 432.7 of the Labor Code.

3 (4) (A) Any use of information disclosed pursuant to this
4 section for purposes other than those provided by paragraph (1)
5 or in violation of paragraph (2) shall make the user liable for the
6 actual damages, and any amount that may be determined by a
7 jury or a court sitting without a jury, not exceeding three times
8 the amount of actual damage, and not less than two hundred fifty
9 dollars (\$250), and attorney's fees, exemplary damages, or a civil
10 penalty not exceeding twenty-five thousand dollars (\$25,000).

11 (B) Whenever there is reasonable cause to believe that any
12 person or group of persons is engaged in a pattern or practice of
13 misuse of the service specified in subdivision (a), in violation of
14 paragraph (2), the Attorney General, any district attorney, or city
15 attorney, or any person aggrieved by the misuse of the service is
16 authorized to bring a civil action in the appropriate court
17 requesting preventive relief, including an application for a
18 permanent or temporary injunction, restraining order, or other
19 order against the person or group of persons responsible for the
20 pattern or practice of misuse. The foregoing remedies shall be
21 independent of any other remedies or procedures that may be
22 available to an aggrieved party under other provisions of law,
23 including Part 2 (commencing with Section 43) of Division 1 of
24 the Civil Code.

25 (e) The Department of Justice and its employees shall be
26 immune from liability for good faith conduct under this section.

27 (f) The public notification provisions of this section are
28 applicable to every person described in subdivision (a), without
29 regard to when his or her crimes were committed or his or her
30 duty to register pursuant to Section 290 arose, and to every
31 offense subject to public notification pursuant to Section 290.46,
32 regardless of when it was committed.

33 (g) On or before July 1, 2006, and every year thereafter, the
34 Department of Justice shall make a report to the Legislature
35 concerning the operation of this section.

36 SEC. 4. Section 290.46 of the Penal Code is amended to read:

37 290.46. (a) On or before the dates specified in this section,
38 the Department of Justice shall make available information
39 concerning persons who are required to register pursuant to
40 Section 290 to the public via an Internet Web site as specified in

1 this section. The department shall update the Internet Web site on
2 an ongoing basis. All information identifying the victim by name,
3 birth date, address, or relationship to the registrant shall be
4 excluded from the Internet Web site. The name or address of the
5 person's employer and the listed person's criminal history other
6 than the specific crimes for which the person is required to
7 register shall not be included on the Internet Web site. The
8 Internet Web site shall be translated into languages other than
9 English as determined by the department.

10 (b) (1) On or before July 1, 2005, with respect to a person
11 who has been convicted of the commission or the attempted
12 commission of any of the offenses listed in, or who is described
13 in, paragraph (2), the Department of Justice shall make available
14 to the public via the Internet Web site his or her name and known
15 aliases, a photograph, a physical description, including gender
16 and race, date of birth, criminal history, the address at which the
17 person resides, and any other information that the Department of
18 Justice deems relevant, but not the information excluded pursuant
19 to subdivision (a).

20 (2) This subdivision shall apply to the following offenses and
21 offenders:

22 (A) Section 207 committed with intent to violate Section 261,
23 286, 288, 288a, or 289.

24 (B) Section 209 committed with intent to violate Section 261,
25 286, 288, 288a, or 289.

26 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

27 (D) Section 264.1.

28 (E) Section 269.

29 (F) Subdivision (c) or (d) of Section 286.

30 (G) Subdivision (a), (b), or (c) of Section 288, provided that
31 the offense is a felony.

32 (H) Subdivision (c) or (d) of Section 288a.

33 (I) Section 288.5.

34 (J) Subdivision (a) or (j) of Section 289.

35 (K) Any person who has ever been adjudicated a sexually
36 violent predator as defined in Section 6600 of the Welfare and
37 Institutions Code.

38 (c) (1) On or before July 1, 2005, with respect to a person
39 who has been convicted of the commission or the attempted
40 commission of any of the offenses listed in paragraph (2), the

1 Department of Justice shall make available to the public via the
2 Internet Web site his or her name and known aliases, a
3 photograph, a physical description, including gender and race,
4 date of birth, criminal history, the community of residence and
5 ZIP Code in which the person resides or the county in which the
6 person is registered as a transient, and any other information that
7 the Department of Justice deems relevant, but not the information
8 excluded pursuant to subdivision (a). On or before July 1, 2006,
9 the Department of Justice shall determine whether any person
10 convicted of an offense listed in paragraph (2) also has one or
11 more prior or subsequent convictions of an offense listed in
12 paragraph (2) of subdivision (a) of Section 290, and, for those
13 persons, the Department of Justice shall make available to the
14 public via the Internet Web site the address at which the person
15 resides. However, the address at which the person resides shall
16 not be disclosed until a determination is made that the person is,
17 by virtue of his or her additional prior or subsequent conviction
18 of an offense listed in paragraph (2) of subdivision (a) of Section
19 290, subject to this subdivision.

20 (2) This subdivision shall apply to the following offenses:

21 (A) Section 220, except assault to commit mayhem.

22 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

23 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
24 (i), of Section 286.

25 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
26 (i), of Section 288a.

27 (E) Subdivision (b), (d), (e), or (i) of Section 289.

28 (d) (1) On or before July 1, 2005, with respect to a person
29 who has been convicted of the commission or the attempted
30 commission of any of the offenses listed in, or who is described
31 in, this subdivision, the Department of Justice shall make
32 available to the public via the Internet Web site his or her name
33 and known aliases, a photograph, a physical description,
34 including gender and race, date of birth, criminal history, the
35 community of residence and ZIP Code in which the person
36 resides or the county in which the person is registered as a
37 transient, and any other information that the Department of
38 Justice deems relevant, but not the information excluded pursuant
39 to subdivision (a) or the address at which the person resides.

(2) This subdivision shall apply to the following offenses and offenders:

(A) Subdivision (a) of Section 243.4, provided that the offense is a felony.

(B) Section 266, provided that the offense is a felony.

(C) Section 266c, provided that the offense is a felony.

(D) Section 266j.

(E) Section 267.

(F) Subdivision (c) of Section 288, provided that the offense is a misdemeanor.

(G) Section 647.6.

(H) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, provided the offense is a misdemeanor.

1 (C) (i) An offense for which the offender successfully
2 completed probation, provided that the offender submits to the
3 department a certified copy of a probation report, presentencing
4 report, report prepared pursuant to Section 288.1, or other official
5 court document that clearly demonstrates both of the following:

6 (I) The offender was the victim's parent, stepparent, sibling, or
7 grandparent.

8 (II) The crime did not involve either oral copulation or
9 penetration of the vagina or rectum of either the victim or the
10 offender by the penis of the other or by any foreign object.

11 (ii) An offense for which the offender is on probation at the
12 time of his or her application, provided that the offender submits
13 to the department a certified copy of a probation report,
14 presentencing report, report prepared pursuant to Section 288.1,
15 or other official court document that clearly demonstrates both of
16 the following:

17 (I) The offender was the victim's parent, stepparent, sibling, or
18 grandparent.

19 (II) The crime did not involve either oral copulation or
20 penetration of the vagina or rectum of either the victim or the
21 offender by the penis of the other or by any foreign object.

22 (iii) If, subsequent to his or her application, the offender
23 commits a violation of probation resulting in his or her
24 incarceration in county jail or state prison, his or her exclusion,
25 or application for exclusion, from the Internet Web site shall be
26 terminated.

27 (iv) For the purposes of this subparagraph, "successfully
28 completed probation" means that during the period of probation
29 the offender neither received additional county jail or state prison
30 time for a violation of probation nor was convicted of another
31 offense resulting in a sentence to county jail or state prison.

32 (f) The Department of Justice shall make a reasonable effort to
33 provide notification to persons who have been convicted of the
34 commission or attempted commission of an offense specified in
35 subdivision (b), (c), or (d), that on or before July 1, 2005, the
36 department is required to make information about specified sex
37 offenders available to the public via an Internet Web site as
38 specified in this section. The Department of Justice shall also
39 make a reasonable effort to provide notice that some offenders
40 are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this

1 section shall be punished by a fine not exceeding one thousand
2 dollars (\$1,000), imprisonment in a county jail for a period not to
3 exceed six months, or by both that fine and imprisonment.

4 (l) (1) A person is authorized to use information disclosed
5 pursuant to this section only to protect a person at risk. This
6 authorization does not create a duty to use the information.

7 (2) Except as authorized under paragraph (1) or any other
8 provision of law, use of any information that is disclosed
9 pursuant to this section for purposes relating to any of the
10 following is prohibited:

11 (A) Health insurance.

12 (B) Insurance.

13 (C) Loans.

14 (D) Credit.

15 (E) Employment.

16 (F) Education, scholarships, or fellowships.

17 (G) Housing or accommodations.

18 (H) Benefits, privileges, or services provided by any business
19 establishment.

20 (3) This section shall not affect authorized access to, or use of,
21 information pursuant to, among other provisions, Sections 11105
22 and 11105.3, Section 8808 of the Family Code, Sections 777.5
23 and 14409.2 of the Financial Code, Sections 1522.01 and
24 1596.871 of the Health and Safety Code, and Section 432.7 of
25 the Labor Code.

26 (4) (A) Any use of information disclosed pursuant to this
27 section for purposes other than those provided by paragraph (1)
28 or in violation of paragraph (2) shall make the user liable for the
29 actual damages, and any amount that may be determined by a
30 jury or a court sitting without a jury, not exceeding three times
31 the amount of actual damage, and not less than two hundred fifty
32 dollars (\$250), and attorney's fees, exemplary damages, or a civil
33 penalty not exceeding twenty-five thousand dollars (\$25,000).

34 (B) Whenever there is reasonable cause to believe that any
35 person or group of persons is engaged in a pattern or practice of
36 misuse of the information available via an Internet Web site
37 established pursuant to this section in violation of paragraph (2),
38 the Attorney General, any district attorney, or city attorney, or
39 any person aggrieved by the misuse is authorized to bring a civil
40 action in the appropriate court requesting preventive relief,

1 including an application for a permanent or temporary injunction,
2 restraining order, or other order against the person or group of
3 persons responsible for the pattern or practice of misuse. The
4 foregoing remedies shall be independent of any other remedies or
5 procedures that may be available to an aggrieved party under
6 other provisions of law, including Part 2 (commencing with
7 Section 43) of Division 1 of the Civil Code.

8 (m) The public notification provisions of this section are
9 applicable to every person described in this section, without
10 regard to when his or her crimes were committed or his or her
11 duty to register pursuant to Section 290 arose, and to every
12 offense described in this section, regardless of when it was
13 committed.

14 (n) On or before July 1, 2006, and every year thereafter, the
15 Department of Justice shall make a report to the Legislature
16 concerning the operation of this section.

17 (o) A designated law enforcement entity and its employees
18 shall be immune from liability for good faith conduct under this
19 section.

20 *SEC. 4.1. Section 290.46 of the Penal Code is amended to*
21 *read:*

22 290.46. (a) (1) On or before the dates specified in this
23 section, the Department of Justice shall make available
24 information concerning persons who are required to register
25 pursuant to Section 290 to the public via an Internet Web site as
26 specified in this section. The department shall update the Internet
27 Web site on an ongoing basis. All information identifying the
28 victim by name, birth date, address, or relationship to the
29 registrant shall be excluded from the Internet Web site. The name
30 or address of the person's employer and the listed person's
31 criminal history other than the specific crimes for which the
32 person is required to register shall not be included on the Internet
33 Web site. The Internet Web site shall be translated into languages
34 other than English as determined by the department.

35 (2) (A) *On or before July 1, 2010, the Department of Justice*
36 *shall make available to the public, via an Internet Web site as*
37 *specified in this section, as to any person described in*
38 *subdivisions (b), (c), or (d), the following information:*

39 (i) *The year of conviction of his or her most recent offense*
40 *requiring registration pursuant to Section 290.*

1 (ii) The year he or she was released from incarceration for
2 that offense.

3 (iii) Whether he or she was subsequently incarcerated for any
4 other felony, if that fact is reported to the department. If the
5 department has no information about a subsequent incarceration
6 for any felony, that fact shall be noted on the Internet Web site.

7 However, no year of conviction shall be made available to the
8 public unless the department also is able to make available the
9 corresponding year of release of incarceration for that offense,
10 and the required notation regarding any subsequent felony.

11 (B) (i) Any state or local facility that releases from
12 incarceration a person who was incarcerated because of a crime
13 for which he or she is required to register as a sex offender
14 pursuant to Section 290 shall, within 30 days of release, provide
15 the year of conviction and year of release for his or her most
16 recent offense requiring registration to the Department of Justice
17 in a manner and format approved by the department.

18 (ii) Any state or local facility that releases a person who is
19 required to register pursuant to Section 290 from incarceration
20 whose incarceration was for a felony committed subsequently to
21 the offense for which he or she is required to register shall,
22 within 30 days of release, advise the Department of Justice of
23 that fact.

24 (iii) Any state or local facility that, prior to January 1, 2007,
25 released from incarceration a person who was incarcerated
26 because of a crime for which he or she is required to register as
27 a sex offender pursuant to Section 290 shall provide the year of
28 conviction and year of release for his or her most recent offense
29 requiring registration to the Department of Justice in a manner
30 and format approved by the department.

31 (iv) Any state or local facility that, prior to January 1, 2007,
32 released a person who is required to register pursuant to Section
33 290 from incarceration whose incarceration was for a felony
34 committed subsequently to the offense for which he or she is
35 required to register shall advise the Department of Justice of that
36 fact in a manner and format approved by the department.

37 (b) (1) On or before July 1, 2005, with respect to a person
38 who has been convicted of the commission or the attempted
39 commission of any of the offenses listed in, or who is described
40 in, paragraph (2), the Department of Justice shall make available

1 to the public via the Internet Web site his or her name and known
2 aliases, a photograph, a physical description, including gender
3 and race, date of birth, criminal history, the address at which the
4 person resides, and any other information that the Department of
5 Justice deems relevant, but not the information excluded pursuant
6 to subdivision (a).

7 (2) This subdivision shall apply to the following offenses and
8 offenders:

9 (A) Section 207 committed with intent to violate Section 261,
10 286, 288, 288a, or 289.

11 (B) Section 209 committed with intent to violate Section 261,
12 286, 288, 288a, or 289.

13 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

14 (D) Section 264.1.

15 (E) Section 269.

16 (F) Subdivision (c) or (d) of Section 286.

17 (G) Subdivision (a), (b), or (c) of Section 288, provided that
18 the offense is a felony.

19 (H) Subdivision (c) or (d) of Section 288a.

20 (I) Section 288.5.

21 (J) Subdivision (a) or (j) of Section 289.

22 (K) Any person who has ever been adjudicated a sexually
23 violent predator as defined in Section 6600 of the Welfare and
24 Institutions Code.

25 (c) (1) On or before July 1, 2005, with respect to a person
26 who has been convicted of the commission or the attempted
27 commission of any of the offenses listed in paragraph (2), the
28 Department of Justice shall make available to the public via the
29 Internet Web site his or her name and known aliases, a
30 photograph, a physical description, including gender and race,
31 date of birth, criminal history, the community of residence and
32 ZIP Code in which the person resides or the county in which the
33 person is registered as a transient, and any other information that
34 the Department of Justice deems relevant, but not the information
35 excluded pursuant to subdivision (a). On or before July 1, 2006,
36 the Department of Justice shall determine whether any person
37 convicted of an offense listed in paragraph (2) also has one or
38 more prior or subsequent convictions of an offense listed in
39 paragraph (2) of subdivision (a) of Section 290, and, for those
40 persons, the Department of Justice shall make available to the

1 public via the Internet Web site the address at which the person
2 resides. However, the address at which the person resides shall
3 not be disclosed until a determination is made that the person is,
4 by virtue of his or her additional prior or subsequent conviction
5 of an offense listed in paragraph (2) of subdivision (a) of Section
6 290, subject to this subdivision.

7 (2) This subdivision shall apply to the following offenses:

8 (A) Section 220, except assault to commit mayhem.

9 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

10 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
11 (i), of Section 286.

12 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
13 (i), of Section 288a.

14 (E) Subdivision (b), (d), (e), or (i) of Section 289.

15 (d) (1) On or before July 1, 2005, with respect to a person
16 who has been convicted of the commission or the attempted
17 commission of any of the offenses listed in, or who is described
18 in, this subdivision, the Department of Justice shall make
19 available to the public via the Internet Web site his or her name
20 and known aliases, a photograph, a physical description,
21 including gender and race, date of birth, criminal history, the
22 community of residence and ZIP Code in which the person
23 resides or the county in which the person is registered as a
24 transient, and any other information that the Department of
25 Justice deems relevant, but not the information excluded pursuant
26 to subdivision (a) or the address at which the person resides.

27 (2) This subdivision shall apply to the following offenses and
28 offenders:

29 (A) Subdivision (a) of Section 243.4, provided that the offense
30 is a felony.

31 (B) Section 266, provided that the offense is a felony.

32 (C) Section 266c, provided that the offense is a felony.

33 (D) Section 266j.

34 (E) Section 267.

35 (F) Subdivision (c) of Section 288, provided that the offense is
36 a misdemeanor.

37 (G) Section 647.6.

38 (H) Any person required to register pursuant to Section 290
39 based upon an out-of-state conviction, unless that person is
40 excluded from the Internet Web site pursuant to subdivision (e).

1 However, if the Department of Justice has determined that the
2 out-of-state crime, if committed or attempted in this state, would
3 have been punishable in this state as a crime described in
4 subparagraph (A) of paragraph (2) of subdivision (a) of Section
5 290, the person shall be placed on the Internet Web site as
6 provided in subdivision (b) or (c), as applicable to the crime.

7 (e) (1) If a person has been convicted of the commission or
8 the attempted commission of any of the offenses listed in this
9 subdivision, and he or she has been convicted of no other offense
10 listed in subdivision (b), (c), or (d) other than those listed in this
11 subdivision, that person may file an application with the
12 Department of Justice, on a form approved by the department, for
13 exclusion from the Internet Web site. If the department
14 determines that the person meets the requirements of this
15 subdivision, the department shall grant the exclusion and no
16 information concerning the person shall be made available via
17 the Internet Web site described in this section. He or she bears
18 the burden of proving the facts that make him or her eligible for
19 exclusion from the Internet Web site. However, a person who has
20 filed for or been granted an exclusion from the Internet Web site
21 is not relieved of his or her duty to register as a sex offender
22 pursuant to Section 290 nor from any otherwise applicable
23 provision of law.

24 (2) This subdivision shall apply to the following offenses:

25 (A) A felony violation of subdivision (a) of Section 243.4.

26 (B) Section 647.6, provided the offense is a misdemeanor.

27 (C) (i) An offense for which the offender successfully
28 completed probation, provided that the offender submits to the
29 department a certified copy of a probation report, presentencing
30 report, report prepared pursuant to Section 288.1, or other official
31 court document that clearly demonstrates both of the following:

32 (I) The offender was the victim's parent, stepparent, sibling, or
33 grandparent.

34 (II) The crime did not involve either oral copulation or
35 penetration of the vagina or rectum of either the victim or the
36 offender by the penis of the other or by any foreign object.

37 (ii) An offense for which the offender is on probation at the
38 time of his or her application, provided that the offender submits
39 to the department a certified copy of a probation report,
40 presentencing report, report prepared pursuant to Section 288.1,

1 or other official court document that clearly demonstrates both of
2 the following:

3 (I) The offender was the victim's parent, stepparent, sibling, or
4 grandparent.

5 (II) The crime did not involve either oral copulation or
6 penetration of the vagina or rectum of either the victim or the
7 offender by the penis of the other or by any foreign object.

8 (iii) If, subsequent to his or her application, the offender
9 commits a violation of probation resulting in his or her
10 incarceration in county jail or state prison, his or her exclusion,
11 or application for exclusion, from the Internet Web site shall be
12 terminated.

13 (iv) For the purposes of this subparagraph, "successfully
14 completed probation" means that during the period of probation
15 the offender neither received additional county jail or state prison
16 time for a violation of probation nor was convicted of another
17 offense resulting in a sentence to county jail or state prison.

18 (f) The Department of Justice shall make a reasonable effort to
19 provide notification to persons who have been convicted of the
20 commission or attempted commission of an offense specified in
21 subdivision (b), (c), or (d), that on or before July 1, 2005, the
22 department is required to make information about specified sex
23 offenders available to the public via an Internet Web site as
24 specified in this section. The Department of Justice shall also
25 make a reasonable effort to provide notice that some offenders
26 are eligible to apply for exclusion from the Internet Web site.

27 (g) (1) A designated law enforcement entity, as defined in
28 subdivision (f) of Section 290.45, may make available
29 information concerning persons who are required to register
30 pursuant to Section 290 to the public via an Internet Web site as
31 specified in paragraph (2).

32 (2) The law enforcement entity may make available by way of
33 an Internet Web site the information described in subdivision (c)
34 if it determines that the public disclosure of the information
35 about a specific offender by way of the entity's Internet Web site
36 is necessary to ensure the public safety based upon information
37 available to the entity concerning that specific offender.

38 (3) The information that may be provided pursuant to this
39 subdivision may include the information specified in subdivision
40 (b) of Section 290.45. However, that offender's address may not

1 be disclosed unless he or she is a person whose address is on the
2 Department of Justice's Internet Web site pursuant to subdivision
3 (b) or (c).

4 (h) For purposes of this section, "offense" includes the
5 statutory predecessors of that offense, or any offense committed
6 in another jurisdiction that, if committed or attempted to be
7 committed in this state, would have been punishable in this state
8 as an offense listed in subparagraph (A) of paragraph (2) of
9 subdivision (a) of Section 290.

10 (i) Notwithstanding Section 6254.5 of the Government Code,
11 disclosure of information pursuant to this section is not a waiver
12 of exemptions under Chapter 3.5 (commencing with Section
13 6250) of Title 1 of Division 7 of the Government Code and does
14 not affect other statutory restrictions on disclosure in other
15 situations.

16 (j) (1) Any person who uses information disclosed pursuant to
17 this section to commit a misdemeanor shall be subject to, in
18 addition to any other penalty or fine imposed, a fine of not less
19 than ten thousand dollars (\$10,000) and not more than fifty
20 thousand dollars (\$50,000).

21 (2) Any person who uses information disclosed pursuant to
22 this section to commit a felony shall be punished, in addition and
23 consecutive to any other punishment, by a five-year term of
24 imprisonment in the state prison.

25 (k) Any person who is required to register pursuant to Section
26 290 who enters an Internet Web site established pursuant to this
27 section shall be punished by a fine not exceeding one thousand
28 dollars (\$1,000), imprisonment in a county jail for a period not to
29 exceed six months, or by both that fine and imprisonment.

30 (l) (1) A person is authorized to use information disclosed
31 pursuant to this section only to protect a person at risk. *This*
32 *authorization does not create a duty to use the information.*

33 (2) Except as authorized under paragraph (1) or any other
34 provision of law, use of any information that is disclosed
35 pursuant to this section for purposes relating to any of the
36 following is prohibited:

37 (A) Health insurance.

38 (B) Insurance.

39 (C) Loans.

40 (D) Credit.

1 (E) Employment.

2 (F) Education, scholarships, or fellowships.

3 (G) Housing or accommodations.

4 (H) Benefits, privileges, or services provided by any business
5 establishment.

6 (3) This section shall not affect authorized access to, or use of,
7 information pursuant to, among other provisions, Sections 11105
8 and 11105.3, Section 8808 of the Family Code, Sections 777.5
9 and 14409.2 of the Financial Code, Sections 1522.01 and
10 1596.871 of the Health and Safety Code, and Section 432.7 of
11 the Labor Code.

12 (4) (A) Any use of information disclosed pursuant to this
13 section for purposes other than those provided by paragraph (1)
14 or in violation of paragraph (2) shall make the user liable for the
15 actual damages, and any amount that may be determined by a
16 jury or a court sitting without a jury, not exceeding three times
17 the amount of actual damage, and not less than two hundred fifty
18 dollars (\$250), and attorney's fees, exemplary damages, or a civil
19 penalty not exceeding twenty-five thousand dollars (\$25,000).

20 (B) Whenever there is reasonable cause to believe that any
21 person or group of persons is engaged in a pattern or practice of
22 misuse of the information available via an Internet Web site
23 established pursuant to this section in violation of paragraph (2),
24 the Attorney General, any district attorney, or city attorney, or
25 any person aggrieved by the misuse is authorized to bring a civil
26 action in the appropriate court requesting preventive relief,
27 including an application for a permanent or temporary injunction,
28 restraining order, or other order against the person or group of
29 persons responsible for the pattern or practice of misuse. The
30 foregoing remedies shall be independent of any other remedies or
31 procedures that may be available to an aggrieved party under
32 other provisions of law, including Part 2 (commencing with
33 Section 43) of Division 1 of the Civil Code.

34 (m) The public notification provisions of this section are
35 applicable to every person described in this section, without
36 regard to when his or her crimes were committed or his or her
37 duty to register pursuant to Section 290 arose, and to every
38 offense described in this section, regardless of when it was
39 committed.

1 (n) On or before July 1, 2006, and every year thereafter, the
2 Department of Justice shall make a report to the Legislature
3 concerning the operation of this section.

4 (o) A designated law enforcement entity and its employees
5 shall be immune from liability for good faith conduct under this
6 section.

7 *SEC. 4.2. Section 290.46 of the Penal Code is amended to*
8 *read:*

9 290.46. (a) (1) On or before the dates specified in this
10 section, the Department of Justice shall make available
11 information concerning persons who are required to register
12 pursuant to Section 290 to the public via an Internet Web site as
13 specified in this section. The department shall update the Internet
14 Web site on an ongoing basis. All information identifying the
15 victim by name, birth date, address, or relationship to the
16 registrant shall be excluded from the Internet Web site. The name
17 or address of the person's employer and the listed person's
18 criminal history other than the specific crimes for which the
19 person is required to register shall not be included on the Internet
20 Web site. The Internet Web site shall be translated into languages
21 other than English as determined by the department.

22 (2) *The Department of Mental Health shall provide to the*
23 *Department of Justice Sex Offender Tracking Program the names*
24 *of all persons committed to its custody pursuant to Article 4*
25 *(commencing with Section 6600) of Chapter 2 of Part 2 of*
26 *Division 6 of the Welfare and Institutions Code, within 30 days of*
27 *commitment, and shall provide the names of all of those persons*
28 *released from its custody within five working days of release.*

29 (b) (1) On or before July 1, 2005, with respect to a person
30 who has been convicted of the commission or the attempted
31 commission of any of the offenses listed in, or who is described
32 in, paragraph (2), the Department of Justice shall make available
33 to the public via the Internet Web site his or her name and known
34 aliases, a photograph, a physical description, including gender
35 and race, date of birth, criminal history, *prior adjudication as a*
36 *sexually violent predator*, the address at which the person resides,
37 and any other information that the Department of Justice deems
38 relevant, but not the information excluded pursuant to
39 subdivision (a).

(2) This subdivision shall apply to the following offenses and offenders:

(A) Section 207 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(B) Section 209 committed with intent to violate Section 261, 286, 288, 288a, or 289.

(C) Paragraph (2) or (6) of subdivision (a) of Section 261.

(D) Section 264.1.

(E) Section 269.

(F) Subdivision (c) or (d) of Section 286.

(G) Subdivision (a), (b), or (c) of Section 288, provided that the offense is a felony.

(H) Subdivision (c) or (d) of Section 288a.

(I) Section 288.3, *provided that the offense is a felony*.

(J) Section 288.5.

~~(J)~~

(K) Section 288.7.

(L) Subdivision (a) or (j) of Section 289.

~~(K)~~

(M) Any person who has ever been adjudicated a sexually violent predator as defined in Section 6600 of the Welfare and Institutions Code.

(c) (1) On or before July 1, 2005, with respect to a person who has been convicted of the commission or the attempted commission of any of the offenses listed in paragraph (2), the Department of Justice shall make available to the public via the Internet Web site his or her name and known aliases, a photograph, a physical description, including gender and race, date of birth, criminal history, the community of residence and ZIP Code in which the person resides or the county in which the person is registered as a transient, and any other information that the Department of Justice deems relevant, but not the information excluded pursuant to subdivision (a). On or before July 1, 2006, the Department of Justice shall determine whether any person convicted of an offense listed in paragraph (2) also has one or more prior or subsequent convictions of an offense listed in paragraph (2) of subdivision (a) of Section 290, and, for those persons, the Department of Justice shall make available to the public via the Internet Web site the address at which the person resides. However, the address at which the person resides shall

1 not be disclosed until a determination is made that the person is,
2 by virtue of his or her additional prior or subsequent conviction
3 of an offense listed in paragraph (2) of subdivision (a) of Section
4 290, subject to this subdivision.

5 (2) This subdivision shall apply to the following offenses:

6 (A) Section 220, except assault to commit mayhem.

7 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

8 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
9 (i), of Section 286.

10 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
11 (i), of Section 288a.

12 (E) Subdivision (b), (d), (e), or (i) of Section 289.

13 (d) (1) On or before July 1, 2005, with respect to a person
14 who has been convicted of the commission or the attempted
15 commission of any of the offenses listed in, or who is described
16 in, this subdivision, the Department of Justice shall make
17 available to the public via the Internet Web site his or her name
18 and known aliases, a photograph, a physical description,
19 including gender and race, date of birth, criminal history, the
20 community of residence and ZIP Code in which the person
21 resides or the county in which the person is registered as a
22 transient, and any other information that the Department of
23 Justice deems relevant, but not the information excluded pursuant
24 to subdivision (a) or the address at which the person resides.

25 (2) This subdivision shall apply to the following offenses and
26 offenders:

27 (A) Subdivision (a) of Section 243.4, provided that the offense
28 is a felony.

29 (B) Section 266, provided that the offense is a felony.

30 (C) Section 266c, provided that the offense is a felony.

31 (D) Section 266j.

32 (E) Section 267.

33 (F) Subdivision (c) of Section 288, provided that the offense is
34 a misdemeanor.

35 (G) Section 288.3, *provided that the offense is a misdemeanor.*

36 (H) Section 626.81.

37 (I) Section 647.6.

38 (J) Section 653c.

39 ~~(H)~~

(K) Any person required to register pursuant to Section 290 based upon an out-of-state conviction, unless that person is excluded from the Internet Web site pursuant to subdivision (e). However, if the Department of Justice has determined that the out-of-state crime, if committed or attempted in this state, would have been punishable in this state as a crime described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, ~~provided if~~ the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates ~~both of that~~ the following:

~~(I) The offender was the victim's parent, stepparent, sibling, or grandparent;~~

~~(II) The and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the~~

1 victim or the offender by the penis of the other or by any foreign
2 object.

3 (ii) An offense for which the offender is on probation at the
4 time of his or her application, provided that the offender submits
5 to the department a certified copy of a probation report,
6 presentencing report, report prepared pursuant to Section 288.1,
7 or other official court document that clearly demonstrates ~~both of~~
8 ~~that the following:~~

9 ~~(I) The offender was the victim's parent, stepparent, sibling, or~~
10 ~~grandparent;~~

11 ~~(II) The and that the~~ crime did not involve either oral
12 copulation or penetration of the vagina or rectum of either the
13 victim or the offender by the penis of the other or by any foreign
14 object.

15 (iii) If, subsequent to his or her application, the offender
16 commits a violation of probation resulting in his or her
17 incarceration in county jail or state prison, his or her exclusion,
18 or application for exclusion, from the Internet Web site shall be
19 terminated.

20 (iv) For the purposes of this subparagraph, "successfully
21 completed probation" means that during the period of probation
22 the offender neither received additional county jail or state prison
23 time for a violation of probation nor was convicted of another
24 offense resulting in a sentence to county jail or state prison.

25 (3) *If the department determines that a person who was*
26 *granted an exclusion under a former version of this subdivision*
27 *would not qualify for an exclusion under the current version of*
28 *this subdivision, the department shall rescind the exclusion, make*
29 *a reasonable effort to provide notification to the person that the*
30 *exclusion has been rescinded, and, no sooner than 30 days after*
31 *notification is attempted, make information about the offender*
32 *available to the public on the Internet Web site as provided in*
33 *this section.*

34 (4) *Effective January 1, 2012, no person shall be excluded*
35 *pursuant to this subdivision unless the offender has submitted to*
36 *the department documentation sufficient for the department to*
37 *determine that he or she has a SARATSO risk level of low or*
38 *moderate-low.*

39 (f) The Department of Justice shall make a reasonable effort to
40 provide notification to persons who have been convicted of the

1 commission or attempted commission of an offense specified in
2 subdivision (b), (c), or (d), that on or before July 1, 2005, the
3 department is required to make information about specified sex
4 offenders available to the public via an Internet Web site as
5 specified in this section. The Department of Justice shall also
6 make a reasonable effort to provide notice that some offenders
7 are eligible to apply for exclusion from the Internet Web site.

8 (g) (1) A designated law enforcement entity, as defined in
9 subdivision (f) of Section 290.45, may make available
10 information concerning persons who are required to register
11 pursuant to Section 290 to the public via an Internet Web site as
12 specified in paragraph (2).

13 (2) The law enforcement entity may make available by way of
14 an Internet Web site the information described in subdivision (c)
15 if it determines that the public disclosure of the information
16 about a specific offender by way of the entity's Internet Web site
17 is necessary to ensure the public safety based upon information
18 available to the entity concerning that specific offender.

19 (3) The information that may be provided pursuant to this
20 subdivision may include the information specified in subdivision
21 (b) of Section 290.45. However, that offender's address may not
22 be disclosed unless he or she is a person whose address is on the
23 Department of Justice's Internet Web site pursuant to subdivision
24 (b) or (c).

25 (h) For purposes of this section, "offense" includes the
26 statutory predecessors of that offense, or any offense committed
27 in another jurisdiction that, if committed or attempted to be
28 committed in this state, would have been punishable in this state
29 as an offense listed in subparagraph (A) of paragraph (2) of
30 subdivision (a) of Section 290.

31 (i) Notwithstanding Section 6254.5 of the Government Code,
32 disclosure of information pursuant to this section is not a waiver
33 of exemptions under Chapter 3.5 (commencing with Section
34 6250) of Title 1 of Division 7 of the Government Code and does
35 not affect other statutory restrictions on disclosure in other
36 situations.

37 (j) (1) Any person who uses information disclosed pursuant to
38 this section to commit a misdemeanor shall be subject to, in
39 addition to any other penalty or fine imposed, a fine of not less

1 than ten thousand dollars (\$10,000) and not more than fifty
2 thousand dollars (\$50,000).

3 (2) Any person who uses information disclosed pursuant to
4 this section to commit a felony shall be punished, in addition and
5 consecutive to any other punishment, by a five-year term of
6 imprisonment in the state prison.

7 (k) Any person who is required to register pursuant to Section
8 290 who enters an Internet Web site established pursuant to this
9 section shall be punished by a fine not exceeding one thousand
10 dollars (\$1,000), imprisonment in a county jail for a period not to
11 exceed six months, or by both that fine and imprisonment.

12 (l) (1) A person is authorized to use information disclosed
13 pursuant to this section only to protect a person at risk. *This*
14 *authorization does not create a duty to use the information.*

15 (2) Except as authorized under paragraph (1) or any other
16 provision of law, use of any information that is disclosed
17 pursuant to this section for purposes relating to any of the
18 following is prohibited:

19 (A) Health insurance.

20 (B) Insurance.

21 (C) Loans.

22 (D) Credit.

23 (E) Employment.

24 (F) Education, scholarships, or fellowships.

25 (G) Housing or accommodations.

26 (H) Benefits, privileges, or services provided by any business
27 establishment.

28 (3) This section shall not affect authorized access to, or use of,
29 information pursuant to, among other provisions, Sections 11105
30 and 11105.3, Section 8808 of the Family Code, Sections 777.5
31 and 14409.2 of the Financial Code, Sections 1522.01 and
32 1596.871 of the Health and Safety Code, and Section 432.7 of
33 the Labor Code.

34 (4) (A) Any use of information disclosed pursuant to this
35 section for purposes other than those provided by paragraph (1)
36 or in violation of paragraph (2) shall make the user liable for the
37 actual damages, and any amount that may be determined by a
38 jury or a court sitting without a jury, not exceeding three times
39 the amount of actual damage, and not less than two hundred fifty

1 dollars (\$250), and attorney's fees, exemplary damages, or a civil
2 penalty not exceeding twenty-five thousand dollars (\$25,000).

3 (B) Whenever there is reasonable cause to believe that any
4 person or group of persons is engaged in a pattern or practice of
5 misuse of the information available via an Internet Web site
6 established pursuant to this section in violation of paragraph (2),
7 the Attorney General, any district attorney, or city attorney, or
8 any person aggrieved by the misuse is authorized to bring a civil
9 action in the appropriate court requesting preventive relief,
10 including an application for a permanent or temporary injunction,
11 restraining order, or other order against the person or group of
12 persons responsible for the pattern or practice of misuse. The
13 foregoing remedies shall be independent of any other remedies or
14 procedures that may be available to an aggrieved party under
15 other provisions of law, including Part 2 (commencing with
16 Section 43) of Division 1 of the Civil Code.

17 (m) The public notification provisions of this section are
18 applicable to every person described in this section, without
19 regard to when his or her crimes were committed or his or her
20 duty to register pursuant to Section 290 arose, and to every
21 offense described in this section, regardless of when it was
22 committed.

23 (n) On or before July 1, 2006, and every year thereafter, the
24 Department of Justice shall make a report to the Legislature
25 concerning the operation of this section.

26 (o) A designated law enforcement entity and its employees
27 shall be immune from liability for good faith conduct under this
28 section.

29 (p) *The Attorney General, in collaboration with local law*
30 *enforcement and others knowledgeable about sex offenders, shall*
31 *develop strategies to assist members of the public in*
32 *understanding and using publicly available information about*
33 *registered sex offenders to further public safety. These strategies*
34 *may include, but are not limited to, a hotline for community*
35 *inquiries, neighborhood and business guidelines for how to*
36 *respond to information posted on this Web site, and any other*
37 *resource that promotes public education about these offenders.*

38 SEC. 4.3. Section 290.46 of the Penal Code is amended to
39 read:

1 290.46. (a) (1) On or before the dates specified in this
2 section, the Department of Justice shall make available
3 information concerning persons who are required to register
4 pursuant to Section 290 to the public via an Internet Web site as
5 specified in this section. The department shall update the Internet
6 Web site on an ongoing basis. All information identifying the
7 victim by name, birth date, address, or relationship to the
8 registrant shall be excluded from the Internet Web site. The name
9 or address of the person's employer and the listed person's
10 criminal history other than the specific crimes for which the
11 person is required to register shall not be included on the Internet
12 Web site. The Internet Web site shall be translated into languages
13 other than English as determined by the department.

14 (2) (A) *On or before July 1, 2010, the Department of Justice*
15 *shall make available to the public, via an Internet Web site as*
16 *specified in this section, as to any person described in*
17 *subdivisions (b), (c), or (d), the following information:*

18 (i) *The year of conviction of his or her most recent offense*
19 *requiring registration pursuant to Section 290.*

20 (ii) *The year he or she was released from incarceration for*
21 *that offense.*

22 (iii) *Whether he or she was subsequently incarcerated for any*
23 *other felony, if that fact is reported to the department. If the*
24 *department has no information about a subsequent incarceration*
25 *for any felony, that fact shall be noted on the Internet Web site.*

26 *However, no year of conviction shall be made available to the*
27 *public unless the department also is able to make available the*
28 *corresponding year of release of incarceration for that offense,*
29 *and the required notation regarding any subsequent felony.*

30 (B) (i) *Any state or local facility that releases from*
31 *incarceration a person who was incarcerated because of a crime*
32 *for which he or she is required to register as a sex offender*
33 *pursuant to Section 290 shall, within 30 days of release, provide*
34 *the year of conviction and year of release for his or her most*
35 *recent offense requiring registration to the Department of Justice*
36 *in a manner and format approved by the department.*

37 (ii) *Any state or local facility that releases a person who is*
38 *required to register pursuant to Section 290 from incarceration*
39 *whose incarceration was for a felony committed subsequently to*
40 *the offense for which he or she is required to register shall,*

1 within 30 days of release, advise the Department of Justice of
2 that fact.

3 (iii) Any state or local facility that, prior to January 1, 2007,
4 released from incarceration a person who was incarcerated
5 because of a crime for which he or she is required to register as
6 a sex offender pursuant to Section 290 shall provide the year of
7 conviction and year of release for his or her most recent offense
8 requiring registration to the Department of Justice in a manner
9 and format approved by the department.

10 (iv) Any state or local facility that, prior to January 1, 2007,
11 released a person who is required to register pursuant to Section
12 290 from incarceration whose incarceration was for a felony
13 committed subsequently to the offense for which he or she is
14 required to register shall advise the Department of Justice of that
15 fact in a manner and format approved by the department.

16 (3) The Department of Mental Health shall provide to the
17 Department of Justice Sex Offender Tracking Program the names
18 of all persons committed to its custody pursuant to Article 4
19 (commencing with Section 6600) of Chapter 2 of Part 2 of
20 Division 6 of the Welfare and Institutions Code, within 30 days of
21 commitment, and shall provide the names of all of those persons
22 released from its custody within five working days of release

23 (b) (1) On or before July 1, 2005, with respect to a person
24 who has been convicted of the commission or the attempted
25 commission of any of the offenses listed in, or who is described
26 in, paragraph (2), the Department of Justice shall make available
27 to the public via the Internet Web site his or her name and known
28 aliases, a photograph, a physical description, including gender
29 and race, date of birth, criminal history, *prior adjudication as a*
30 *sexually violent predator*, the address at which the person resides,
31 and any other information that the Department of Justice deems
32 relevant, but not the information excluded pursuant to
33 subdivision (a).

34 (2) This subdivision shall apply to the following offenses and
35 offenders:

36 (A) Section 207 committed with intent to violate Section 261,
37 286, 288, 288a, or 289.

38 (B) Section 209 committed with intent to violate Section 261,
39 286, 288, 288a, or 289.

40 (C) Paragraph (2) or (6) of subdivision (a) of Section 261.

- 1 (D) Section 264.1.
2 (E) Section 269.
3 (F) Subdivision (c) or (d) of Section 286.
4 (G) Subdivision (a), (b), or (c) of Section 288, provided that
5 the offense is a felony.
6 (H) Subdivision (c) or (d) of Section 288a.
7 (I) Section 288.3, *provided that the offense is a felony*.
8 (J) Section 288.5.
9 ~~(J)~~
10 (K) Section 288.7.
11 (L) Subdivision (a) or (j) of Section 289.
12 ~~(K)~~
13 (M) Any person who has ever been adjudicated a sexually
14 violent predator as defined in Section 6600 of the Welfare and
15 Institutions Code.
16 (c) (1) On or before July 1, 2005, with respect to a person
17 who has been convicted of the commission or the attempted
18 commission of any of the offenses listed in paragraph (2), the
19 Department of Justice shall make available to the public via the
20 Internet Web site his or her name and known aliases, a
21 photograph, a physical description, including gender and race,
22 date of birth, criminal history, the community of residence and
23 ZIP Code in which the person resides or the county in which the
24 person is registered as a transient, and any other information that
25 the Department of Justice deems relevant, but not the information
26 excluded pursuant to subdivision (a). On or before July 1, 2006,
27 the Department of Justice shall determine whether any person
28 convicted of an offense listed in paragraph (2) also has one or
29 more prior or subsequent convictions of an offense listed in
30 paragraph (2) of subdivision (a) of Section 290, and, for those
31 persons, the Department of Justice shall make available to the
32 public via the Internet Web site the address at which the person
33 resides. However, the address at which the person resides shall
34 not be disclosed until a determination is made that the person is,
35 by virtue of his or her additional prior or subsequent conviction
36 of an offense listed in paragraph (2) of subdivision (a) of Section
37 290, subject to this subdivision.
38 (2) This subdivision shall apply to the following offenses:
39 (A) Section 220, except assault to commit mayhem.
40 (B) Paragraph (1), (3), or (4) of subdivision (a) of Section 261.

1 (C) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
2 (i), of Section 286.

3 (D) Paragraph (2) of subdivision (b), or subdivision (f), (g), or
4 (i), of Section 288a.

5 (E) Subdivision (b), (d), (e), or (i) of Section 289.

6 (d) (1) On or before July 1, 2005, with respect to a person
7 who has been convicted of the commission or the attempted
8 commission of any of the offenses listed in, or who is described
9 in, this subdivision, the Department of Justice shall make
10 available to the public via the Internet Web site his or her name
11 and known aliases, a photograph, a physical description,
12 including gender and race, date of birth, criminal history, the
13 community of residence and ZIP Code in which the person
14 resides or the county in which the person is registered as a
15 transient, and any other information that the Department of
16 Justice deems relevant, but not the information excluded pursuant
17 to subdivision (a) or the address at which the person resides.

18 (2) This subdivision shall apply to the following offenses and
19 offenders:

20 (A) Subdivision (a) of Section 243.4, provided that the offense
21 is a felony.

22 (B) Section 266, provided that the offense is a felony.

23 (C) Section 266c, provided that the offense is a felony.

24 (D) Section 266j.

25 (E) Section 267.

26 (F) Subdivision (c) of Section 288, provided that the offense is
27 a misdemeanor.

28 (G) Section 288.3, *provided that the offense is a misdemeanor*.

29 (H) Section 626.81.

30 (I) Section 647.6.

31 (J) Section 653c.

32 ~~(H)~~

33 (K) Any person required to register pursuant to Section 290
34 based upon an out-of-state conviction, unless that person is
35 excluded from the Internet Web site pursuant to subdivision (e).
36 However, if the Department of Justice has determined that the
37 out-of-state crime, if committed or attempted in this state, would
38 have been punishable in this state as a crime described in
39 subparagraph (A) of paragraph (2) of subdivision (a) of Section

290, the person shall be placed on the Internet Web site as provided in subdivision (b) or (c), as applicable to the crime.

(e) (1) If a person has been convicted of the commission or the attempted commission of any of the offenses listed in this subdivision, and he or she has been convicted of no other offense listed in subdivision (b), (c), or (d) other than those listed in this subdivision, that person may file an application with the Department of Justice, on a form approved by the department, for exclusion from the Internet Web site. If the department determines that the person meets the requirements of this subdivision, the department shall grant the exclusion and no information concerning the person shall be made available via the Internet Web site described in this section. He or she bears the burden of proving the facts that make him or her eligible for exclusion from the Internet Web site. However, a person who has filed for or been granted an exclusion from the Internet Web site is not relieved of his or her duty to register as a sex offender pursuant to Section 290 nor from any otherwise applicable provision of law.

(2) This subdivision shall apply to the following offenses:

(A) A felony violation of subdivision (a) of Section 243.4.

(B) Section 647.6, ~~provided if~~ the offense is a misdemeanor.

(C) (i) An offense for which the offender successfully completed probation, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates ~~both of that~~ the following:

~~(I) The offender was the victim's parent, stepparent, sibling, or grandparent;~~

~~(II) The and that the crime did not involve either oral copulation or penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object.~~

(ii) An offense for which the offender is on probation at the time of his or her application, provided that the offender submits to the department a certified copy of a probation report, presentencing report, report prepared pursuant to Section 288.1, or other official court document that clearly demonstrates ~~both of that~~ the following:

1 ~~(I) The offender was the victim's parent, stepparent, sibling, or~~
2 ~~grandparent:~~

3 ~~(II) The and that the crime did not involve either oral~~
4 ~~copulation or penetration of the vagina or rectum of either the~~
5 ~~victim or the offender by the penis of the other or by any foreign~~
6 ~~object.~~

7 (iii) If, subsequent to his or her application, the offender
8 commits a violation of probation resulting in his or her
9 incarceration in county jail or state prison, his or her exclusion,
10 or application for exclusion, from the Internet Web site shall be
11 terminated.

12 (iv) For the purposes of this subparagraph, "successfully
13 completed probation" means that during the period of probation
14 the offender neither received additional county jail or state prison
15 time for a violation of probation nor was convicted of another
16 offense resulting in a sentence to county jail or state prison.

17 (3) *If the department determines that a person who was*
18 ~~*granted an exclusion under a former version of this subdivision*~~
19 ~~*would not qualify for an exclusion under the current version of*~~
20 ~~*this subdivision, the department shall rescind the exclusion, make*~~
21 ~~*a reasonable effort to provide notification to the person that the*~~
22 ~~*exclusion has been rescinded, and, no sooner than 30 days after*~~
23 ~~*notification is attempted, make information about the offender*~~
24 ~~*available to the public on the Internet Web site as provided in*~~
25 ~~*this section.*~~

26 (4) *Effective January 1, 2012, no person shall be excluded*
27 ~~*pursuant to this subdivision unless the offender has submitted to*~~
28 ~~*the department documentation sufficient for the department to*~~
29 ~~*determine that he or she has a SARATSO risk level of low or*~~
30 ~~*moderate-low.*~~

31 (f) The Department of Justice shall make a reasonable effort to
32 provide notification to persons who have been convicted of the
33 commission or attempted commission of an offense specified in
34 subdivision (b), (c), or (d), that on or before July 1, 2005, the
35 department is required to make information about specified sex
36 offenders available to the public via an Internet Web site as
37 specified in this section. The Department of Justice shall also
38 make a reasonable effort to provide notice that some offenders
39 are eligible to apply for exclusion from the Internet Web site.

(g) (1) A designated law enforcement entity, as defined in subdivision (f) of Section 290.45, may make available information concerning persons who are required to register pursuant to Section 290 to the public via an Internet Web site as specified in paragraph (2).

(2) The law enforcement entity may make available by way of an Internet Web site the information described in subdivision (c) if it determines that the public disclosure of the information about a specific offender by way of the entity's Internet Web site is necessary to ensure the public safety based upon information available to the entity concerning that specific offender.

(3) The information that may be provided pursuant to this subdivision may include the information specified in subdivision (b) of Section 290.45. However, that offender's address may not be disclosed unless he or she is a person whose address is on the Department of Justice's Internet Web site pursuant to subdivision (b) or (c).

(h) For purposes of this section, "offense" includes the statutory predecessors of that offense, or any offense committed in another jurisdiction that, if committed or attempted to be committed in this state, would have been punishable in this state as an offense listed in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290.

(i) Notwithstanding Section 6254.5 of the Government Code, disclosure of information pursuant to this section is not a waiver of exemptions under Chapter 3.5 (commencing with Section 6250) of Title 1 of Division 7 of the Government Code and does not affect other statutory restrictions on disclosure in other situations.

(j) (1) Any person who uses information disclosed pursuant to this section to commit a misdemeanor shall be subject to, in addition to any other penalty or fine imposed, a fine of not less than ten thousand dollars (\$10,000) and not more than fifty thousand dollars (\$50,000).

(2) Any person who uses information disclosed pursuant to this section to commit a felony shall be punished, in addition and consecutive to any other punishment, by a five-year term of imprisonment in the state prison.

(k) Any person who is required to register pursuant to Section 290 who enters an Internet Web site established pursuant to this

1 section shall be punished by a fine not exceeding one thousand
2 dollars (\$1,000), imprisonment in a county jail for a period not to
3 exceed six months, or by both that fine and imprisonment.

4 (l) (1) A person is authorized to use information disclosed
5 pursuant to this section only to protect a person at risk. *This*
6 *authorization does not create a duty to use the information.*

7 (2) Except as authorized under paragraph (1) or any other
8 provision of law, use of any information that is disclosed
9 pursuant to this section for purposes relating to any of the
10 following is prohibited:

11 (A) Health insurance.

12 (B) Insurance.

13 (C) Loans.

14 (D) Credit.

15 (E) Employment.

16 (F) Education, scholarships, or fellowships.

17 (G) Housing or accommodations.

18 (H) Benefits, privileges, or services provided by any business
19 establishment.

20 (3) This section shall not affect authorized access to, or use of,
21 information pursuant to, among other provisions, Sections 11105
22 and 11105.3, Section 8808 of the Family Code, Sections 777.5
23 and 14409.2 of the Financial Code, Sections 1522.01 and
24 1596.871 of the Health and Safety Code, and Section 432.7 of
25 the Labor Code.

26 (4) (A) Any use of information disclosed pursuant to this
27 section for purposes other than those provided by paragraph (1)
28 or in violation of paragraph (2) shall make the user liable for the
29 actual damages, and any amount that may be determined by a
30 jury or a court sitting without a jury, not exceeding three times
31 the amount of actual damage, and not less than two hundred fifty
32 dollars (\$250), and attorney's fees, exemplary damages, or a civil
33 penalty not exceeding twenty-five thousand dollars (\$25,000).

34 (B) Whenever there is reasonable cause to believe that any
35 person or group of persons is engaged in a pattern or practice of
36 misuse of the information available via an Internet Web site
37 established pursuant to this section in violation of paragraph (2),
38 the Attorney General, any district attorney, or city attorney, or
39 any person aggrieved by the misuse is authorized to bring a civil
40 action in the appropriate court requesting preventive relief,

1 including an application for a permanent or temporary injunction,
2 restraining order, or other order against the person or group of
3 persons responsible for the pattern or practice of misuse. The
4 foregoing remedies shall be independent of any other remedies or
5 procedures that may be available to an aggrieved party under
6 other provisions of law, including Part 2 (commencing with
7 Section 43) of Division 1 of the Civil Code.

8 (m) The public notification provisions of this section are
9 applicable to every person described in this section, without
10 regard to when his or her crimes were committed or his or her
11 duty to register pursuant to Section 290 arose, and to every
12 offense described in this section, regardless of when it was
13 committed.

14 (n) On or before July 1, 2006, and every year thereafter, the
15 Department of Justice shall make a report to the Legislature
16 concerning the operation of this section.

17 (o) A designated law enforcement entity and its employees
18 shall be immune from liability for good faith conduct under this
19 section.

20 (p) *The Attorney General, in collaboration with local law*
21 *enforcement and others knowledgeable about sex offenders, shall*
22 *develop strategies to assist members of the public in*
23 *understanding and using publicly available information about*
24 *registered sex offenders to further public safety. These strategies*
25 *may include, but are not limited to, a hotline for community*
26 *inquiries, neighborhood and business guidelines for how to*
27 *respond to information posted on this Web site, and any other*
28 *resource that promotes public education about these offenders.*

29 SEC. 5. (a) *Section 4.1 of this bill incorporates amendments*
30 *to Section 290.46 of the Penal Code proposed by both this bill*
31 *and AB 1849. It shall only become operative if (1) both bills are*
32 *enacted and become effective on or before January 1, 2007, (2)*
33 *each bill amends Section 290.46 of the Penal Code, and (3) SB*
34 *1128 is not enacted or as enacted does not amend that section,*
35 *and (4) this bill is enacted after AB 1849, in which case Sections*
36 *4, 4.2 and 4.3 of this bill shall not become operative.*

37 (b) *Section 4.2 of this bill incorporates amendments to Section*
38 *290.46 of the Penal Code proposed by both this bill and SB 1128.*
39 *It shall only become operative if (1) both bills are enacted and*
40 *become effective on or before January 1, 2007, (2) each bill*

1 amends Section 290.46 of the Penal Code, (3) AB 1849 is not
2 enacted or as enacted does not amend that section, and (4) this
3 bill is enacted after SB 1128 in which case Section 290.46 of the
4 Penal Code as amended by SB 1128, shall remain operative only
5 until the operative date of this bill, at which time Section 4.2 of
6 this bill shall become operative and Sections 4, 4.1 and 4.3 of
7 this bill shall not become operative.

8 (c) Section 4.3 of this bill incorporates amendments to Section
9 290.46 of the Penal Code proposed by this bill, AB 1849, and SB
10 1128. It shall only become operative if (1) all three bills are
11 enacted and become effective on or before January 1, 2007, (2)
12 all three bills amend Section 290.46 of the Penal Code, and (3)
13 this bill is enacted after AB 1849 and SB 1128, in which case
14 Section 290.46 of the Penal Code as amended by SB 1128, shall
15 remain operative only until the operative date of this bill, at
16 which time Section 4.3 of this bill shall become operative and
17 Sections 4, 4.1 and 4.2 of this bill shall not become operative.