

ASSEMBLY BILL

No. 2893

Introduced by Assembly Member Mountjoy

February 24, 2006

An act to amend Section 3030 of the Family Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 2893, as introduced, Mountjoy. Sex offenders: child custody and visitation.

Existing law requires a person convicted of certain sex offenses to register with the local law enforcement officer of the city or county where he or she resides or is located, as specified.

Existing law prohibits a person from being granted physical or legal custody of, or unsupervised visitation with, a child if the person is required to register as a sex offender and the victim was a minor or the person has committed another specified crime against a child, unless the court finds that there is no significant risk to the child and states its reasons in writing or on the record.

This bill would prohibit a person from being granted physical or legal custody of, or unsupervised visitation with, his or her children or grandchildren if the person is required to be registered as a sex offender and the victim was the person's child or grandchild.

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

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

1 SECTION 1. Section 3030 of the Family Code is amended to
2 read:

1 3030. (a) (1) No person shall be granted physical or legal
2 custody of, or unsupervised visitation with, a child if the person
3 is required to be registered as a sex offender under Section 290 of
4 the Penal Code where the victim was a minor, or if the person
5 has been convicted under Section 273a, 273d, or 647.6 of the
6 Penal Code, unless the court finds that there is no significant risk
7 to the child and states its reasons in writing or on the record.

8 (2) No person shall be granted physical or legal custody of, or
9 unsupervised visitation with, a child if anyone residing in the
10 person's household is required, as a result of a felony conviction
11 in which the victim was a minor, to register as a sex offender
12 under Section 290 of the Penal Code, unless the court finds there
13 is no significant risk to the child and states its reasons in writing
14 or on the record.

15 (3) *No person shall be granted physical or legal custody of, or*
16 *unsupervised visitation with, his or her children or grandchildren*
17 *if the person is required to be registered as a sex offender under*
18 *Section 290 of the Penal Code and the victim was the person's*
19 *child or grandchild.*

20 (4) The fact that a child is permitted unsupervised contact with
21 a person who is required, as a result of a felony conviction in
22 which the victim was a minor, to be registered as a sex offender
23 under Section 290 of the Penal Code, shall be prima facie
24 evidence that the child is at significant risk. When making a
25 determination regarding significant risk to the child, the prima
26 facie evidence shall constitute a presumption affecting the burden
27 of producing evidence. However, this presumption shall not
28 apply if there are factors mitigating against its application,
29 including whether the party seeking custody or visitation is also
30 required, as the result of a felony conviction in which the victim
31 was a minor, to register as a sex offender under Section 290 of
32 the Penal Code.

33 (b) No person shall be granted custody of, or visitation with, a
34 child if the person has been convicted under Section 261 of the
35 Penal Code and the child was conceived as a result of that
36 violation.

37 (c) No person shall be granted custody of, or unsupervised
38 visitation with, a child if the person has been convicted of murder
39 in the first degree, as defined in Section 189 of the Penal Code,
40 and the victim of the murder was the other parent of the child

1 who is the subject of the order, unless the court finds that there is
2 no risk to the child's health, safety, and welfare, and states the
3 reasons for its finding in writing or on the record. In making its
4 finding, the court may consider, among other things, the
5 following:

6 (1) The wishes of the child, if the child is of sufficient age and
7 capacity to reason so as to form an intelligent preference.

8 (2) Credible evidence that the convicted parent was a victim of
9 abuse, as defined in Section 6203, committed by the deceased
10 parent. That evidence may include, but is not limited to, written
11 reports by law enforcement agencies, child protective services or
12 other social welfare agencies, courts, medical facilities, or other
13 public agencies or private nonprofit organizations providing
14 services to victims of domestic abuse.

15 (3) Testimony of an expert witness, qualified under Section
16 1107 of the Evidence Code, that the convicted parent experiences
17 intimate partner battering.

18 Unless and until a custody or visitation order is issued pursuant
19 to this subdivision, no person shall permit or cause the child to
20 visit or remain in the custody of the convicted parent without the
21 consent of the child's custodian or legal guardian.

22 (d) The court may order child support that is to be paid by a
23 person subject to subdivision (a), (b), or (c) to be paid through
24 the local child support agency, as authorized by Section 4573 of
25 the Family Code and Division 17 (commencing with Section
26 17000) of this code.

27 (e) The court shall not disclose, or cause to be disclosed, the
28 custodial parent's place of residence, place of employment, or the
29 child's school, unless the court finds that the disclosure would be
30 in the best interest of the child.