

AMENDED IN ASSEMBLY APRIL 27, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2893**

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**Introduced by Assembly Member Mountjoy**  
*(Coauthors: Assembly Members Haynes, Huff, La Malfa, La Suer,  
and Maze)*  
*(Coauthors: Senators Dutton and Runner)*

February 24, 2006

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2893, as amended, 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, *unless the court makes a specified finding on the record. The bill would*

*provide that a failure to make this finding would void an order granting custody or supervision under these provisions.*

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:

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

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

17 (3) No person shall be granted physical or legal custody of, or  
18 unsupervised visitation with, his or her children or grandchildren  
19 if the person is required to be registered as a sex offender under  
20 Section 290 of the Penal Code and the victim was the person's  
21 child or grandchild, *unless the court finds that there is no risk to*  
22 *the child's health, safety, and welfare, and states the reasons for*  
23 *its findings in writing or on the record. The court's failure to*  
24 *state the reasons for its findings in writing or on the record shall*  
25 *make an order granting physical or legal custody, or*  
26 *unsupervised visitation, pursuant to this paragraph, void and*  
27 *unenforceable.*

28 (4) The fact that a child is permitted unsupervised contact with  
29 a person who is required, as a result of a felony conviction in  
30 which the victim was a minor, to be registered as a sex offender  
31 under Section 290 of the Penal Code, shall be prima facie  
32 evidence that the child is at significant risk. When making a  
33 determination regarding significant risk to the child, the prima

1 facie evidence shall constitute a presumption affecting the burden  
2 of producing evidence. However, this presumption shall not  
3 apply if there are factors mitigating against its application,  
4 including whether the party seeking custody or visitation is also  
5 required, as the result of a felony conviction in which the victim  
6 was a minor, to register as a sex offender under Section 290 of  
7 the Penal Code.

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

12 (c) No person shall be granted custody of, or unsupervised  
13 visitation with, a child if the person has been convicted of murder  
14 in the first degree, as defined in Section 189 of the Penal Code,  
15 and the victim of the murder was the other parent of the child  
16 who is the subject of the order, unless the court finds that there is  
17 no risk to the child's health, safety, and welfare, and states the  
18 reasons for its finding in writing or on the record. In making its  
19 finding, the court may consider, among other things, the  
20 following:

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

23 (2) Credible evidence that the convicted parent was a victim of  
24 abuse, as defined in Section 6203, committed by the deceased  
25 parent. That evidence may include, but is not limited to, written  
26 reports by law enforcement agencies, child protective services or  
27 other social welfare agencies, courts, medical facilities, or other  
28 public agencies or private nonprofit organizations providing  
29 services to victims of domestic abuse.

30 (3) Testimony of an expert witness, qualified under Section  
31 1107 of the Evidence Code, that the convicted parent experiences  
32 intimate partner battering.

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

37 (d) The court may order child support that is to be paid by a  
38 person subject to subdivision (a), (b), or (c) to be paid through  
39 the local child support agency, as authorized by Section 4573 of

1 the Family Code and Division 17 (commencing with Section  
2 17000) of this code.  
3 (e) The court shall not disclose, or cause to be disclosed, the  
4 custodial parent's place of residence, place of employment, or the  
5 child's school, unless the court finds that the disclosure would be  
6 in the best interest of the child.

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