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CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 493

Introduced by Assembly Member Perea

(Principal coauthor: Senator Alquist)

(Coauthors: Assembly Members Alejo, Beall, Block, Blumenfield, Bonilla, Fletcher, Halderman, Huffman, Mendoza, Miller, Nestande, Olsen, V. Manuel Pérez, Portantino, Silva, Solorio, Torres, and Williams)

(Coauthors: Senators Cannella, Correa, De León, Lieu, and Rubio)

February 15, 2011

An act to add Sections 290.96 and 3003.6 to the Penal Code, and to add Sections 361.35, 10613.3, and 10613.4 to the Welfare and Institutions Code, relating to registered sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

AB 493, as amended, Perea. Registered sex offenders: community care facilities.

Existing law, the Sex Offender Registration Act, requires persons convicted of specified sex offenses to register with local authorities for life while residing, located, attending school, or working in California. Willful failure to register, as required, is a misdemeanor, or a felony,

depending on the underlying offense. Existing law provides for the licensing and regulation of various community care and child care facilities by the State Department of Social Services.

This bill would prohibit a person required to register under the act from residing, except as specified, working, or volunteering in specified homes or facilities licensed by the State Department of Social Services or a county child welfare services agency, as specified. Violation of this prohibition would be a misdemeanor. *The bill would also authorize a juvenile court to waive this prohibition if the residence involved is that of a noncustodial parent, relative, or nonrelative extended family member who receives the placement of a child who is or may be declared a dependent of the court and the court finds that placing the child in that residence is in the child's best interest.*

This bill would require specified officials who register a person under the act to make a specified determination regarding the registration, notify the person when his or her registered residence or place of employment would be prohibited by the bill, and take appropriate law enforcement action, or make a specified notification, *including notifying the county child welfare agency, as specified*, if the person registers at a prohibited residence or place of employment.

This bill would also require the State Department of Social Services to provide specified public officers and persons or entities that register a person who is required to register with the addresses of, among other things, homes or facilities that serve children under 18 years of age and that are licensed by the department or a county child welfare agency.

This bill would create a new crime and impose additional duties upon local officials, thereby creating a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 290.96 is added to the Penal Code, to read:

290.96. A county sheriff, a chief of police of a city or a campus of the University of California, the California State University, or community college, or any other person or entity that registers a person required to register pursuant to the Sex Offender Registration Act (Sections 290 to 290.023, inclusive) shall, at the time of registration, do all of the following:

(a) Determine whether the person required to register under the Sex Offender Registration Act is registering at a residence or place of employment that is prohibited by Section 3003.6, by using the information provided under Section 10613.3 of the Welfare and Institutions Code and any additional information available for this purpose.

(b) Notify the person required to register under the Sex Offender Registration Act when his or her registered residence or place of employment would be prohibited by Section 3003.6.

(c) Take appropriate law enforcement action if it has jurisdiction or notify an appropriate law enforcement entity with jurisdiction if, after being notified under subdivision (b), the person registers at a residence or place of employment that is prohibited by Section 3003.51.

(d) *Immediately, or as soon as practicably possible, report in writing or by telephone, facsimile, or electronic transmission to the county child welfare agency regarding the registration of a person at a residence or place of employment at which a child who has been, or may be, declared a dependent of the court pursuant to Section 300 of the Welfare and Institutions Code resides. If a law enforcement agency makes a report by telephone, the agency shall mail, or send by facsimile or electronic transmission, a written report within 36 hours of its telephone report.*

SEC. 2. Section 3003.6 is added to the Penal Code, to read:

3003.6. (a) A person required to register under the Sex Offender Registration Act (Sections 290 to 290.023, inclusive) shall not reside, except as a client, and shall not work or volunteer, in any of the ~~following~~ following, *unless a juvenile court has waived the prohibition in accordance with Section 361.35 of the Welfare and Institutions Code:*

1 (1) A home or facility that serves children under 18 years of
2 age and that is licensed by the State Department of Social Services
3 or a county child welfare services agency as a community care
4 facility, a child day care facility, a day care center, a family day
5 care home, or a similar home or facility.

6 (2) A certified home of a foster family agency.

7 (3) A home or facility that receives a placement of a child who
8 has been, or may be, declared a dependent child of the juvenile
9 court pursuant to Section 300 of the Welfare and Institutions Code.

10 (b) A person who violates subdivision (a) is guilty of a
11 misdemeanor.

12 ~~(c) A court may waive the prohibition in subdivision (a) if both~~
13 ~~of the following are true:~~

14 ~~(1) The residence is that of a noncustodial parent, a relative, or~~
15 ~~a nonrelative extended family member who receives a placement~~
16 ~~of a child who has been, or may be, declared a dependent child of~~
17 ~~the juvenile court under Section 300 of the Welfare and Institutions~~
18 ~~Code.~~

19 ~~(2) The court makes a finding that the placement of the child~~
20 ~~in the residence is in the best interest of the child.~~

21 *SEC. 3. Section 361.35 is added to the Welfare and Institutions*
22 *Code, to read:*

23 *361.35. A court may waive the prohibition in subdivision (a)*
24 *of Section 3003.6 of the Penal Code if both of the following are*
25 *true:*

26 *(a) The residence is that of a noncustodial parent, a relative,*
27 *or a nonrelative extended family member who receives a placement*
28 *of a child who has been, or may be, declared a dependent child of*
29 *the juvenile court under Section 300.*

30 *(b) The court makes a finding that the placement of the child in*
31 *the residence is in the best interest of the child.*

32 ~~SEC. 3.~~

33 *SEC. 4. Section 10613.3 is added to the Welfare and Institutions*
34 *Code, to read:*

35 *10613.3. The State Department of Social Services shall provide*
36 *to each county sheriff, each chief of police of a city or a campus*
37 *of the University of California, the California State University, or*
38 *community college, and every other person or entity that registers*
39 *a person required to register under the Sex Offender Registration*
40 *Act (Sections 290 to 290.023, inclusive, of the Penal Code) the*

addresses of all of the following within the jurisdiction of the sheriff, chief of police, or other person or entity:

(a) Each community care facility, child day care facility, day care center, family day care home, or similar home or facility that serves children under 18 years of age and that is licensed by the State Department of Social Services or a county child welfare agency.

(b) Each home certified by a foster family agency.

(c) Each home or facility whose address is not otherwise provided under subdivision (a) or (b) that has been approved to receive a placement of a child who has been, or may be, declared a dependent child of the juvenile court under Section 300.

~~SEC. 4.~~

SEC. 5. Section 10613.4 is added to the Welfare and Institutions Code, to read:

10613.4. (a) Peace officers from the State Department of Social Services shall, no less frequently than each calendar quarter, compare the residence and employment addresses of persons required to register under the Sex Offender Registration Act (Sections 290 to 290.023, inclusive, of the Penal Code) against the addresses of all of the following:

(1) Each community care facility, child day care facility, day care center, family day care home, or similar home or facility that serves children under 18 years of age and that is licensed by the department or a county child welfare agency.

(2) Each home certified by a foster family agency.

(3) Each home or facility that has been approved to receive a placement of a child who has been, or may be, declared a dependent child of the juvenile court under Section 300.

(b) If peace officers from the department determine that an address specified in paragraphs (1) to (3), inclusive, of subdivision (a) matches the residence or employment address of a person required to register under the Sex Offender Registration Act the department shall take appropriate action as authorized by law to further the purposes of Section 3003.6 of the Penal Code.

(c) *The peace officer shall also immediately, or as soon as practicably possible, make a report in writing or by telephone, facsimile, or electronic transmission to the appropriate county child welfare agency of the match so that the agency may evaluate what action or actions, if any, would be in the best interest of the*

1 *child. If a peace officer makes a report by telephone, the officer*
2 *shall mail or send by facsimile or electronic transmission a written*
3 *report within 36 hours of his or her telephone report.*

4 ~~SEC. 5.~~

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

14 However, if the Commission on State Mandates determines that
15 this act contains other costs mandated by the state, reimbursement
16 to local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.