

ASSEMBLY BILL

No. 2033

Introduced by Assembly Member Achadjian

February 23, 2012

An act to amend Section 457.1 of the Penal Code, relating to arson.

LEGISLATIVE COUNSEL'S DIGEST

AB 2033, as introduced, Achadjian. Arson.

Existing law requires a convicted arsonist, as specified, to register with certain local officials in the area in which he or she resides, and makes it a misdemeanor to fail to register. Existing law also requires the registering law enforcement agency to forward certain information about the person to the Department of Justice, including a signed statement, and the person's fingerprints and photograph. Under existing law, those statements, photographs, and fingerprints are not open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

This bill would require the Department of Justice to make all of these statements, photographs, and fingerprints available to all chief fire officials of legally organized fire departments or fire protection districts in the state.

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

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

1 SECTION 1. Section 457.1 of the Penal Code is amended to
2 read:

1 457.1. (a) As used in this section, “arson” means a violation
2 of Section 451, 451.5, or 453, and attempted arson, which includes,
3 but is not limited to, a violation of Section 455.

4 (b) (1) Every person described in ~~paragraph~~ paragraphs (2),
5 (3), and (4), for the periods specified therein, shall, while residing
6 in, or if the person has no residence, while located in California,
7 be required to, within 14 days of coming into, or changing the
8 person’s residence or location within any city, county, city and
9 county, or campus wherein the person temporarily resides, or if
10 the person has no residence, is located:

11 (A) Register with the chief of police of the city where the person
12 is residing, or if the person has no residence, where the person is
13 located.

14 (B) Register with the sheriff of the county where the person is
15 residing, or if the person has no residence, where the person is
16 located in an unincorporated area or city that has no police
17 department.

18 (C) In addition to *subparagraph* (A) or (B) above, register with
19 the chief of police of a campus of the University of California, the
20 California State University, or community college where the person
21 is residing, or if the person has no residence, where the person is
22 located upon the campus or any of its facilities.

23 (2) Any person who, on or after November 30, 1994, is
24 convicted in any court in this state of arson or attempted arson
25 shall be required to register, in accordance with the provisions of
26 this section, for the rest of his or her life.

27 (3) Any person who, having committed the offense of arson or
28 attempted arson, and after having been adjudicated a ward of the
29 juvenile court on or after January 1, 1993, is discharged or paroled
30 from the Department of ~~the Youth Authority~~ *Corrections and*
31 *Rehabilitation, Division of Juvenile Facilities*, shall be required
32 to register, in accordance with the provisions of this section, until
33 that person attains the age of 25 years, or until the person has his
34 or her records sealed pursuant to Section 781 of the Welfare and
35 Institutions Code, whichever comes first.

36 (4) Any person convicted of the offense of arson or attempted
37 arson on or after January 1, 1985, through November 29, 1994,
38 inclusive, in any court of this state, shall be required to register,
39 in accordance with the provisions of this section, for a period of
40 five years commencing, in the case where the person was confined

1 for the offense, from the date of their release from confinement,
2 or in the case where the person was not confined for the offense,
3 from the date of sentencing or discharge, if that person was ordered
4 by the court at the time that person was sentenced to register as an
5 arson offender. The law enforcement agencies shall make
6 registration information available to the chief fire official of a
7 legally organized fire department or fire protection district having
8 local jurisdiction where the person resides.

9 (c) Any person required to register pursuant to this section who
10 is discharged or paroled from a jail, prison, school, road camp, or
11 other penal institution, or from the Department of ~~the Youth~~
12 ~~Authority~~ *Corrections and Rehabilitation, Division of Juvenile*
13 *Facilities*, where he or she was confined because of the commission
14 or attempted commission of arson, shall, prior to the discharge,
15 parole, or release, be informed of his or her duty to register under
16 this section by the official in charge of the place of confinement.
17 The official shall require the person to read and sign the form as
18 may be required by the Department of Justice, stating that the duty
19 of the person to register under this section has been explained to
20 him or her. The official in charge of the place of confinement shall
21 obtain the address where the person expects to reside upon his or
22 her discharge, parole, or release and shall report the address to the
23 Department of Justice. The official in charge of the place of
24 confinement shall give one copy of the form to the person, and
25 shall, not later than 45 days prior to the scheduled release of the
26 person, send one copy to the appropriate law enforcement agency
27 having local jurisdiction where the person expects to reside upon
28 his or her discharge, parole, or release; one copy to the prosecuting
29 agency that prosecuted the person; one copy to the chief fire official
30 of a legally organized fire department or fire protection district
31 having local jurisdiction where the person expects to reside upon
32 his or her discharge, parole, or release; and one copy to the
33 Department of Justice. The official in charge of the place of
34 confinement shall retain one copy. All forms shall be transmitted
35 in time so as to be received by the local law enforcement agency
36 and prosecuting agency 30 days prior to the discharge, parole, or
37 release of the person.

38 (d) All records relating specifically to the registration in the
39 custody of the Department of Justice, law enforcement agencies,
40 and other agencies or public officials shall be destroyed when the

1 person required to register under this subdivision for offenses
2 adjudicated by a juvenile court attains the age of 25 years or has
3 his or her records sealed under the procedures set forth in Section
4 781 of the Welfare and Institutions Code, whichever event occurs
5 first. This subdivision shall not be construed to require the
6 destruction of other criminal offender or juvenile records relating
7 to the case that are maintained by the Department of Justice, law
8 enforcement agencies, the juvenile court, or other agencies and
9 public officials unless ordered by the court under Section 781 of
10 the Welfare and Institutions Code.

11 (e) Any person who is required to register pursuant to this
12 section who is released on probation or discharged upon payment
13 of a fine shall, prior to the release or discharge, be informed of his
14 or her duty to register under this section by the probation
15 department of the county in which he or she has been convicted,
16 and the probation officer shall require the person to read and sign
17 the form as may be required by the Department of Justice, stating
18 that the duty of the person to register under this section has been
19 explained to him or her. The probation officer shall obtain the
20 address where the person expects to reside upon his or her release
21 or discharge and shall report within three days the address to the
22 Department of Justice. The probation officer shall give one copy
23 of the form to the person, and shall send one copy to the appropriate
24 law enforcement agency having local jurisdiction where the person
25 expects to reside upon his or her discharge or release, one copy to
26 the prosecuting agency that prosecuted the person, one copy to the
27 chief fire official of a legally organized fire department or fire
28 protection district having local jurisdiction where the person
29 expects to reside upon his or her discharge or release, and one copy
30 to the Department of Justice. The probation officer shall also retain
31 one copy.

32 (f) The registration shall consist of (1) a statement in writing
33 signed by the person, giving the information as may be required
34 by the Department of Justice, and (2) the fingerprints and
35 photograph of the person. Within three days thereafter, the
36 registering law enforcement agency shall electronically forward
37 the statement, fingerprints, and photograph to the Department of
38 Justice. *The Department of Justice shall make all of these*
39 *statements, fingerprints, and photographs available to all chief*

1 *fire officials of legally organized fire departments or fire protection*
2 *districts in the state.*

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

12 (h) Any person required to register under this section who
13 violates any of the provisions thereof is guilty of a misdemeanor.
14 Any person who has been convicted of arson or attempted arson
15 and who is required to register under this section who willfully
16 violates any of the provisions thereof is guilty of a misdemeanor
17 and shall be sentenced to serve a term of not less than 90 days nor
18 more than one year in a county jail. In no event does the court have
19 the power to absolve a person who willfully violates this section
20 from the obligation of spending at least 90 days of confinement
21 in a county jail and of completing probation of at least one year.

22 (i) Whenever any person is released on parole or probation and
23 is required to register under this section but fails to do so within
24 the time prescribed, the Board of ~~Prison Terms~~, *Parole Hearings*,
25 the Department of ~~the Youth Authority~~, *Corrections and*
26 *Rehabilitation, Division of Juvenile Facilities*, or the court, as the
27 case may be, shall order the parole or probation of that person
28 revoked.

29 (j) The statements, photographs, and fingerprints required by
30 this section shall not be open to inspection by the public or by any
31 person other than a regularly employed peace officer or other law
32 enforcement officer.

33 (k) In any case in which a person who would be required to
34 register pursuant to this section is to be temporarily sent outside
35 the institution where he or she is confined on any assignment within
36 a city or county, including, but not limited to, firefighting or
37 disaster control, the local law enforcement agency having
38 jurisdiction over the place or places where that assignment shall
39 occur shall be notified within a reasonable time prior to removal
40 from the institution. This subdivision shall not apply to any person

1 temporarily released under guard from the institution where he or
2 she is confined.

3 (l) (1) Nothing in this section shall be construed to conflict
4 with Section 1203.4 concerning termination of probation and
5 release from penalties and disabilities of probation.

6 A

7 (2) A person required to register under this section may initiate
8 a proceeding under Chapter 3.5 (commencing with Section
9 4852.01) of Title 6 of Part 3 and, upon obtaining a certificate of
10 rehabilitation, shall be relieved of any further duty to register under
11 this section. This certificate shall not relieve the petitioner of the
12 duty to register under this section for any offense subject to this
13 section of which he or she is convicted in the future.

14 ~~Any~~

15 (3) Any person who is required to register under this section due
16 to a misdemeanor conviction shall be relieved of the requirement
17 to register if that person is granted relief pursuant to Section
18 1203.4.