

**State of California
Office of Administrative Law**

In re:
Department of Corrections and
Rehabilitation

Regulatory Action:

Title 15, California Code of Regulations

Adopt sections: 3570, 3572, 3573, 3580
Amend sections: 3560, 3561, 3562, 3563,
3564, 3565, 3571, 3581,
3582, 3590, 3590.1, 3590.2,
3590.3

Repeal sections:

NOTICE OF APPROVAL OF EMERGENCY
REGULATORY ACTION

Government Code Sections 11346.1 and
11349.6, and Penal Code Section 5058.3

OAL Matter Number: 2016-0921-04

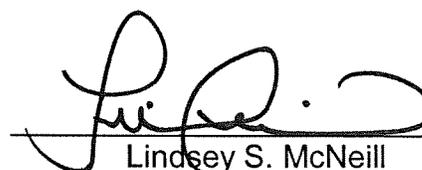
OAL Matter Type: Emergency Operational
Necessity (EON)

This emergency rulemaking action by the Department of Corrections and Rehabilitation adopts four sections and amends thirteen sections in title 15 of the California Code of Regulations regarding parole supervision and residence restrictions imposed on sex offenders as a condition of parole. This action was certified as an operational necessity by the Undersecretary on September 20, 2016.

OAL approves this emergency regulatory action pursuant to sections 11346.1 and 11349.6 of the Government Code, and section 5058.3 of the Penal Code.

This emergency regulatory action is effective on 10/10/2016 and will expire on 3/21/2017. The Certificate of Compliance for this action is due no later than 3/20/2017.

Date: October 10, 2016



Lindsey S. McNeill
Attorney

For: Debra M. Cornez
Director

Original: Scott Kernan
Copy: Sarah Pollock

EMERGENCY

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION REGULATIONS SUBMISSION

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-	REGULATORY ACTION NUMBER	EMERGENCY NUMBER 2016-0921-04EON
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ENDORSED - FILED
In the office of the Secretary of State
of the State of California

OCT 10 2016

1:42 pm

For use by Office of Administrative Law (OAL) only

2016 SEP 21 P 3:29
OFFICE OF ADMINISTRATIVE LAW

NOTICE	REGULATIONS
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AGENCY WITH RULEMAKING AUTHORITY
California Department of Corrections and Rehabilitation

AGENCY FILE NUMBER (if any)
15-0277

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)		FIRST SECTION AFFECTED		2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER		FAX NUMBER (Optional)	
OAL USE ONLY		ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER		PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Supervision of Parolees	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2016-0418-02EON
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 3570, 3572, 3573, and 3580
	AMEND 3560, 3561, 3562, 3563, 3564, 3565, 3571, 3581, 3582, 3590, 3590.1, 3590.2, and 3590.3
	REPEAL

TITLE(S)
15

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input checked="" type="checkbox"/> Other (Specify) Emergency Op. Necessity - PC 5058.3	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

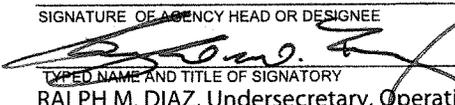
<input type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input checked="" type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> \$100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify)		

7. CONTACT PERSON Sarah Pollock	TELEPHONE NUMBER 916 445-2308	FAX NUMBER (Optional) 916 324-6075	E-MAIL ADDRESS (Optional) sarah.pollock@cdcr.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE 	DATE 9-20-16
TYPED NAME AND TITLE OF SIGNATORY RALPH M. DIAZ, Undersecretary, Operations	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

OCT 10 2016

Office of Administrative Law

TEXT OF PROPOSED REGULATIONS

In the following text, ~~strikethrough~~ indicates deleted text; underline indicates added or amended text.

California Code of Regulations, Title 15, Division 3, Adult Institutions, Programs, and Parole

Subchapter 6. Adult Parole

Article 4. Global Positioning System Program

3560. Global Positioning System Program Establishment.

Section 3560 is amended to read:

Departmental use of Global Positioning System (GPS) technology is designed to monitor the whereabouts of persons on parole by use of continuous electronic monitoring. The GPS program is for parolees who are identified as requiring a high level of supervision, as described in section 3561. By placing a GPS ~~tracking~~ monitoring device on a parolee, a ~~P~~parole ~~A~~gent receives information about a parolee's whereabouts, verifies the parolee's compliance with parole conditions, and is able to investigate suspicious behavior patterns.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3561. Global Positioning System Technology on Eligible Parolees Designated as High Risk.

Subsection 3561(a) is amended to read:

(a) The California Department of Corrections and Rehabilitation (~~the D~~e~~partment~~) shall evaluate all parolees' criminal history and identify those parolees who require a high level of supervision, due to the risk of victimizing the public by committing new crimes while on parole.

Subsection 3561(b) is amended to read:

(b) Parolees who are deemed to require a high level of supervision and subject to ~~Global Positioning System (GPS) supervision~~ monitoring include, but are not limited to:

Subsection 3561(b)(1) is unchanged.

Subsection 3561(b)(2) is amended to read:

(2) Any validated ~~STG~~ Security Threat Group member or associate as indicated on the CDCR Form 812 (Rev. 11/13), Notice of Critical Case Information-Safety of Persons (Non-confidential Enemies) or CDCR Form 128-B2, (Rev. 06/14) Security Threat Group Validation/Rejection Review, which is incorporated by reference.

Subsection 3561(b)(3) is deleted.

~~(3) A high control offender as defined in section 3504.~~

Existing Subsection 3561(b)(4) is renumbered 3561(b)(3) and is otherwise unchanged.

(4)(3) When any parolee's case factors include unavailability for supervision, history of absconding parole supervision, escalating parole violations, or other such factors that would indicate the parolee is likely to re-offend, and where prevention of reoffending and knowledge of the whereabouts of the parolee is a high priority for maintaining public safety.

Subsection 3561(b)(5) is deleted.

~~(5) Any parolee who received a return to custody assessment by the Board of Parole Hearings (BPH), with a BPH final recommendation that the duration of the return to custody assessment be served in the community, utilizing GPS monitoring.~~

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3000.08(f), 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3562. Global Positioning System Monitoring Device Placement Criteria.

Subsections 3562(a) through 3562(b) are unchanged.

Subsection 3562(c) is amended to read:

(c) The parolee shall be informed that non-compliance with the special condition of parole for GPS monitoring is a violation of parole and may result in ~~a referral to the Board of Parole Hearings for revocation consideration.~~ the parolee's arrest and filing of a revocation petition in the superior court.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3000.08(f), 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3563. Global Positioning System-Payments of Certain Costs by Parolees.

Subsections 3563(a) through 3563(a)(1) are amended to read:

(a) Parolees who are required to participate in continuous electronic monitoring by ~~Global Positioning System (GPS)~~ pursuant to the law shall be required to pay for the costs associated with the GPS system. However, the Ddepartment shall waive any or all of that payment upon a finding of an inability to pay. The Ddepartment shall consider any remaining amounts the parolee has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring ~~that the parolee to pay for the global-positioning~~ GPS monitoring.

(1) Ability to pay means the overall capability of the ~~person~~ parolee to reimburse the actual costs or portion of the costs, of providing ~~global-positioning-system~~ GPS monitoring.

Subsection 3563(a)(2) is unchanged.

Subsection 3563(a)(3) is amended to read:

(3) The Ddepartment shall consider any remaining amounts a person parolee has been ordered to pay in fines, assessments and restitution fines, fees and orders, and shall give priority to the payment of those items before requiring that the person parolee to pay for the global positioning system GPS monitoring.

Subsection 3563(b) is amended to read:

(b) If the parolee disagrees with the Ddepartment's finding that the parolee has the ability to pay for the costs associated with the global positioning system GPS monitoring, the parolee may file an appeal by submitting a CDCR Form 602 (Rev. 12/87 08/09), Inmate/Parolee Appeal form to the departmental appeals coordinator.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004, 3010, 3010.1, 3010.2, 3010.3, 3010.4, 3010.5, 3010.6, 3010.7, 3010.8, 3010.9 and 5054, Penal Code.

3564. Requirement for Lifetime Global Positioning System Monitoring.

Subsection 3564(a) is amended to read:

(a) Any parolee who has been convicted for a felony violation of a sex offense described in subdivision (c) of Penal Code (PC) section 290 or any attempt to commit any of those offenses, released from custody on or after November 8, 2006, shall be subject to lifetime Global Positioning System (GPS) monitoring. GPS monitoring shall commence within 48 hours of release from a State correctional facility, or during the first contact with a Pparole Agent, whichever is sooner.

Subsection 3564(b) is amended to read:

(b) The ~~California Department of Corrections and Rehabilitation~~ Department shall maintain GPS monitoring for the entire period of parole supervision. Responsibility for lifetime supervision on GPS monitoring will be transferred to another agency upon discharge from parole supervision and termination of departmental jurisdictional authority.

Subsection 3564(c) is unchanged.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004 and 5054, Penal Code.

3565. Transitioning Sex Offenders from Global Positioning System Monitoring to Local Law Enforcement Monitoring.

Subsection 3565(a) is amended to read:

(a) An active parolee subject to lifetime Global Positioning System (GPS) monitoring upon release from custody shall be monitored by the Department ~~California Department of Corrections and Rehabilitation~~ until discharged from parole and departmental jurisdiction.

Subsections 3565(b) through 3565(b)(1) are amended to read:

(b) Between ~~90-60~~ 60-90 days prior to the parolee's Controlling Discharge Date (CDD), Department ~~Division of Adult Parole Operations~~ staff shall notify, in writing, the assuming agency of the pending discharge. ~~Divisional~~ Department staff shall:

(1) Make the parolee available to the assuming agency within five working days prior to the ~~controlling discharge date~~ CDD to transition the parolee from departmental GPS equipment to the assuming agency's equipment.

Subsection 3565(b)(2) is unchanged.

Subsection 3565(c) is amended to read:

(c) If no other agency assumes GPS monitoring prior to the parolee's discharge from departmental jurisdiction, the departmental GPS equipment ~~will~~ shall be removed and recovered from the parolee upon reaching the parolee's ~~Controlling Discharge Date~~ CDD.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3004 and 5054, Penal Code.

Article 5. Sex Offenders

Section 3570 title heading is amended to read:

3570. Assessments. ~~[Reserved]~~ Definition of a Sex Offender.

New Section 3570 is adopted to read:

For the purposes of Subchapter 6, sex offender means any person currently under the jurisdiction of the Department who has a current or prior conviction, or juvenile adjudication resulting in a commitment to a California Youth Authority or Division of Juvenile Justice facility, listed in PC sections 290(c), 290.001, 290.002, 290.003, 290.004, 290.005, 290.006, 290.007, or 290.008. A sex offender will be required to register upon release from custody in accordance with the Sex Offender Registration Act, PC sections 290 through 294, inclusive.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290(c), 290.001, 290.002, 290.003, 290.004, 290.005, 290.006, 290.007, and 290.008, Penal Code.

3571. Sex Offender Residence Restrictions.

Section 3571 is amended to read:

Parolees who are required to register as sSex offenders pursuant to Penal Code (PC) sections 290 through 290.023, inclusive, are ~~are~~ may be subject to residence restrictions as specified in this section with the approval of the Unit Supervisor, on a case-by-case basis based on the particularized circumstances of each individual parolee.

Subsections 3571(a) through 3571(a)(5) are unchanged.

New Subsection 3571(a)(6) is adopted to read:

(6) Residence restriction means a condition of parole, or an instruction from the Parole Agent prohibiting a parolee from residing at a location based on criteria related to the residence and the parolee's specific individual circumstances pursuant to subsection 3571(b).

New Subsection 3571(b) is adopted to read:

(b) The Unit Supervisor must approve a residence restriction that was proposed by the Parole Agent before it is imposed on a sex offender. Any residence restriction that will prohibit a parolee from residing within any distance of a park where children regularly gather, public or private school serving any grades of kindergarten through 12, or other location decided upon by the Parole Agent shall be justified based on a connection between the parolee's commitment offense, criminal history, and/or future criminality, to be determined on a case-by-case basis.

Existing Subsection 3571(b) is renumbered 3571(c) and amended to read:

~~(b)(c) A sex offender person released on parole who is required to register pursuant to PC Sections 290 through 290.023, inclusive, may not, during the period of parole, reside in any single family dwelling with any other person also required to register as a sex offender, unless those persons are legally related by blood, marriage, or adoption.~~

Existing Subsection 3571(b)(1) is renumbered 3571(c)(1) and is otherwise unchanged.

(1) A residential facility located within a single family dwelling which serves six or fewer persons shall be excluded from this restriction.

Existing Subsection 3571(c) is deleted.

~~(c) A person released on parole on or after November 8, 2006, who is required to register pursuant to PC sections 290 through 290.023, inclusive, shall not reside within 2,000 feet of any public or private school, kindergarten through 12th grade, or park where children regularly gather.~~

Subsection 3571(d) is amended to read:

(d) ~~A sex offender person released on parole on or before November 7, 2006, who is required to register pursuant to PC sections 290 through 290.023, inclusive, shall not be subject to a residence restriction in addition to subsections 3571(b) and 3571(c) above, or required by section 3582, unless that residence restriction is supported by circumstances found in the parolee's criminal history.~~

Subsections 3571(e) through 3571(e)(1) are unchanged, but are shown for reference purposes.

(e) Residence Verification and Approval. The Division of Adult Parole Operations (DAPO) shall monitor compliance with the residence restrictions contained in this section.

(1) Parolees subject to residence restrictions are responsible for finding compliant housing.

Subsections 3571(e)(2) through 3571(e)(3)(B) are amended to read:

(2) During the initial interview between the parolee and the Pparole Agent upon release from custody, and before any change of residence while under parole supervision, the parolee shall provide his or her Pparole Agent with the address where he or she intends to reside upon verification and approval of the Pparole Agent.

(3) The Pparole Agent shall utilize available resources to identify any public or private schools; and parks where children regularly gather, ~~located approximately within 2,000 feet of the parolee's proposed residence to determine if any will fall within any residence restrictions imposed on the parolee.~~ Available resources that may be considered include, but are not limited to:

(A) The California Department of Education's website, which lists public, private, and charter (a category of public) schools.

(B) Internet Telephone directories and navigation system services, such as MapQuest and Google services, (white and yellow pages) which list public schools by district, including city and/or county public school directories.

Subsections 3571(e)(3)(C) through 3571(e)(3)(E) are unchanged, but are shown for reference purposes.

- (C) Listings provided by city halls that include local schools and parks.
- (D) Resources available on the internet, such as satellite maps.
- (E) Observations from site visits or familiarity with the community.

Subsections 3571(e)(4) through 3571(e)(5) are amended to read:

(4) If any public or private schools, and/or parks where children regularly gather, is are identified to be approximately within 2,000 feet of the parolee's proposed the residence restriction, the pParole aAgent shall use a Global Positioning System (GPS) measuring handheld device to determine whether any boundary of the public or private school, or park where children regularly gather, is within 2,000 feet of the threshold of the primary entrance of the proposed residence "as the crow flies," as a direct point-to-point aerial transit path, not as a street or path route the distance from the residence to the school and/or park. The distance shall be measured from the primary entrance of the proposed residence to the nearest exterior property boundary of the school and/or park.

(5) Parolees shall be advised whether the proposed residence is compliant with the residence restriction. If the residence is noncompliant based on the GPS verification measurements taken by the Parole Agent, as described in subsection 3571(e)(4) above, the actual distance and name of the prohibited public or private school, or park where children regularly gather, and method of measurement shall be disclosed to the parolee upon his or her request.

Subsection 3571(f) is amended to read:

(f) DAPO shall report to the Board of Parole Hearings any parolee who is reasonably believed to have violated a residence restriction contained in this section. A parolee who has a special condition of parole prohibiting contact with specified minors shall not be allowed to reside in any residence where a minor with whom the parolee is prohibited from having contact also resides.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290.04, 290.06, 3003.5, 3008(a), 3053(a) and 5054, Penal Code; Doe v. Schwarzenegger (2007) 476 F.Supp.2d. 1178; In re E.J. (2010) 47 Cal.4th 1258; People v. Lent (1975) 15 Cal.3d 481; and People v. Dominguez (1967) 256 Cal.App.2d 623; United States v. Wolf Child (9th Cir. 2012), 699 F.3d 1082; and In re Taylor (2015) 60 Cal.4th 1019.

New Section 3572 title heading is adopted to read:

3572. Violation of Parole for Disabling or Tampering with the Global Positioning System Monitor.

New Subsection 3572(a) is adopted to read:

(a) A sex offender subject to GPS monitoring by CDCR as a condition of parole, shall not remove, disable, render inoperable, or knowingly circumvent the operation of, nor permit another person to remove, disable, render inoperable, or knowingly circumvent the operation of, an electronic, GPS, or

other monitoring device affixed to his or her person, when he or she knows that the device was affixed as a condition of parole.

New Subsection 3572(b) is adopted to read:

(b) This section shall not apply if the removal, disabling, rendering inoperable, or circumventing of, an electronic, GPS, or other monitoring device, is performed by a physician, emergency medical services technician, or by any other emergency response or medical personnel when doing so is necessary during the course of medical treatment of the person subject to monitoring.

New Subsection 3572(c) is adopted to read:

(c) This section shall not apply if the removal, disabling, rendering inoperable, or knowingly circumventing the operation of an electronic, GPS, or other monitoring device, is authorized or required by a court, or the law enforcement, probation, parole authority, or other entity responsible for placing the monitoring device on the person, or that has, at the time, the authority and responsibility to monitor the electronic, GPS, or other monitoring device.

New Subsection 3572(d) is adopted to read:

(d) When probable cause is discovered that a sex offender has removed, disabled, rendered inoperable, knowingly circumvented the operation of, or attempted to circumvent the operation of, or permitted another person to remove, disable, render inoperable, or knowingly circumvent the operation of the monitoring device, notwithstanding subsections 3572(b) and 3572(c) above, DAPO shall refer the violation to superior court.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3000.08(c) and 3010.10, Penal Code.

New Section 3573 title heading is adopted to read:

3573. Sex Offender Risk Assessment.

New Subsection 3573(a) is adopted to read:

(a) The Department shall utilize the Static-99R (11/19/2015) risk assessment, which is incorporated by reference, for male sex offenders. Any male sex offender who is assessed with a score of four (4) or higher shall be designated as a High Risk Sex Offender (HRSO), as defined in Section 3580, for the purposes of residence restrictions and supervision while on parole.

New Subsection 3573(b) is adopted to read:

(b) The Department shall utilize the Female Sex Offender Risk Assessment (FSORA) (11/19/2015), which is incorporated by reference, for female sex offenders. Any female sex offender who is assessed in the category of "Moderately High Risk" or higher shall be designated as a HRSO for the purposes of residence restrictions and supervision while on parole.

New Subsection 3573(c) is adopted to read:

(c) The Department may conduct on-going risk assessments of sex offenders during their parole terms at the discretion of the Director of DAPO or their designee. These assessments shall be for the purpose of designing treatment programs and for the supervision of the sex offender.

New Subsection 3573(d) is adopted to read:

(d) Upon completion of the Static-99R risk assessment or FSORA pursuant to section 3573(b) and (c), if designated a HRSO, the sex offender shall remain under the jurisdiction of the Department for the length of the parole term, regardless of the result of future assessments.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290.04 and 3008, Penal Code.

Article 6. High Risk Sex Offenders

Section 3580 title heading is amended to read:

3580. Definitions of a High Risk Sex Offender. [Reserved]

New Section 3580 is adopted to read:

A High Risk Sex Offender (HRSO) is an inmate or parolee required to register pursuant to PC sections 290(c), 290.001, 290.002, 290.003, 290.004, 290.005, 290.006, 290.007, or 290.008, and who also has been assessed by the Department pursuant to sections 3573(b) and (c) and based on his or her score on the risk assessment, has been designated as a High Risk Sex Offender.

NOTE: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290, 290.001, 290.002, 290.003, 290.004, 290.005, 290.006, 290.007, 290.008, and 3000.08, Penal Code.

Section 3581 title heading is amended to read:

3581. Assessments. [Reserved]

3582. High Risk Sex Offender Residence Restrictions.

Section 3582 is amended to read:

Parolees who are required to register as sex offenders pursuant to ~~Penal Code (PC)~~ sections 290 through 290.023, inclusive, and who have been designated as ~~Hhigh Risk Ssex Offenders~~ by the ~~California Department of Corrections and Rehabilitation (CDCR) Department~~, are subject to residence restrictions as specified in this section and as defined in section 3571.

Existing Subsection 3582(a) is deleted.

~~(a) Definition. High risk sex offender means a sex offender who, pursuant to PC section 290.04, has been assessed and deemed by the CDCR to pose a high risk to commit a new sex offense.~~

Existing Subsection 3582(b) is renumbered 3582(a) and amended to read:

~~(b)(a) A High-Risk-Sex-Offender~~ released on parole who is required to register pursuant to PC sections 290 through 290.023, inclusive, may not, during the period of parole, reside in any single family dwelling with any other person also required to register as a sex offender, unless those persons are legally related by blood, marriage, or adoption. A residential facility located within a single family dwelling which serves six or fewer persons shall be excluded from this restriction.

Existing Subsection 3582(c) is renumbered 3582(b) and amended to read:

~~(e)(b) A high risk sex offender~~ A HRSO released on parole on or after November 8, 2006 who is required to register pursuant to PC sections 290 through 290.023, inclusive, and ~~who has a current or prior whose current commitment to the Department is for a conviction for a violation of PC section 288, inclusive of any subsection, or PC section 288.5, may shall~~ not reside within one-half mile of any public or private school, kindergarten through grade 12, inclusive, ~~and may not reside within 2,000 feet of a park where children regularly gather, as described in section 3571(c).~~

New Subsection 3582(c) is adopted to read:

(c) A HRSO who has a juvenile adjudication for PC section 288, inclusive of any subsection, or PC section 288.5, is not subject to the provisions of PC section 3003(g); however, may have a residence restriction imposed pursuant to section 3571.

Subsection 3582(d) is amended to read:

~~(d) A high risk sex offender~~ A HRSO released on parole on or after November 8, 2006 who is required to register pursuant to PC sections 290 through 290.023, inclusive, and who does not have a current or prior conviction for a violation of PC section 288, inclusive of any subsection, or PC section 288.5, ~~shall be subject to the residency restriction described in section 3571(c). Any restriction on this parolee's residence in addition to this subsection and subsection (b) above is allowed only if that residence restriction is supported by circumstances found in the parolee's criminal history. may have a residence restriction imposed pursuant to section 3571. A residence restriction shall not be imposed unless it is supported by~~ circumstances found in the parolee's criminal history as described in section 3571.

Existing Subsection 3582(e) is deleted.

~~(e) A high risk sex offender released on parole on or before November 7, 2006 who is required to register pursuant to PC sections 290 through 290.023, inclusive, and who has a current or prior conviction for a violation of PC section 288, inclusive of any subsection, or PC section 288.5, may not reside within one-half mile of any public or private school, kindergarten through grade 12, inclusive.~~

Existing Subsection 3582(f) is deleted.

~~(f) A high risk sex offender released on parole on or before November 7, 2006 who is required to register pursuant to PC sections 290 through 290.023, inclusive, and who does not have a current or prior conviction for a violation of PC section 288, inclusive of any subsection, or PC section 288.5, shall not be subject to a residence restriction in addition to subsection (b) above unless that residence restriction is supported by circumstances found in the parolee's criminal history.~~

Existing Subsection 3582(g) is renumbered 3582(e) and amended to read:

~~(g)(e)~~ Residence Verification and Approval. ~~The Division of Adult Parole Operations (DAPO)~~ shall monitor compliance with the residence restrictions contained in this section.

Existing Subsection 3582(g)(1) is renumbered 3582(e)(1) and is otherwise unchanged.

(1) Parolees subject to residence restrictions are responsible for finding compliant housing.

Existing Subsection 3582(g)(2) is renumbered 3582(e)(2) and amended to read:

(2) During the initial interview between the parolee and the ~~p~~Parole a~~A~~gent upon release from custody, and before any change of residence while under parole supervision, the parolee shall provide his or her ~~P~~parole a~~A~~gent with the address where he or she intends to reside upon verification and approval of the ~~P~~parole a~~A~~gent.

Existing Subsection 3582(g)(3) is renumbered 3582(e)(3) and amended to read:

~~(3) In addition to the residence verification and approval process described in section 3571(e) to determine whether the parolee's proposed residence is located within 2,000 feet of a public or private school or park where children regularly gather, the~~ The p~~P~~arole a~~A~~gent shall utilize available resources identified in subsections 3571(e)(3)(A) through 3571(e)(3)(E) to identify any public or private schools located approximately within one-half mile of the parolee's proposed residence. ~~Available resources that may be considered include, but are not limited to:~~

Existing Subsections 3582(g)(3)(A) through 3582(g)(3)(E) are deleted.

~~(A) The California Department of Education's website which lists public, private and charter (a category of public) schools.~~

~~(B) Telephone directories (white and yellow pages) which list public schools by district, including city and/or county public school directories.~~

~~(C) Listings provided by city halls that include local schools.~~

~~(D) Resources available on the internet, such as satellite maps.~~

~~(E) Observations from site visits or familiarity with the community.~~

Existing Subsection 3582(g)(4) is renumbered 3582(e)(4) and amended to read:

(4) If any public or private schools and/or parks where children regularly gather ~~is~~ are identified to be approximately within one-half mile of the parolee's proposed ~~the~~ residence, restriction of a HRSO, the p~~P~~arole a~~A~~gent shall use a Global Positioning System (GPS) measuring handheld ~~device~~ to determine whether any boundary of the public or private school is within one-half mile of the threshold of the primary entrance of the proposed residence "as the crow flies," as a direct point to point aerial transit path, not as a street or path route ~~the distance from the residence to the school and/or park.~~ The distance shall be measured from the primary entrance of the proposed residence to the nearest exterior property boundary of the school and/or park.

Existing Subsection 3582(g)(5) is renumbered 3582(e)(5) and amended to read:

(5) Parolees shall be advised whether the proposed residence is compliant. If the residence is noncompliant based on the GPS verification measurements taken by the Parole Agent, as described in subsection 3582(e)(4) above, the actual distance and name of the prohibited public or private school and method of measurement shall be disclosed to the parolee upon his or her request.

Existing Subsection 3582(h) is renumbered 3582(f) and amended to read:

~~(h)(f) DAPO shall report to the Board of Parole Hearings any parolee who is reasonably believed to have violated a residence restriction contained in this section. When probable cause is discovered that a HRSO parolee is in violation of a residence restriction, DAPO shall file a revocation petition in superior court.~~

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290.04, 290.06, 3003(g), 3003.5, 3008(a), 3053(a) and 5054, Penal Code; *Doe v. Schwarzenegger* (2007) 476 F.Supp.2d. 1178; *In re E.J.* (2010) 47 Cal.4th 1258; and *People v. Lent* (1975) 15 Cal.3d 481; and *In re Taylor* (2015) 60 Cal.4th 1019.

Article 6.5. Transient Sex Offender Supervision

3590. Transient and Residence Determination.

Subsections 3590(a) through 3590(a)(4) are unchanged.

Subsection 3590(b) is amended to read:

(b) When determining whether a residence has been established, the Pparole Aagent shall utilize all available resources and information. If the a review of the complete set of circumstances indicates residency has been established, and a reasonable and prudent Pparole Aagent reviewing the same information would draw the same conclusion, then a residence has been established. After a transient sex offender establishes a residence, he or she is no longer recognized as transient, and:

Subsection 3590(b)(1) is unchanged, but is shown for reference.

(1) Continues to have a lifetime obligation to register as a sex offender, but is subject to the registration requirements as provided under PC section 290.010.

Subsection 3590(b)(2) is amended to read:

(2) May be subject to ~~one or more~~ residency restrictions as described in sections 3571 and 3582.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 290.010, 290.011(g), 3003(g), ~~3003.5(b)~~ and 5054, Penal Code.

3590.1. Approved Regular Entrance at an Address.

Section 3590.1 is unchanged, but is shown for reference.

Transient sex offenders are permitted the following repeated and regular entries at an address and such entries shall not be considered as establishing residency:

Subsection 3590.1(a) is amended to read:

(a) For the purpose of charging the Global Positioning System (GPS) device as directed in the sex offender's conditions of parole, ~~paroled sex offenders are required to wear as described in section 3561.~~

Subsection 3590.1(b) is amended to read:

(b) For the purpose of ~~approved~~ employment previously approved by the Parole Agent.

Subsection 3590.1(c) is unchanged.

Subsection 3590.1(d) is amended to read:

(d) For the purpose of obtaining care, treatment, or other services provided by licensed providers.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 5054, Penal Code.

3590.2. Transient Sex Offender Location Restrictions.

Subsection 3590.2(a) is unchanged, but is shown for reference purposes.

(a) Transient sex offenders staying at locations without street addresses, including but not limited to bridges, transient encampments, and bus stops, which may be near schools, parks, or areas where children regularly gather as described in section 3571(a), are not subject to residence restrictions established in statute, as these locations are not defined as residences that are located by a street address as provided in section 3590.

Subsection 3590.2(b) is amended to read:

(b) The locations described in subsection 3590.2(a) may not be acceptable for a parolee to reside at or to frequent based upon his or her existing special conditions of parole, and/or criminal history, and/or local community ordinances. Special conditions of parole may be imposed when warranted to address these circumstances.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Section 3003(g), 3003.5(b), 3053(a) and 5054, Penal Code; and *People v. Lent* (1975) 15 Cal.3d 481.

3590.3. Supervision of Transient Sex Offenders.

Subsection 3590.3(a) is amended to read:

(a) Transient sex offenders are subject to parole supervision contact requirements as described in section 3504, except that: Instead of completing the required face-to-face residence contact, the Parole Agent shall contact the parolee at either his or her place of employment (if employed) or “in the field,” within the community where the parolee is located. This may include a residence where the parolee appears to be residing. All contacts shall be documented by the Parole Agent on a CDCR Form 1650-D (Rev. 07/1006/12), Record of Supervision, which is incorporated by reference.

Subsection 3590.3(b) is amended to read:

(b) Transient sex offenders shall be required to disclose the locations where they have slept, or intend to sleep at night, during any contact with the Parole Agent.

Subsection 3590.3(c) is amended to read:

(c) During case reviews, the parole unit sSupervisor shall ensure that the Parole Agent is meeting current contact case supervision specifications as described in section 3504.

Note: Authority cited: Sections 5058 and 5058.3, Penal Code. Reference: Sections 3003, 3003.5 and 5054, Penal Code.

- Adopt -

Static-99R

Question Number	Risk Factor	Codes		Score
1	Age at release	Aged 18 to 34.9		1
		Aged 35 to 39.9		0
		Aged 40 to 59.9		-1
		Aged 60 or older		-3
2	Ever Lived With	Ever lived with lover for at least two years?		
		Yes		0
		No		1
3	Index non-sexual violence - Any Convictions	No		0
		Yes		1
4	Prior non-sexual violence - Any Convictions	No		0
		Yes		1
5	Prior Sex Offences	<u>Charges</u>	<u>Convictions</u>	
		0	0	0
		1,2	1	1
		3-5	2,3	2
		6+	4+	3
6	Prior sentencing dates (excluding index)	3 or less		0
		4 or more		1
7	Any convictions for non-contact sex offences	No		0
		Yes		1
8	Any Unrelated Victims	No		0
		Yes		1
9	Any Stranger Victims	No		0
		Yes		1
10	Any Male Victims	No		0
		Yes		1
	Total Score	Add up scores from individual risk factors		

Translating Static-99R scores into risk categories

<u>Score</u>	<u>Label for Risk Category</u>
-3 through 1	= Low
2, 3	= Low-Moderate
4, 5	= Moderate-High
6 plus	= High

- Adopt -

Female Sex Offender Risk Assessment (FSORA)

Offender Number:	Name:	EPRD / RRD:	Screening Date:
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Screener: _____

The following is a guide for assessing a female sex offender's potential risk of acting out sexually in the future. The assessment should be made prior to release so the parolee can be immediately placed on the appropriate caseload.

FSORA Risk Assessment Worksheet	
Low Risk Offender:	
<input type="radio"/>	<ul style="list-style-type: none">■ 1-2 registerable sex offense(s) in the record, along with other non-sex related offense(s).■ Controlling offense is non-sexual.■ Offending sexually in an opportunistic / situational manner rather than in a primarily deviant sexual orientation. <p>Comments:</p> <hr/> <hr/> <hr/>
Moderate Risk Offender:	
<input type="radio"/>	<ul style="list-style-type: none">■ Several sex offenses in background along with other non-sex related offenses.■ If controlling offense is sexual, it is more opportunistic or situational than a primary deviant sexual orientation. <p>Comments:</p> <hr/> <hr/> <hr/>
High Risk Offender:	
<input type="radio"/>	<ul style="list-style-type: none">■ Controlling offense is sexual or is related to an established pattern of deviant sexual behavior.■ There are usually other sexual offenses in the background.■ Minimal or no history of non-sex related offenses.■ Offenses clearly present a deviant sexual orientation. <p>Comments:</p> <hr/> <hr/> <hr/>

- Deleted -

Location: Institution/Parole Region

Log No.

Category

1. _____

1. _____

2. _____

2. _____

**INMATE/PAROLEE
APPEAL FORM**

CDC 802 (12/87)

You may appeal any policy, action or decision which has a significant adverse effect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER

A. Describe Problem: _____

If you need more space, attach one additional sheet.

B. Action Requested: _____

Inmate/Parolee Signature: _____

Date Submitted: _____

C. INFORMAL LEVEL (Date Received: _____)

Staff Response: _____

Staff Signature: _____

Date Returned to Inmate: _____

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: _____

Date Submitted: _____

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

~~- Deleted -~~

First Level Granted P. Granted Denied Other _____

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: _____ Due Date: _____

Interviewed by: _____

Staff Signatures: _____ Title: _____ Date Completed: _____

Division Head Approved: _____ Returned: _____

Signature: _____ Title: _____ Date to Inmate: _____

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

Second Level Granted P. Granted Denied Other _____

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: _____ Due Date: _____

See Attached Letter

Signature: _____ Date Completed: _____

Warden/Superintendent Signature: _____ Date Returned to Inmate: _____

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

Signature: _____ Date Submitted: _____

For the Director's Review, submit all documents to: Director of Corrections
P.O. Box 942883
Sacramento, CA 94283-0001
Attn: Chief, Inmate Appeals

DIRECTOR'S ACTION: Granted P. Granted Denied Other _____

See Attached Letter

Date: _____

- Adopted -

IAB USE ONLY	Institution/Parole Region: _____	Log #: _____	Category: _____
FOR STAFF USE ONLY			

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/ remedy available. See California Code of Regulations, Title 15, Section (CCR) 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that lead to the filing of this appeal. If additional space is needed, only one CDCR Form 502-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First)	CDC Number	Unit/Cell Number	Assignment
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State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

A. Explain your issue (if you need more space, use Section A of the CDCR 602-A):

B. Action requested (if you need more space, use Section B of the CDCR 602-A):

Supporting Documents: Refer to CCR 3084.3.

Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

No, I have not attached any supporting documents. Reason:

Inmate/Parolee Signature: _____ Date Submitted: _____

By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 502-A Attached? Yes No

This appeal has been:

Bypassed at the First Level of Review. Go to Section E.

Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____

Cancelled (See attached letter) Date: _____

Accepted at the First Level of Review.

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

First Level Responder: Complete a First Level response. Include interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____

Reviewer: _____ Title: _____ Signature: _____

Date received by AC: _____

AC Use Only
Date mailed/delivered to appellant ____ / ____ / ____

- Adopted -

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

Inmate/Parolee Signature: _____ Date Submitted: _____

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? Yes No

This appeal has been:

- By-passed at Second Level of Review. Go to Section G.
- Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____
- Cancelled (See attached letter)
- Accepted at the Second Level of Review

Assigned to: _____ Title: _____ Date Assigned: _____ Date Due: _____

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: _____ Interview Location: _____

Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: _____ Title: _____ Signature: _____ Date completed: _____
(Print Name)

Reviewer: _____ Title: _____ Signature: _____
(Print Name)

Date received by AC: _____

AC Use Only
Date mailed/delivered to appellant ____/____/____

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Inmate/Parolee Signature: _____ Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

- Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____
- Cancelled (See attached letter) Date: _____
- Accepted at the Third Level of Review. Your appeal issue is Granted Granted in Part Denied Other: _____

See attached Third Level response.

Third Level Use Only
Date mailed/delivered to appellant ____/____/____

Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because; State reason. (If withdrawal is conditional, list conditions.)

Print Staff Name: _____ Inmate/Parolee Signature: _____ Date: _____
Title: _____ Signature: _____ Date: _____