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AB-2888 Sex crimes: mandatory prison sentence. (2015-2016)

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Assembly Bill No. 2888

CHAPTER 863

An act to amend Section 1203.065 of the Penal Code, relating to probation.

[Approved by Governor September 30, 2016. Filed with Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2888, Low. Sex crimes: mandatory prison sentence.

Existing law prohibits a court from granting probation or suspending the execution or imposition of a sentence if a person is convicted of violating specified provisions of law, including rape by force, pandering, aggravated sexual assault of a child, and others.

This bill would prohibit a court from granting probation or suspending the execution or imposition of a sentence if a person is convicted of rape, sodomy, penetration with a foreign object, or oral copulation if the victim was either unconscious or incapable of giving consent due to intoxication.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1203.065 of the Penal Code is amended to read:

1203.065. (a) Notwithstanding any other law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, a person who is convicted of violating paragraph (2), (3), (4), or (6) of subdivision (a) of Section 261, Section 264.1, 266h, 266i, 266j, or 269, paragraph (2) or (3) of subdivision (c), or subdivision (d), (f), or (i) of Section 286, paragraph (2) or (3) of subdivision (c), or subdivision (d), (f), or (i) of Section 288a, Section 288.7, subdivision (a), (d), or (e) of Section 289, or subdivision (b) of Section 311.4.

(b) (1) Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to a person who is convicted of violating paragraph (7) of subdivision (a) of Section 261, subdivision (k) of Section 286, subdivision (k) of Section 288a, subdivision (g) of Section 289, or Section 220 for assault with intent to commit a specified sexual offense.

(2) If probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.