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AB-2106 Probation. (2023-2024)

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Date Published: 09/30/2024 09:00 PM

Assembly Bill No. 2106

CHAPTER 1007

An act to add Section 1203.044 to the Penal Code, relating to probation.

[Approved by Governor September 30, 2024. Filed with Secretary of State September 30, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2106, McCarty. Probation.

Existing law authorizes courts to suspend the imposition or execution of punishments in misdemeanor cases and instead enforce the terms of probation for a period not to exceed one year, except for offenses for which existing law prescribes specific probation lengths.

This bill would require, in instances where a defendant is charged with a controlled substance offense and granted probation, the court to order a drug treatment program or drug education, if an appropriate program with capacity to accept the defendant has been identified by the probation officer, as specified. The bill would authorize a court to revoke probation and impose a new grant of probation if the court determines the defendant has willfully failed to comply with the treatment program or education.

By expanding the duties of probation officers, this bill would impose 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, if the Commission on State Mandates determines that the bill contains costs 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 Local Program: yes

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

SECTION 1. Section 1203.044 is added to the Penal Code, to read:

1203.044. (a) (1) In instances where a defendant is charged with a controlled substance offense and granted probation, the court shall order a drug treatment program or drug education pursuant to Section 11373 of the Health and Safety Code if an appropriate program with capacity to accept the defendant has been identified by the probation officer.

(2) If, at any point during the probation period, evidence is presented that the defendant is not in compliance with the treatment program or education, the court may revoke probation and, upon a determination that the defendant has willfully failed to comply with the treatment program or education, impose a new grant of probation pursuant to subdivision (e) of Section 1203.2.

(3) When referring a person pursuant to this subdivision, the court shall determine the person's ability to pay. If the court finds that the person is financially unable to pay, the court shall develop a sliding fee schedule for the program based on the person's ability to pay. A person who meets the criteria set forth in Section 68632 of the Government Code shall not be responsible for any costs.

(b) For purposes of this section, "drug treatment program" means a state-licensed or state-certified community drug treatment program, which may include one or more of the following: drug education, outpatient services, narcotic replacement therapy, residential treatment, detoxification services, and aftercare services.

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