

ASSEMBLY BILL

No. 1835

Introduced by Assembly Member Fletcher

February 22, 2012

An act to amend Section 1203.067 of the Penal Code, relating to sex crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1835, as introduced, Fletcher. Sex offenders: probation conditions.

Under existing law, a person who has been convicted of specified felonies related to sexual abuse, including rape and lewd or lascivious acts with a child, is required to comply with specified conditions while on formal probation. These conditions include, but are not limited to, participating in an approved sex offender management program and waiving the privilege against self-incrimination and participation in polygraph examinations.

This bill would make technical, nonsubstantive changes to these provisions.

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

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

- 1 SECTION 1. Section 1203.067 of the Penal Code is amended
2 to read:
3 1203.067. (a) Notwithstanding any other law, before probation
4 may be granted to ~~any~~ a person convicted of a felony specified in
5 Section 261, 262, 264.1, 286, 288, 288a, 288.5, or 289, who is
6 eligible for probation, the court shall do all of the following:

- 1 (1) Order the defendant evaluated pursuant to Section 1203.03,
2 or similar evaluation by the county probation department.
- 3 (2) Conduct a hearing at the time of sentencing to determine if
4 probation of the defendant would pose a threat to the victim. The
5 victim shall be notified of the hearing by the prosecuting attorney
6 and given an opportunity to address the court.
- 7 (3) Order ~~any~~ a psychiatrist or psychologist appointed pursuant
8 to Section 288.1 to include a consideration of the threat to the
9 victim and the defendant's potential for positive response to
10 treatment in making his or her report to the court. Nothing in this
11 section shall be construed to require the court to order an
12 examination of the victim.
- 13 (b) On or after July 1, 2012, the terms of probation for ~~persons~~
14 a person placed on formal probation for an offense that requires
15 registration pursuant to Sections 290 to 290.023, inclusive, shall
16 include all of the following:
- 17 (1) ~~Persons~~ A person placed on formal probation prior to July
18 1, 2012, shall participate in an approved sex offender management
19 program, following the standards developed pursuant to Section
20 9003, for a period of not less than one year or the remaining term
21 of probation if it is less than one year. The length of the period in
22 the program is to be determined by the certified sex offender
23 management professional in consultation with the probation officer
24 and as approved by the court.
- 25 (2) ~~Persons~~ A person placed on formal probation on or after
26 July 1, 2012, shall successfully complete a sex offender
27 management program, following the standards developed pursuant
28 to Section 9003, as a condition of release from probation. The
29 length of the period in the program shall be not less than one year,
30 up to the entire period of probation, as determined by the certified
31 sex offender management professional in consultation with the
32 probation officer and as approved by the court.
- 33 (3) Waiver of ~~any~~ the privilege against self-incrimination and
34 participation in polygraph examinations, which shall be part of the
35 sex offender management program.
- 36 (4) Waiver of ~~any~~ psychotherapist-patient privilege to enable
37 communication between the sex offender management professional
38 and supervising probation officer, pursuant to Section 290.09.
- 39 (c) ~~Any~~ A defendant ordered to be placed in an approved sex
40 offender management program pursuant to subdivision (b) shall

1 be responsible for paying the expense of his or her participation
2 in the program as determined by the court. The court shall take
3 into consideration the ability of the defendant to pay, and no
4 defendant shall be denied probation because of his or her inability
5 to pay.

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