

ASSEMBLY BILL

No. 994

Introduced by Assembly Member Lowenthal

February 22, 2013

An act to amend Section 1001.2 of the Penal Code, relating to diversion programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 994, as introduced, Lowenthal. Misdemeanor diversion programs.

Under existing law, prosecution of an offense filed as a misdemeanor may be postponed, either temporarily or permanently, at any point in the judicial process from the point at which the accused is charged until adjudication, for the person charged to participate in a diversion program for the treatment of problem drinking or alcoholism. Existing law requires the district attorney of each county annually to review any diversion program. Existing law prohibits a program from continuing without the approval of the district attorney and prohibits a person from participating in a diversion program without the authorization of the district attorney.

This bill would require each county to establish and maintain a program and would remove the requirement for approval, both of the program and the participation by an individual, by the district attorney. By requiring diversion programs in additional counties 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 these statutory provisions.

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

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

1 SECTION 1. Section 1001.2 of the Penal Code is amended to
2 read:

3 1001.2. (a) This chapter shall not apply to ~~any a~~ pretrial
4 diversion or posttrial ~~programs~~ *program* for the treatment of
5 problem drinking or alcoholism utilized for persons convicted of
6 one or more offenses under Section 23152 or 23153 or former
7 Section 23102 of the Vehicle Code or to a pretrial diversion
8 ~~programs~~ *program* established pursuant to Chapter 2.5
9 (commencing with Section 1000) of this title ~~nor~~. Nor shall this
10 chapter be deemed to authorize ~~any a~~ pretrial diversion or posttrial
11 ~~programs~~ *program* for persons alleged to have committed a
12 violation of Section 23152 or 23153 of the Vehicle Code.

13 ~~(b) The district attorney of each county shall review annually~~
14 ~~any diversion program established pursuant to this chapter, and~~
15 ~~no program shall continue without the approval of the district~~
16 ~~attorney. No person shall be diverted under a program unless it~~
17 ~~has been approved by the district attorney. Nothing in this~~
18 ~~subdivision shall authorize the prosecutor to determine whether a~~
19 ~~particular defendant shall be diverted.~~

20 *(b) Each county shall establish and maintain a diversion*
21 *program pursuant to this chapter.*

22 SEC. 2. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.