

AMENDED IN SENATE JANUARY 6, 2014

SENATE BILL

No. 199

Introduced by Senator Senators De León, Evans, and Wolk
(Principal coauthors: Assembly Members Chesbro, Levine, and Yamada)

February 7, 2013

An act to amend Sections ~~1230 and 1230.1~~ 16250 and 16700 of the Penal Code, relating to ~~community corrections~~ BB devices.

LEGISLATIVE COUNSEL'S DIGEST

SB 199, as amended, De León. ~~Probation: community corrections: BB devices.~~

Existing law prohibits a person from furnishing a BB device, defined to include a spot marker gun, to a minor without the permission of the minor's parent or guardian, and prohibits selling a BB device to a minor. Violation of either of these prohibitions is a crime. Existing law defines a BB device as any instrument that expels a projectile, such as a BB or pellet, that does not exceed 6 millimeters in caliber.

This bill would delete the 6 millimeter restriction from the definition of a BB device. By including a device that expels a BB or pellet that exceeds 6 millimeters in caliber within the definition of a BB device, this bill would expand the scope of existing crimes, and impose a state-mandated local program.

Existing law generally prohibits anyone from purchasing, selling, manufacturing, shipping, transporting, distributing, or receiving an imitation firearm. A person is liable for a civil fine of not more than \$10,000 for a violation of this prohibition. Existing law excludes BB devices from the definition of imitation firearm for these purposes.

This bill would include BB devices within the definition of imitation firearm for purposes of that prohibition, but would exclude spot marker guns that expel a projectile larger than 10 millimeters in caliber.

Existing law, for purposes of regulating imitation firearms, adopts coloration and construction schemes prescribed by federal law. Existing law includes a cross-reference to those federal provisions.

This bill would delete the federal provision cross-reference.

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 no reimbursement is required by this act for a specified reason.

~~Existing law authorizes each county to establish a Community Corrections Performance Incentives Fund to receive state moneys to implement a community corrections program consisting of a system of felony probation supervision services to, among other things, manage and reduce offender risk while under felony probation supervision and upon reentry from jail into the community. Existing law requires a community corrections program to be implemented by probation and advised by a local Community Corrections Partnership, consisting of specified members, including, but not limited to, the sheriff and a chief of police. Existing law requires a Community Corrections Partnership to recommend a local plan to the county board of supervisors for the implementation of public safety realignment.~~

~~This bill would add a rank-and-file deputy sheriff or a rank-and-file police officer, and a rank-and-file probation officer or a deputy probation officer, each to be appointed by a local labor organization, to the membership of a Community Corrections Partnership. The bill would require the vote of the rank-and-file deputy sheriff or rank-and-file police officer, and the rank-and-file probation officer or a deputy probation officer, on the local plan.~~

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

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

1 SECTION 1. Section 16250 of the Penal Code is amended to
2 read:

1 16250. As used in this part, “BB device” means any instrument
2 that expels a projectile, such as a BB or a pellet, ~~not exceeding~~
3 ~~6mm caliber~~, through the force of air pressure, gas pressure, or
4 spring action, or any spot marker gun.

5 *SEC. 2. Section 16700 of the Penal Code is amended to read:*

6 16700. (a) As used in this part, “imitation firearm” means any
7 BB device, toy gun, replica of a firearm, or other device that is so
8 substantially similar in coloration and overall appearance to an
9 existing firearm as to lead a reasonable person to perceive that the
10 device is a firearm.

11 (b) As used in Section 20165, “imitation firearm” does not
12 include any of the following:

13 (1) A nonfiring collector’s replica that is historically significant,
14 and is offered for sale in conjunction with a wall plaque or
15 presentation case.

16 (2) A ~~BB device~~ *spot marker gun which expels a projectile that*
17 *is greater than 10mm caliber.*

18 (3) A device where the entire exterior surface of the device is
19 white, bright red, bright orange, bright yellow, bright green, bright
20 blue, bright pink, or bright purple, either singly or as the
21 predominant color in combination with other colors in any pattern,
22 ~~as provided by federal regulations governing imitation firearms,~~
23 or where the entire device is constructed of transparent or
24 translucent materials which permits unmistakable observation of
25 the device’s complete contents, ~~as provided by federal regulations~~
26 ~~governing imitation firearms contents.~~

27 *SEC. 3. No reimbursement is required by this act pursuant to*
28 *Section 6 of Article XIII B of the California Constitution because*
29 *the only costs that may be incurred by a local agency or school*
30 *district will be incurred because this act creates a new crime or*
31 *infraction, eliminates a crime or infraction, or changes the penalty*
32 *for a crime or infraction, within the meaning of Section 17556 of*
33 *the Government Code, or changes the definition of a crime within*
34 *the meaning of Section 6 of Article XIII B of the California*
35 *Constitution.*

36 ~~SECTION 1. Section 1230 of the Penal Code is amended to~~
37 ~~read:~~

38 ~~1230. (a) Each county is hereby authorized to establish in each~~
39 ~~county treasury a Community Corrections Performance Incentives~~

1 Fund (CCPIF), to receive all amounts allocated to that county for
2 purposes of implementing this chapter.
3 ~~(b) In any fiscal year for which a county receives moneys to be~~
4 ~~expended for the implementation of this chapter, the moneys,~~
5 ~~including interest, shall be made available to the CPO of that~~
6 ~~county, within 30 days of the deposit of those moneys into the~~
7 ~~fund, for the implementation of the community corrections program~~
8 ~~authorized by this chapter.~~
9 ~~(1) The community corrections program shall be developed and~~
10 ~~implemented by probation and advised by a local Community~~
11 ~~Corrections Partnership.~~
12 ~~(2) The local Community Corrections Partnership shall be~~
13 ~~chaired by the CPO and comprised of the following membership:~~
14 ~~(A) The presiding judge of the superior court, or his or her~~
15 ~~designee.~~
16 ~~(B) A county supervisor or the chief administrative officer for~~
17 ~~the county or a designee of the board of supervisors.~~
18 ~~(C) The district attorney.~~
19 ~~(D) The public defender.~~
20 ~~(E) The sheriff.~~
21 ~~(F) A rank-and-file deputy sheriff or a rank-and-file police~~
22 ~~officer, appointed by the local labor organization.~~
23 ~~(G) A chief of police.~~
24 ~~(H) A rank-and-file probation officer or a deputy probation~~
25 ~~officer, appointed by the local labor organization.~~
26 ~~(I) The head of the county department of social services.~~
27 ~~(J) The head of the county department of mental health.~~
28 ~~(K) The head of the county department of employment.~~
29 ~~(L) The head of the county alcohol and substance abuse~~
30 ~~programs.~~
31 ~~(M) The head of the county office of education.~~
32 ~~(N) A representative from a community-based organization with~~
33 ~~experience in successfully providing rehabilitative services to~~
34 ~~persons who have been convicted of a criminal offense.~~
35 ~~(O) An individual who represents the interests of victims.~~
36 ~~(3) Funds allocated to probation pursuant to this act shall be~~
37 ~~used to provide supervision and rehabilitative services for adult~~
38 ~~felony offenders subject to probation, and shall be spent on~~
39 ~~evidence-based community corrections practices and programs,~~

1 as defined in subdivision (d) of Section 1229, which may include,
2 but are not limited to, the following:

3 (A) Implementing and expanding evidence-based risk and needs
4 assessments.

5 (B) Implementing and expanding intermediate sanctions that
6 include, but are not limited to, electronic monitoring, mandatory
7 community service, home detention, day reporting, restorative
8 justice programs, work furlough programs, and incarceration in
9 county jail for up to 90 days.

10 (C) Providing more intensive probation supervision.

11 (D) Expanding the availability of evidence-based rehabilitation
12 programs, including, but not limited to, drug and alcohol treatment,
13 mental health treatment, anger management, cognitive behavior
14 programs, and job training and employment services.

15 (E) Evaluating the effectiveness of rehabilitation and supervision
16 programs and ensuring program fidelity.

17 (4) The CPO shall have discretion to spend funds on any of the
18 above practices and programs consistent with this act but, at a
19 minimum, shall devote at least 5 percent of all funding received
20 to evaluate the effectiveness of those programs and practices
21 implemented with the funds provided pursuant to this chapter. A
22 CPO may petition the Administrative Office of the Courts to have
23 this restriction waived, and the Administrative Office of the Courts
24 shall have the authority to grant that petition, if the CPO can
25 demonstrate that the department is already devoting sufficient
26 funds to the evaluation of these programs and practices.

27 (5) Each probation department receiving funds under this chapter
28 shall maintain a complete and accurate accounting of all funds
29 received pursuant to this chapter.

30 SEC. 2.— Section 1230.1 of the Penal Code is amended to read:

31 1230.1.— (a) Each county local Community Corrections
32 Partnership established pursuant to subdivision (b) of Section 1230
33 shall recommend a local plan to the county board of supervisors
34 for the implementation of the 2011 public safety realignment.

35 (b) The plan shall be voted on by an executive committee of
36 each county's Community Corrections Partnership consisting of
37 the chief probation officer of the county as chair, a chief of police,
38 the sheriff, a rank-and-file deputy sheriff or a rank-and-file police
39 officer, the district attorney, the public defender, the presiding
40 judge of the superior court, or his or her designee, a rank-and-file

1 ~~probation officer or a deputy probation officer, and one department~~
2 ~~representative listed in either subparagraph (I), (J), or (L) of~~
3 ~~paragraph (2) of subdivision (b) of Section 1230, as designated by~~
4 ~~the county board of supervisors for purposes related to the~~
5 ~~development and presentation of the plan.~~
6 ~~(e) The plan shall be deemed accepted by the county board of~~
7 ~~supervisors unless the board rejects the plan by a vote of four-fifths~~
8 ~~of the board, in which case the plan goes back to the Community~~
9 ~~Corrections Partnership for further consideration.~~
10 ~~(d) Consistent with local needs and resources, the plan may~~
11 ~~include recommendations to maximize the effective investment~~
12 ~~of criminal justice resources in evidence-based correctional~~
13 ~~sanctions and programs, including, but not limited to, day reporting~~
14 ~~centers, drug courts, residential multiservice centers, mental health~~
15 ~~treatment programs, electronic and GPS monitoring programs,~~
16 ~~victim restitution programs, counseling programs, community~~
17 ~~service programs, educational programs, and work training~~
18 ~~programs.~~