

**ASSEMBLY BILL**

**No. 3316**

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**Introduced by Assembly Member Tucker**

February 23, 1996

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An act to amend Section 11837 of the Health and Safety Code, relating to alcohol and drug programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 3316, as introduced, Tucker. Driving under the influence: treatment programs.

Existing law provides that the State Department of Alcohol and Drug Programs is the sole authority for the licensure of multiple offender drinking driver programs.

Existing law authorizes a court to consider certain relevant information about the person made available pursuant to a presentence investigation, and requires the court to obtain from the Department of Motor Vehicles a copy of the person's driving record to determine whether the person is eligible to participate in a licensed 18-month or 30-month program.

This bill would require the probation department, when preparing a presentencing report for the court, to consider the suitability of placing the defendant in a treatment program that includes the administration of nonaddicting medications to ameliorate an alcohol or controlled substance problem.

This bill would, if the probation department recommends that this type of program is a suitable option for the defendant who would like the court to consider this option, require the defendant to obtain from his or her physician and surgeon a

prescription for the medication, and a finding that the treatment is medically suitable for the defendant, prior to consideration of this alternative by the court.

By requiring the probation department to comply with these requirements, 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 11837 of the Health and Safety  
2 Code is amended to read:  
3 11837. (a) Pursuant to the provisions of law relating  
4 to suspension of a person’s privilege to operate a motor  
5 vehicle upon conviction for driving while under the  
6 influence of any alcoholic beverage or drug, or under the  
7 combined influence of any alcoholic beverage and any  
8 drug, as set forth in paragraph (3) or (4) of subdivision  
9 (a) of Section 13352 of the Vehicle Code, the Department  
10 of Motor Vehicles shall restrict the driving privilege  
11 pursuant to Section 13352.5 of the Vehicle Code, if the  
12 court has notified the department pursuant to Section  
13 13352.5 of the Vehicle Code that the person convicted of  
14 that offense has consented to participate for at least 18  
15 months in a program designed to offer alcohol and other  
16 drug education and counseling services that is licensed  
17 pursuant to this chapter.



1 (b) In determining whether to refer a person, who is  
2 ordered to participate in a program pursuant to Section  
3 668 of the Harbors and Navigation Code, in a licensed  
4 alcohol and other drug education and counseling services  
5 program pursuant to Section 23161 of the Vehicle Code,  
6 or, pursuant to Section 23166, 23171, 23176, 23181, 23186,  
7 or 23191 of the Vehicle Code, in a licensed 18-month or  
8 30-month program, the court may consider any relevant  
9 information about the person made available pursuant to  
10 a presentence investigation, ~~which~~ *that* is permitted but  
11 not required under Section 23205 of the Vehicle Code, or  
12 other screening procedure. That information shall not be  
13 furnished, however, by any person who also provides  
14 services in a privately operated, licensed program or who  
15 has any direct interest in a privately operated, licensed  
16 program. In addition, the court shall obtain from the  
17 Department of Motor Vehicles a copy of the person's  
18 driving record to determine whether the person is  
19 eligible to participate in a licensed 18-month or 30-month  
20 program pursuant to this chapter. *When preparing a*  
21 *presentencing report for the court, the probation*  
22 *department shall consider the suitability of placing the*  
23 *defendant in a treatment program that includes the*  
24 *administration of nonaddicting medications to*  
25 *ameliorate an alcohol or controlled substance problem. If*  
26 *the probation department recommends that this type of*  
27 *program is a suitable option for the defendant, the*  
28 *defendant who would like the court to consider this*  
29 *option shall obtain from his or her physician and surgeon*  
30 *a prescription for the medication, and a finding that the*  
31 *treatment is medically suitable for the defendant, prior to*  
32 *consideration of this alternative by the court.*

33 (c) The court may, as a condition of probation  
34 pursuant to Section 23161 or 23181 of the Vehicle Code,  
35 refer a first offender to a licensed program to attend all  
36 of the education, group counseling, and interview  
37 sessions described in this chapter if ordered to participate  
38 in six, nine, or 12 months of program activities.  
39 Notwithstanding Section 13352.5 of the Vehicle Code, if  
40 a first offender is referred to a licensed program pursuant



1 to Section 23161 or 23181 of the Vehicle Code, that person  
2 may participate in a program if convicted of another  
3 offense punishable under Section 23165 or 23185 of the  
4 Vehicle Code.

5 (d) The court may, subject to Section 11837.2, and as  
6 a condition of probation, refer a person to a licensed  
7 program, even though the person's privilege to operate  
8 a motor vehicle is restricted, suspended, or revoked. An  
9 18-month program described in Section 23166 or 23186 of  
10 the Vehicle Code or a 30-month program described in  
11 Section 23171, 23176, or 23191 of the Vehicle Code may  
12 include treatment of family members and significant  
13 other persons related to the convicted person with the  
14 consent of those family members and others as described  
15 in this chapter, if there is no increase in the costs of the  
16 program to the convicted person.

17 SEC. 2. Notwithstanding Section 17610 of the  
18 Government Code, if the Commission on State Mandates  
19 determines that this act contains costs mandated by the  
20 state, reimbursement to local agencies and school  
21 districts for those costs shall be made pursuant to Part 7  
22 (commencing with Section 17500) of Division 4 of Title  
23 2 of the Government Code. If the statewide cost of the  
24 claim for reimbursement does not exceed one million  
25 dollars (\$1,000,000), reimbursement shall be made from  
26 the State Mandates Claims Fund.

27 Notwithstanding Section 17580 of the Government  
28 Code, unless otherwise specified, the provisions of this act  
29 shall become operative on the same date that the act  
30 takes effect pursuant to the California Constitution.

