

Assembly Bill No. 133

CHAPTER 160

An act to amend Section 1203.085 of the Penal Code, relating to crimes.

[Approved by Governor August 2, 1997. Filed with Secretary of State August 4, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 133, Scott. Crimes: probation.

Existing law provides that a person who is convicted of a felony while on parole for a violent felony, or who is convicted of a violent felony while on parole for any felony, is ineligible for probation for the new offense.

This bill would provide, in addition, that a person convicted of a serious felony who was on parole for a felony offense at the time of the commission of the new offense, or convicted of any felony while on parole for a serious felony, is ineligible for probation. By increasing the punishment for existing crimes, the 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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 1203.085 of the Penal Code is amended to read:

1203.085. (a) Any person convicted of an offense punishable by imprisonment in the state prison but without an alternate sentence to a county jail shall not be granted probation or have the execution or imposition of sentence suspended, if the offense was committed while the person was on parole from state prison pursuant to Section 3000, following a term of imprisonment imposed for a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7.

(b) Any person convicted of a violent felony, as defined in subdivision (c) of Section 667.5, or a serious felony, as defined in subdivision (c) of Section 1192.7, shall not be granted probation or have the execution or imposition of sentence suspended, if the



offense was committed while the person was on parole from state prison pursuant to Section 3000.

(c) The existence of any fact that would make a person ineligible for probation under subdivision (a) or (b) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 2. Section 1 of this act, which amends Section 1203.085 of the Penal Code, shall not be construed to affect or supersede the application of Sections 667 or 1170.12 of the Penal Code.

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

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

