

Introduced by Senator AlquistFebruary 15, 2008

An act to amend Sections 290.05, 290.06, 290.07, 290.3, and 1203 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1253, as introduced, Alquist. Sex offenders: assessments.

Existing law establishes the State Authorized Risk Assessment Tool for Sex Offenders (SARATSO) Training Committee to develop a training program for persons authorized to perform those risk assessments.

This bill would require the committee to monitor the consistency and quality of risk assessments and to arrange for experts in the field to train those who oversee the training of persons who administer the SARATSO and to monitor the scoring of the SARATSO. The bill would provide a process whereby, if an agency that scores the SARATSO believes that a score is too high or low, that agency may submit the case to certain experts.

Existing law requires the State Department of Corrections and Rehabilitation and the State Department of Mental Health to perform a risk assessment of every eligible person under their jurisdiction, as specified.

This bill would require those departments to each maintain a database to record the risk assessment scores of those persons.

Existing law requires specified persons who administer the SARATSO to have access to all relevant records concerning a person on whom a risk assessment is being performed.

This bill would add any person acting under authority from the SARATSO Review Committee as an expert to also have access to those records.

Under existing law, every person who is convicted of a sex offense, as defined, is required to pay a fine of up to \$300 for a first conviction or \$500 for a subsequent conviction.

This bill would change the distribution of those moneys, as specified, and would also increase those amounts by \$200 each, with that extra amount being transferred to the State Department of Mental Health to be used to retain experts in the field of risk assessment, for specified purposes.

Existing law requires probation officers to include in their probation reports information on the results of the SARATSO performed on any person required to register as a sex offender pursuant to certain provisions of law.

This bill would require probation officers to include that information on additional persons, including certain juveniles.

By requiring additional SARATSO assessments by county probation officers, 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 290.05 of the Penal Code is amended to
- 2 read:
- 3 290.05. (a) The SARATSO Training Committee shall be
- 4 comprised of a representative of the State Department of Mental
- 5 Health, a representative of the Department of Corrections and
- 6 Rehabilitation, a representative of the Attorney General’s Office,
- 7 and a representative of the Chief Probation Officers of California.
- 8 (b) On or before January 1, 2008, the SARATSO Training
- 9 Committee, in consultation with the Corrections Standards

1 Authority and the Commission on Peace Officer Standards and
2 Training, shall develop a training program for persons authorized
3 by this code to administer the SARATSO, as set forth in Section
4 290.04.

5 (c) (1) The Department of Corrections and Rehabilitation shall
6 be responsible for overseeing the training of persons who will
7 administer the SARATSO pursuant to paragraph (1) or (2) of
8 subdivision (a) of Section 290.06.

9 (2) The State Department of Mental Health shall be responsible
10 for overseeing the training of persons who will administer the
11 SARATSO pursuant to paragraph (3) of subdivision (a) of Section
12 290.06.

13 (3) The Correction Standards Authority shall be responsible for
14 developing standards for the training of persons who will
15 administer the SARATSO pursuant to paragraph (4) or (5) of
16 subdivision (a) of Section 290.06.

17 (4) The Commission on Peace Officer Standards and Training
18 shall be responsible for developing standards for the training of
19 persons who will administer the SARATSO pursuant to subdivision
20 (c) of Section 290.06.

21 (d) The training shall be conducted by experts in the field of
22 risk assessment and the use of actuarial instruments in predicting
23 sex offender risk. Subject to requirements established by the
24 committee, the Department of Corrections and Rehabilitation, the
25 State Department of Mental Health, probation departments, and
26 authorized local law enforcement agencies shall designate key
27 persons within their organizations to attend training and, as
28 authorized by the department, to train others within their
29 organizations designated to perform risk assessments as required
30 or authorized by law. Any person who administers the SARATSO
31 shall receive training no less frequently than every two years.

32 (e) *The SARATSO Training Committee shall monitor the*
33 *consistency and quality of risk assessments, and shall arrange for*
34 *qualified experts in the risk assessment field to train the persons*
35 *responsible for overseeing the training of those persons who are*
36 *required to administer each SARATSO, pursuant to Section 290.06.*
37 *The SARATSO Training Committee shall also arrange for experts*
38 *in the field of risk assessment to monitor the scoring of the*
39 *SARATSO, to ensure inter-rater reliability, and arrange for the*
40 *experts to be available to answer questions regarding scoring of*

1 *the SARATSO, in order to ensure that the scores are accurate and*
2 *legally defensible. If authorized by the SARATSO Review*
3 *Committee, the experts retained pursuant to this subdivision may*
4 *use data collected about California registered sex offenders who*
5 *are assessed pursuant to this section to conduct validation studies*
6 *specific to the California data. The SARATSO Review Committee*
7 *shall consider completed validation studies based on California*
8 *data in its periodic evaluation of each SARATSO, pursuant to*
9 *Section 290.04.*

10 (f) *If the agency responsible for scoring the SARATSO believes*
11 *an individual score is either too high or too low, based on factors*
12 *in the offender's record, the agency may submit the case to the*
13 *experts retained to monitor the scoring of the SARATSO. Those*
14 *experts shall be guided by empirical research in determining*
15 *whether to raise or lower the risk level. Their decision on whether*
16 *to override the previously determined risk level shall be final.*
17 *Agencies that score the SARATSO shall develop a protocol for*
18 *submission of override requests to the experts retained in*
19 *accordance with this subdivision.*

20 (e)

21 (g) *The SARATSO may be performed for purposes authorized*
22 *by statute only by persons trained pursuant to this section.*

23 SEC. 2. Section 290.06 of the Penal Code is amended to read:
24 290.06. Effective on or before July 1, 2008, the SARATSO,
25 as set forth in Section 290.04, shall be administered as follows:

26 (a) (1) *The Department of Corrections and Rehabilitation shall*
27 *assess every eligible person who is incarcerated in state prison.*
28 *Whenever possible, the assessment shall take place at least four*
29 *months, but no sooner than 10 months, prior to release from*
30 *incarceration.*

31 (2) *The department shall assess every eligible person who is on*
32 *parole. Whenever possible, the assessment shall take place at least*
33 *four months, but no sooner than 10 months, prior to termination*
34 *of parole. The department shall record in a database the risk*
35 *assessment scores of persons assessed pursuant to this paragraph*
36 *and paragraph (1), and any risk assessment score that was*
37 *submitted to the department by a probation officer pursuant to*
38 *Section 1203.*

39 (3) *The State Department of Mental Health shall assess every*
40 *eligible person who is committed to that department. Whenever*

1 possible, the assessment shall take place at least four months, but
2 no sooner than 10 months, prior to release from commitment. *The*
3 *State Department of Mental Health shall record in a database the*
4 *risk assessment scores of persons assessed pursuant to this*
5 *paragraph and any risk assessment score that was submitted to*
6 *the department by a probation officer pursuant to Section 1203.*

7 (4) Each probation department shall assess every eligible person
8 for whom it prepares a report pursuant to Section 1203.

9 (5) Each probation department shall assess every eligible person
10 under its supervision who was not assessed pursuant to paragraph
11 (4). The assessment shall take place prior to the termination of
12 probation, but no later than January 1, 2010.

13 (b) If a person required to be assessed pursuant to subdivision
14 (a) was assessed pursuant to that subdivision within the previous
15 five years, a reassessment is permissible but not required.

16 (c) The SARATSO Review Committee established pursuant to
17 Section 290.04, in consultation with local law enforcement
18 agencies, shall establish a plan and a schedule for assessing eligible
19 persons not assessed pursuant to subdivision (a). The plan shall
20 provide for adult males to be assessed on or before January 1,
21 2012, and for females and juveniles to be assessed on or before
22 January 1, 2013, and it shall give priority to assessing those persons
23 most recently convicted of an offense requiring registration as a
24 sex offender. On or before January 15, 2008, the committee shall
25 introduce legislation to implement the plan.

26 (d) On or before January 1, 2008, the SARATSO Review
27 Committee shall research the appropriateness and feasibility of
28 providing a means by which an eligible person subject to
29 assessment may, at his or her own expense, be assessed with the
30 SARATSO by a governmental entity prior to his or her scheduled
31 assessment. If the committee unanimously agrees that such a
32 process is appropriate and feasible, it shall advise the Governor
33 and the Legislature of the selected tool, and it shall post its decision
34 on the Department of Corrections and Rehabilitation's Internet
35 Web site. Sixty days after the decision is posted, the established
36 process shall become effective.

37 (e) For purposes of this section, "eligible person" means a person
38 who was convicted of an offense that requires him or her to register
39 as a sex offender pursuant to Section 290 and who has not been
40 assessed with the SARATSO within the previous five years.

1 SEC. 3. Section 290.07 of the Penal Code is amended to read:

2 290.07. Notwithstanding any other provision of law, any person
3 authorized by statute to administer the State Authorized Risk
4 Assessment Tool for Sex Offenders and trained pursuant to Section
5 290.06, *and any person acting under authority from the SARATSO*
6 *Review Committee as an expert to train, monitor, or review scoring*
7 *by persons who administer the SARATSO pursuant to Section*
8 *290.05*, shall be granted access to all relevant records pertaining
9 to a registered sex offender, including, but not limited to, criminal
10 histories, sex offender registration records, police reports, probation
11 and presentencing reports, judicial records and case files, juvenile
12 records, psychological evaluations and psychiatric hospital reports,
13 sexually violent predator treatment program reports, and records
14 that have been sealed by the courts or the Department of Justice.
15 Records and information obtained under this section shall not be
16 subject to the California Public Records Act, Chapter 3.5
17 (commencing with Section 6250) of Division 7 of Title 1 of the
18 Government Code.

19 SEC. 4. Section 290.3 of the Penal Code is amended to read:

20 290.3. (a) Every person who is convicted of any offense
21 specified in subdivision (c) of Section 290 shall, in addition to any
22 imprisonment or fine, or both, imposed for commission of the
23 underlying offense, be punished by a fine of ~~three hundred dollars~~
24 ~~(\$300)~~ *five hundred dollars (\$500)* upon the first conviction or a
25 fine of ~~five hundred dollars (\$500)~~ *seven hundred dollars (\$700)*
26 upon the second and each subsequent conviction, unless the court
27 determines that the defendant does not have the ability to pay the
28 fine.

29 An amount equal to all fines collected pursuant to this
30 subdivision during the preceding month upon conviction of, or
31 upon the forfeiture of bail by, any person arrested for, or convicted
32 of, committing an offense specified in subdivision (c) of Section
33 290, shall be transferred once a month by the county treasurer to
34 the Controller for deposit in the General Fund. Moneys deposited
35 in the General Fund pursuant to this subdivision shall be transferred
36 by the Controller as provided in subdivision (b).

37 (b) Except as provided in ~~subdivision (d)~~ *subdivisions (d) and*
38 *(e)*, out of the moneys deposited pursuant to subdivision (a) as a
39 result of second and subsequent convictions of Section 290,
40 one-third shall first be transferred to the Department of Justice

1 Sexual Habitual Offender Fund, as provided in paragraph (1) of
2 this subdivision. Out of the remainder of all moneys deposited
3 pursuant to subdivision (a), 50 percent shall be transferred to the
4 Department of Justice Sexual Habitual Offender Fund, as provided
5 in paragraph (1), 25 percent shall be transferred to the Department
6 of Justice DNA Testing Fund, as provided in paragraph (2) DNA
7 Identification Fund, established by Section 76104.6 of the
8 Government Code, and 25 percent shall be allocated equally to
9 counties that maintain a local DNA testing laboratory, as provided
10 in paragraph ~~(3)~~ (2).

11 (1) Those moneys so designated shall be transferred to the
12 Department of Justice Sexual Habitual Offender Fund created
13 pursuant to paragraph (5) of subdivision (b) of Section 11170 and,
14 when appropriated by the Legislature, shall be used for the
15 purposes of Chapter 9.5 (commencing with Section 13885) and
16 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4
17 for the purpose of monitoring, apprehending, and prosecuting
18 sexual habitual offenders.

19 ~~(2) Those moneys so designated shall be directed to the~~
20 ~~Department of Justice and transferred to the Department of Justice~~
21 ~~DNA Testing Fund, which is hereby created, for the exclusive~~
22 ~~purpose of testing deoxyribonucleic acid (DNA) samples for law~~
23 ~~enforcement purposes. The moneys in that fund shall be available~~
24 ~~for expenditure upon appropriation by the Legislature.~~

25 ~~(3)~~

26 (2) Those moneys so designated shall be allocated equally and
27 distributed quarterly to counties that maintain a local DNA testing
28 laboratory. Before making any allocations under this paragraph,
29 the Controller shall deduct the estimated costs that will be incurred
30 to set up and administer the payment of these funds to the counties.
31 Any funds allocated to a county pursuant to this paragraph shall
32 be used by that county for the exclusive purpose of testing DNA
33 samples for law enforcement purposes.

34 (c) Notwithstanding any other provision of this section, the
35 Department of Corrections and Rehabilitation may collect a fine
36 imposed pursuant to this section from a person convicted of a
37 violation of any offense listed in subdivision (c) of Section 290,
38 that results in incarceration in a facility under the jurisdiction of
39 the Department of Corrections and Rehabilitation. All moneys
40 collected by the Department of Corrections and Rehabilitation

1 under this subdivision shall be transferred, once a month, to the
2 Controller for deposit in the General Fund, as provided in
3 subdivision (a), for transfer by the Controller, as provided in
4 subdivision (b).

5 ~~(d) An amount equal to one hundred dollars (\$100) for every~~
6 ~~fine imposed pursuant to subdivision (a) in excess of one hundred~~
7 ~~dollars (\$100).~~ *An amount equal to one-third of every first offense*
8 *collected and one-fifth of every subsequent offense collected*
9 *pursuant to subdivision (a) shall be transferred to the Department*
10 *of Corrections and Rehabilitation to defray the cost of the global*
11 *positioning system used to monitor sex offender parolees.*

12 *(e) An amount equal to two hundred dollars (\$200) for every*
13 *fine imposed pursuant to subdivision (a) shall be transferred to*
14 *the State Department of Mental Health to be placed in a separate*
15 *fund to be used solely to retain experts in the field of risk*
16 *assessment to train, monitor, and oversee the scoring of risk*
17 *assessment instruments, pursuant to subdivision (e) of section*
18 *290.05.*

19 SEC. 5. Section 1203 of the Penal Code is amended to read:

20 1203. (a) As used in this code, “probation” means the
21 suspension of the imposition or execution of a sentence and the
22 order of conditional and revocable release in the community under
23 the supervision of a probation officer. As used in this code,
24 “conditional sentence” means the suspension of the imposition or
25 execution of a sentence and the order of revocable release in the
26 community subject to conditions established by the court without
27 the supervision of a probation officer. It is the intent of the
28 Legislature that both conditional sentence and probation are
29 authorized whenever probation is authorized in any code as a
30 sentencing option for infractions or misdemeanors.

31 (b) (1) Except as provided in subdivision (j), if a person is
32 convicted of a felony and is eligible for probation, before judgment
33 is pronounced, the court shall immediately refer the matter to a
34 probation officer to investigate and report to the court, at a specified
35 time, upon the circumstances surrounding the crime and the prior
36 history and record of the person, which may be considered either
37 in aggravation or mitigation of the punishment.

38 (2) (A) The probation officer shall immediately investigate and
39 make a written report to the court of his or her findings and
40 recommendations, including his or her recommendations as to the

1 granting or denying of probation and the conditions of probation,
2 if granted.

3 (B) Pursuant to Section 828 of the Welfare and Institutions
4 Code, the probation officer shall include in his or her report any
5 information gathered by a law enforcement agency relating to the
6 taking of the defendant into custody as a minor, which shall be
7 considered for purposes of determining whether adjudications of
8 commissions of crimes as a juvenile warrant a finding that there
9 are circumstances in aggravation pursuant to Section 1170 or to
10 deny probation.

11 (C) If the person was convicted of an offense that requires him
12 or her to register as a sex offender pursuant to ~~Section~~ Sections
13 290 to 290.023, inclusive, or if the probation report recommends
14 either that registration be ordered at sentencing pursuant to
15 Section 290.006, or that a juvenile be placed at an institution for
16 an offense that would require registration upon release from that
17 institution pursuant to Section 290.008, the probation officer's
18 report shall include the results of the State-Authorized Risk
19 Assessment Tool for Sex Offenders (SARATSO) administered
20 pursuant to Sections 290.04 to 290.06, inclusive, if applicable.

21 (D) The probation officer shall also include in the report his or
22 her recommendation of both of the following:

23 (i) The amount the defendant should be required to pay as a
24 restitution fine pursuant to subdivision (b) of Section 1202.4.

25 (ii) Whether the court shall require, as a condition of probation,
26 restitution to the victim or to the Restitution Fund and the amount
27 thereof.

28 (E) The report shall be made available to the court and the
29 prosecuting and defense attorneys at least five days, or upon request
30 of the defendant or prosecuting attorney nine days, prior to the
31 time fixed by the court for the hearing and determination of the
32 report, and shall be filed with the clerk of the court as a record in
33 the case at the time of the hearing. The time within which the report
34 shall be made available and filed may be waived by written
35 stipulation of the prosecuting and defense attorneys that is filed
36 with the court or an oral stipulation in open court that is made and
37 entered upon the minutes of the court.

38 (3) At a time fixed by the court, the court shall hear and
39 determine the application, if one has been made, or, in any case,
40 the suitability of probation in the particular case. At the hearing,

1 the court shall consider any report of the probation officer,
2 including the results of the SARATSO, if applicable, and shall
3 make a statement that it has considered the report, which shall be
4 filed with the clerk of the court as a record in the case. If the court
5 determines that there are circumstances in mitigation of the
6 punishment prescribed by law or that the ends of justice would be
7 served by granting probation to the person, it may place the person
8 on probation. If probation is denied, the clerk of the court shall
9 immediately send a copy of the report to the Department of
10 Corrections and Rehabilitation at the prison or other institution to
11 which the person is delivered.

12 (4) The preparation of the report or the consideration of the
13 report by the court may be waived only by a written stipulation of
14 the prosecuting and defense attorneys that is filed with the court
15 or an oral stipulation in open court that is made and entered upon
16 the minutes of the court, except that there shall be no waiver unless
17 the court consents thereto. However, if the defendant is ultimately
18 sentenced and committed to the state prison, a probation report
19 shall be completed pursuant to Section 1203c.

20 (c) If a defendant is not represented by an attorney, the court
21 shall order the probation officer who makes the probation report
22 to discuss its contents with the defendant.

23 (d) If a person is convicted of a misdemeanor, the court may
24 either refer the matter to the probation officer for an investigation
25 and a report or summarily pronounce a conditional sentence. If
26 the person was convicted of an offense that requires him or her to
27 register as a sex offender pursuant to ~~Section~~ *Sections 290 to*
28 *290.023, inclusive, or if the court orders either that registration*
29 *be ordered at sentencing pursuant to Section 290.006, or that a*
30 *juvenile be placed at an institution for an offense that would*
31 *require registration upon release from that institution pursuant*
32 *to Section 290.008, the court shall refer the matter to the probation*
33 *officer for the purpose of obtaining a report on the results of the*
34 *State-Authorized Risk Assessment Tool for Sex Offenders*
35 *administered pursuant to Sections 290.04 to 290.06, inclusive, if*
36 *applicable, which the court shall consider. If the case is not referred*
37 *to the probation officer, in sentencing the person, the court may*
38 *consider any information concerning the person that could have*
39 *been included in a probation report. The court shall inform the*
40 *person of the information to be considered and permit him or her*

1 to answer or controvert the information. For this purpose, upon
2 the request of the person, the court shall grant a continuance before
3 the judgment is pronounced.

4 (e) Except in unusual cases where the interests of justice would
5 best be served if the person is granted probation, probation shall
6 not be granted to any of the following persons:

7 (1) Unless the person had a lawful right to carry a deadly
8 weapon, other than a firearm, at the time of the perpetration of the
9 crime or his or her arrest, any person who has been convicted of
10 arson, robbery, carjacking, burglary, burglary with explosives,
11 rape with force or violence, torture, aggravated mayhem, murder,
12 attempt to commit murder, trainwrecking, kidnapping, escape from
13 the state prison, or a conspiracy to commit one or more of those
14 crimes and who was armed with the weapon at either of those
15 times.

16 (2) Any person who used, or attempted to use, a deadly weapon
17 upon a human being in connection with the perpetration of the
18 crime of which he or she has been convicted.

19 (3) Any person who willfully inflicted great bodily injury or
20 torture in the perpetration of the crime of which he or she has been
21 convicted.

22 (4) Any person who has been previously convicted twice in this
23 state of a felony or in any other place of a public offense which,
24 if committed in this state, would have been punishable as a felony.

25 (5) Unless the person has never been previously convicted once
26 in this state of a felony or in any other place of a public offense
27 which, if committed in this state, would have been punishable as
28 a felony, any person who has been convicted of burglary with
29 explosives, rape with force or violence, torture, aggravated
30 mayhem, murder, attempt to commit murder, trainwrecking,
31 extortion, kidnapping, escape from the state prison, a violation of
32 Section 286, 288, 288a, or 288.5, or a conspiracy to commit one
33 or more of those crimes.

34 (6) Any person who has been previously convicted once in this
35 state of a felony or in any other place of a public offense which,
36 if committed in this state, would have been punishable as a felony,
37 if he or she committed any of the following acts:

38 (A) Unless the person had a lawful right to carry a deadly
39 weapon at the time of the perpetration of the previous crime or his

1 or her arrest for the previous crime, he or she was armed with a
2 weapon at either of those times.

3 (B) The person used, or attempted to use, a deadly weapon upon
4 a human being in connection with the perpetration of the previous
5 crime.

6 (C) The person willfully inflicted great bodily injury or torture
7 in the perpetration of the previous crime.

8 (7) Any public official or peace officer of this state or any city,
9 county, or other political subdivision who, in the discharge of the
10 duties of his or her public office or employment, accepted or gave
11 or offered to accept or give any bribe, embezzled public money,
12 or was guilty of extortion.

13 (8) Any person who knowingly furnishes or gives away
14 phencyclidine.

15 (9) Any person who intentionally inflicted great bodily injury
16 in the commission of arson under subdivision (a) of Section 451
17 or who intentionally set fire to, burned, or caused the burning of,
18 an inhabited structure or inhabited property in violation of
19 subdivision (b) of Section 451.

20 (10) Any person who, in the commission of a felony, inflicts
21 great bodily injury or causes the death of a human being by the
22 discharge of a firearm from or at an occupied motor vehicle
23 proceeding on a public street or highway.

24 (11) Any person who possesses a short-barreled rifle or a
25 short-barreled shotgun under Section 12020, a machinegun under
26 Section 12220, or a silencer under Section 12520.

27 (12) Any person who is convicted of violating Section 8101 of
28 the Welfare and Institutions Code.

29 (13) Any person who is described in paragraph (2) or (3) of
30 subdivision (g) of Section 12072.

31 (f) When probation is granted in a case which comes within
32 subdivision (e), the court shall specify on the record and shall enter
33 on the minutes the circumstances indicating that the interests of
34 justice would best be served by that disposition.

35 (g) If a person is not eligible for probation, the judge shall refer
36 the matter to the probation officer for an investigation of the facts
37 relevant to determination of the amount of a restitution fine
38 pursuant to subdivision (b) of Section 1202.4 in all cases where
39 the determination is applicable. The judge, in his or her discretion,
40 may direct the probation officer to investigate all facts relevant to

1 the sentencing of the person. Upon that referral, the probation
2 officer shall immediately investigate the circumstances surrounding
3 the crime and the prior record and history of the person and make
4 a written report to the court of his or her findings. The findings
5 shall include a recommendation of the amount of the restitution
6 fine as provided in subdivision (b) of Section 1202.4.

7 (h) If a defendant is convicted of a felony and a probation report
8 is prepared pursuant to subdivision (b) or (g), the probation officer
9 may obtain and include in the report a statement of the comments
10 of the victim concerning the offense. The court may direct the
11 probation officer not to obtain a statement if the victim has in fact
12 testified at any of the court proceedings concerning the offense.

13 (i) No probationer shall be released to enter another state unless
14 his or her case has been referred to the Administrator of the
15 Interstate Probation and Parole Compacts, pursuant to the Uniform
16 Act for Out-of-State Probationer or Parolee Supervision (Article
17 3 (commencing with Section 11175) of Chapter 2 of Title 1 of Part
18 4) and the probationer has reimbursed the county that has
19 jurisdiction over his or her probation case the reasonable costs of
20 processing his or her request for interstate compact supervision.
21 The amount and method of reimbursement shall be in accordance
22 with Section 1203.1b.

23 (j) In any court where a county financial evaluation officer is
24 available, in addition to referring the matter to the probation officer,
25 the court may order the defendant to appear before the county
26 financial evaluation officer for a financial evaluation of the
27 defendant's ability to pay restitution, in which case the county
28 financial evaluation officer shall report his or her findings regarding
29 restitution and other court-related costs to the probation officer on
30 the question of the defendant's ability to pay those costs.

31 Any order made pursuant to this subdivision may be enforced
32 as a violation of the terms and conditions of probation upon willful
33 failure to pay and at the discretion of the court, may be enforced
34 in the same manner as a judgment in a civil action, if any balance
35 remains unpaid at the end of the defendant's probationary period.

36 (k) Probation shall not be granted to, nor shall the execution of,
37 or imposition of sentence be suspended for, any person who is
38 convicted of a violent felony, as defined in subdivision (c) of
39 Section 667.5, or a serious felony, as defined in subdivision (c) of

1 Section 1192.7, and who was on probation for a felony offense at
2 the time of the commission of the new felony offense.

3 SEC. 6. If the Commission on State Mandates determines that
4 this act contains costs mandated by the state, reimbursement to
5 local agencies and school districts for those costs shall be made
6 pursuant to Part 7 (commencing with Section 17500) of Division
7 4 of Title 2 of the Government Code.

O