

AMENDED IN ASSEMBLY APRIL 24, 2014

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2373**

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**Introduced by Assembly Member ~~Roger Hernández~~  
*Roger Hernández***

February 21, 2014

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An act to amend Section 1203.74 of the Penal Code, relating to probation officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 2373, as amended, ~~Roger Hernández~~ *Roger Hernández*. Probation officers: funding.

Existing law requires a probation officer to notify the presiding judge of the superior court and the board of supervisors of the county, or city and county, upon a determination that, in the probation officer's opinion, staff and financial resources available to him or her are insufficient to meet his or her statutory or ~~court-ordered~~ *court-ordered* responsibilities. Under existing law, that notification is required to be in writing, to explain which of those responsibilities cannot be met, and to explain what resources are necessary to properly discharge those responsibilities.

This bill would require a county, or city and county, ~~upon~~ *within 30 days of receipt of the notification described above, to either provide determine if it has the resources available to meet the probation officer's specified needs, and to either inform the probation officer and the presiding judge of the superior court that it has the resources and commence providing* the probation officer with the resources he or she has identified as necessary in that notification to properly discharge

~~those responsibilities, or to provide a specified justification for its failure to do so. The bill would require the county, or city and county, responsibilities, or if it makes a determination that it does not have the resources available to meet the probation officer's specified needs, to notify the probation officer and the presiding judge of the superior court of that determination within 10 days. The bill would also require the county, or city and county, within 30 days of that determination, to make a specified financial disclosure to prove that it is unable to meet the probation officer's needs. If the county, or city and county, fails to comply with those deadlines, the bill would require the county, or city and county, to immediately provide the probation officer with the resources he or she has identified as necessary to properly discharge his or her statutory or court-ordered responsibilities. If the financial disclosure identifies certain discretionary moneys, the bill would require the county, or city and county, to provide those moneys to the probation officer to help meet the probation officer's needs. determination. By creating new duties for local government, 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, 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 1203.74 of the Penal Code is amended
- 2 to read:
- 3 1203.74. (a) Upon a determination that, in his or her opinion,
- 4 staff and financial resources available to him or her are insufficient
- 5 to meet his or her statutory ~~or court-ordered~~ *court-ordered*
- 6 responsibilities, the probation officer shall immediately notify the
- 7 presiding judge of the superior court and the board of supervisors
- 8 of the county, or city and county, in writing. The notification shall
- 9 explain which responsibilities cannot be met and what resources

1 are necessary in order that statutory or court ordered responsibilities  
2 can be properly discharged.

3 (b) ~~Upon~~ *Within 30 days of receipt of the notification described*  
4 *in subdivision (a), the county, or city and county, shall determine*  
5 *if it has the resources available to meet the probation officer's*  
6 *needs as described in the notification, and shall do either of the*  
7 *following:*

8 (1) ~~Provide~~ *If it determines that it has the necessary resources,*  
9 *notify the probation officer and the presiding judge of the superior*  
10 *court of that determination and commence providing the probation*  
11 *officer with the resources the probation officer has identified as*  
12 *necessary to properly discharge his or her statutory or court-ordered*  
13 *responsibilities in the notification described in subdivision (a).*

14 (2) (A) ~~If the county, or city and county, makes a determination~~  
15 *If it determines* that it does not have the resources available to  
16 meet the probation officer's needs as identified by the probation  
17 officer in the notification described in subdivision (a), ~~the county,~~  
18 ~~or city and county, shall, within 10 days of that determination, it~~  
19 *shall* notify the probation officer and the presiding judge of the  
20 superior court of that determination.

21 (B) ~~The county, or city and county, shall, within 30 days of the~~  
22 ~~determination described in subparagraph (A), provide a full~~  
23 ~~financial accounting of its General Fund and discretionary moneys~~  
24 ~~in order to demonstrate that it does not have the discretionary~~  
25 ~~resources available to meet the probation officer's needs as~~  
26 ~~identified by the probation officer in the notification described in~~  
27 ~~subdivision (a). This accounting shall be prepared by an~~  
28 ~~independent auditor who is not an employee of the county, or city~~  
29 ~~and county.~~

30 (C) ~~If the county, or city and county, fails to comply with the~~  
31 ~~deadlines in subparagraphs (A) or (B), it shall immediately provide~~  
32 ~~the probation officer with the resources the probation officer has~~  
33 ~~identified as necessary to properly discharge his or her statutory~~  
34 ~~or court-ordered responsibilities in the notification described in~~  
35 ~~subdivision (a).~~

36 (D) ~~If the county's, or the city's and county's, financial~~  
37 ~~accounting described in subparagraph (B) identifies discretionary~~  
38 ~~moneys, those moneys shall immediately be provided to the~~  
39 ~~probation officer to help meet the probation officer's needs as~~

1 identified by the probation officer in the notification described in  
2 subdivision (a):

3 ~~(e) For the purposes of this section, “discretionary moneys”~~  
4 ~~does not include the proceeds of any tax imposed or levied by a~~  
5 ~~local government solely for the local government’s purposes.~~

6 SEC. 2. If the Commission on State Mandates determines that  
7 this act contains costs mandated by the state, reimbursement to  
8 local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code.