

RESOLUTION 02-10-2013

DIGEST

Criminal Law: Exemption from Narcotics Registration While on Prop 36 Probation.

Amends Health and Safety Code section 11590 to eliminate required registration with police for specified drug offenses while a person remains on Proposition 36 probation.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Health and Safety Code section 11590 to eliminate required registration with police for specified drug offenses while a person remains on Proposition 36 probation. This resolution should be approved in principle because the court and probation supervision ensure that the person's whereabouts are known.

Should a probationer fail to complete probation, that person would be required to register. The knowledge that registration will result from a failure to complete probation will encourage the person to successfully complete the program. Because of the counseling provided by probation supervision, there is no necessity for the additional burden of registration.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Health and Safety Code section 11590 as follows:

- 1 § 11590
- 2 (a) Except as provided in subdivisions (c) and (d), any person who is convicted in the
- 3 State of California of any offense defined in Section 11350, 11351, 11351.5, 11352, 11353,
- 4 11353.5, 11353.7, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11366.5,
- 5 11366.6, 11368, 11378, 11378.5, 11379, 11379.5, 11379.6, 11380, 11380.5, 11383, or 11550, or
- 6 subdivision (a) of Section 11377, or any person who is discharged or paroled from a penal
- 7 institution where he or she was confined because of the commission of any such offense, or any
- 8 person who is convicted in any other state of any offense which, if committed or attempted in
- 9 this state, would have been punishable as one or more of the above-mentioned offenses, shall
- 10 within 30 days of his or her coming into any county or city, or city and county in which he or she
- 11 resides or is temporarily domiciled for that length of time, register with the chief of police of the
- 12 city in which he or she resides or the sheriff of the county if he or she resides in an
- 13 unincorporated area.
- 14 For persons convicted of an offense defined in Section 11377, 11378, 11379, or 11380,
- 15 this subdivision shall apply only to offenses involving controlled substances specified in
- 16 paragraph (12) of subdivision (d) of Section 11054 and paragraph (2) of subdivision (d) of
- 17 Section 11055, and to analogs of these substances, as defined in Section 11401. For persons

18 convicted of an offense defined in Section 11379 or 11379.5, this subdivision shall not apply if
19 the conviction was for transporting, offering to transport, or attempting to transport a controlled
20 substance.

21 (b) Any person who is convicted in any federal court of any offense which, if committed
22 or attempted in this state would have been punishable as one or more of the offenses enumerated
23 in subdivision (a) shall within 30 days of his or her coming into any county or city, or city and
24 county in which he or she resides or is temporarily domiciled for that length of time, register
25 with the chief of police of the city in which he or she resides or the sheriff of the county if he or
26 she resides in an unincorporated area.

27 (c) This section does not apply to a conviction of a misdemeanor under Section 11357,
28 11360, or 11377. This section does not apply to a person who was convicted and received
29 probation pursuant to Penal Code section 1210.1 unless the person fails to successfully complete
30 that probation.

31 (d) The registration requirements imposed by this section for the conviction of offenses
32 defined in Section 11353.7, 11366.5, 11366.6, 11377, 11378, 11378.5, 11379, 11379.5, 11379.6,
33 11380, 11380.5, or 11383, shall apply to any person who commits any of those offenses on and
34 after January 1, 1990.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

The Problem: Proposition 36, enacted by the voters in 2000, mandates that most persons convicted of simple possession of drugs are eligible to be referred to drug treatment, rather than incarceration. Health and Safety Code section 11590 requires that persons convicted of specified drug offenses register with their local police. At the same time, persons who were convicted of a simple drug possession offense and received Proposition 36 probation are required to register with the local police. This registration is unnecessary because while the person is on Proposition 36 probation, he/she is being supervised by probation and the court and his/her whereabouts are known. This unnecessary registration costs the police time and money and is an unnecessary burden upon the person who is going through drug treatment. If, however, the person fails to successfully complete the Proposition 36 probation, then the person should be required to register.

This Solution: This resolution adds language which exempts persons who are placed on Proposition 36 probation from having to register as a narcotics offender unless the person fails to successfully complete that probation.

LEGISLATIVE HISTORY

Not known

IMPACT STATEMENT

The proposed resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: Mark Harvis, Los Angeles County Deputy Public Defender, 320 West Temple Street Suite 590, Los Angeles, CA 90012; (213) 974-3066; mharvis@pubdef.lacounty.gov.

RESPONSIBLE FLOOR DELEGATE: Mark Harvis