

AMENDED IN ASSEMBLY JANUARY 29, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2

Introduced by Assembly Member Bogh

December 2, 2002

An act to *amend Sections 1191.15 and 3043.2 of, and to add Section 3043.6 to, the Penal Code, and to add Section 1767.9 to the Welfare and Institutions Code, relating to victims.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2, as amended, Bogh. Victims: appearances at parole hearings.

Existing law authorizes the court to permit the victim of any crime, or his or her parent or guardian if the victim is a minor, or the next of kin of the victim if the victim has died, to file with the court a written, audiotaped, or videotaped statement expressing his or her views concerning the crime, the person responsible, and the need for restitution, in lieu of or in addition to the person personally appearing at the time of judgment and sentence.

This bill would in addition, authorize submission of the statement on a CD Rom or DVD.

Existing law authorizes the Board of Prison Terms to permit, in lieu of personal appearance at any hearing to review the parole suitability or the setting of a parole date, the victim, his or her next of kin, or immediate family members to file with the board a written, audiotaped, or videotaped statement expressing his or her views concerning the crime and the person responsible.

This bill would in addition, authorize submission of the statement on a CD Rom or DVD.

Existing law, added by initiative statute, provides that a victim or certain others may appear at a parole hearing for the prisoner responsible for the crime who is confined in the state prison in order to present his or her views concerning the crime and the person responsible.

Existing law, added by initiative statute, similarly provides that a victim or certain others may appear at the parole hearing for the prisoner responsible for the crime who is under the control of the Youth Authority.

The initiative statute provides that any amendment to its provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house.

This bill would authorize the victim or others appearing with or for the victim to request that the victim or others speak last at a parole hearing for the person confined in the state prison or under the control of the Youth Authority.

Because this bill would amend provisions of the initiative statutes, this bill would require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

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

1 SECTION 1. *Section 1191.15 of the Penal Code is amended*
2 *to read:*

3 1191.15. (a) The court may permit the victim of any crime,
4 or his or her parent or guardian if the victim is a minor, or the next
5 of kin of the victim if the victim has died, to file with the court a
6 written, audiotaped, or videotaped statement, *or statement stored*
7 *on a CD Rom or DVD*, expressing his or her views concerning the
8 crime, the person responsible, and the need for restitution, in lieu
9 of or in addition to ~~such~~ *the* person personally appearing at the
10 time of judgment and sentence. The court shall consider ~~any such~~
11 *the* statement filed with the court prior to imposing judgment and
12 sentence.

13 Whenever an audio or video statement *or statement stored on*
14 *a CD Rom or DVD* is filed with the court, a written transcript of
15 ~~the tape~~ *statement* shall also be provided by the person filing the
16 statement, and shall be made available as a public record of the
17 court after the judgment and sentence have been imposed.



1 (b) Whenever ~~such~~ a written, audio, or video statement *or*
2 *statement stored on a CD Rom or DVD* is filed with the court, it
3 shall remain sealed until the time set for imposition of judgment
4 and sentence except that the court, the probation officer, and
5 counsel for the parties may view and listen to ~~such statements~~ *the*
6 *statement* not more than two court days prior to the date set for
7 imposition of judgment and sentence.

8 (c) No person may, and no court shall, permit any person to
9 duplicate, copy, or reproduce by any audio or visual means any
10 ~~audiotaped or videotaped~~ statement submitted to the court under
11 the provisions of this section.

12 (d) Nothing in this section shall be construed to prohibit the
13 prosecutor from representing to the court the views of the victim
14 or his or her parent or guardian or the next of kin.

15 (e) In the event the court permits an audio or video statement
16 *or statement stored on a CD Rom or DVD* to be filed, the court shall
17 not be responsible for providing any equipment or resources
18 needed to assist the victim in preparing the statement.

19 *SEC. 2. Section 3043.2 of the Penal Code is amended to read:*

20 3043.2. (a) In lieu of personal appearance at any hearing to
21 review the parole suitability or the setting of a parole date, the
22 Board of Prison Terms may permit the victim, his or her next of
23 kin, or immediate family members to file with the board a written,
24 audiotaped, or videotaped statement, *or statement stored on a CD*
25 *Rom or DVD*, expressing his or her views concerning the crime and
26 the person responsible. The statement may be personal messages
27 from the person to the board made at any time or may be a
28 statement made pursuant to Section 1191.16, or a combination of
29 both. The board shall consider any statement filed prior to reaching
30 a decision, and shall include in its report a statement of whether the
31 person would pose a threat to public safety if released on parole.

32 (b) Whenever an audio or video statement *or a statement stored*
33 *on a CD Rom or DVD* is filed with the board, a written transcript
34 of the ~~tape~~ *statement* shall also be provided by the person filing the
35 statement.

36 (c) Nothing in this section shall be construed to prohibit the
37 prosecutor from representing to the board the views of the victim,
38 his or her immediate family members, or next of kin.

39 (d) In the event the board permits an audio or video statement
40 *or statement stored on a CD Rom or DVD* to be filed, the board



1 shall not be responsible for providing any equipment or resources
2 needed to assist the victim in preparing the statement.

3 *SEC. 3.* Section 3043.6 is added to the Penal Code, to read:
4 3043.6. Any person authorized to appear at a parole hearing
5 pursuant to Section 3043, or a prosecutor authorized to represent
6 the views of the victim, his or her immediate family, or next of kin,
7 pursuant to Section 3043.2, shall have the right to speak last before
8 the board in regard to those persons appearing and speaking before
9 the board at a parole hearing.

10 ~~*SEC. 2.*~~

11 *SEC. 4.* Section 1767.9 is added to the Welfare and
12 Institutions Code, to read:

13 1767.9. Any person authorized to appear at a parole hearing
14 pursuant to Section 1767 shall have the right to speak last before
15 the board in regard to those persons appearing and speaking before
16 the board at a parole hearing.

