

AMENDED IN SENATE JULY 2, 2004  
AMENDED IN SENATE JUNE 8, 2004  
AMENDED IN ASSEMBLY FEBRUARY 11, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 99**

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**Introduced by Assembly Member Cox**

January 9, 2003

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An act to amend Section 977.2 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 99, as amended, Cox. Criminal procedure.

Existing law authorizes the Department of Corrections to arrange for initial court appearances and arraignments to be conducted by two-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom, in all cases in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison. Existing law also authorizes the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom.

This bill would ~~require~~ *authorize* the department, in all cases in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, to arrange for all court appearances, except for preliminary hearings ~~and~~, trials *and certain other matters*, to be conducted by two-way electronic audiovideo communication

between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom. The authority of the court to issue an order requiring the defendant to be physically present in the courtroom in those cases where the court finds circumstances that require the physical presence of the defendant in the courtroom would be retained. The bill would also require the department to arrange for two-way electronic audiovideo communication between the superior court and any state prison facility located in the county, and to provide properly maintained equipment and adequately trained staff for that purpose.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 977.2 of the Penal Code is amended to  
 2 read:  
 3 977.2. (a) Notwithstanding Section 977 or any other law, in  
 4 ~~all cases~~ *any case* in which the defendant is charged with a  
 5 misdemeanor or a felony and is currently incarcerated in the state  
 6 prison, the Department of Corrections ~~shall~~ *may* arrange for all  
 7 court appearances in superior court, except for ~~preliminary~~  
 8 ~~hearings and trials~~ *the preliminary hearing, trial, judgment and*  
 9 *sentencing, and motions to suppress*, to be conducted by two-way  
 10 electronic audiovideo communication between the defendant and  
 11 the courtroom in lieu of the physical presence of the defendant in  
 12 the courtroom. Nothing in this section shall be interpreted to  
 13 eliminate the authority of the court to issue an order requiring the  
 14 defendant to be physically present in the courtroom in those cases  
 15 where the court finds circumstances that require the physical  
 16 presence of the defendant in the courtroom. The department shall  
 17 arrange for two-way electronic audiovideo communication  
 18 between the superior court and any state prison facility located in  
 19 the county. The department shall provide properly maintained  
 20 equipment and adequately trained staff *at the prison* to ensure that  
 21 consistently effective two-way communication is provided  
 22 between the prison facility and the courtroom for all ~~scheduled~~  
 23 ~~court appearances~~ *appearances in superior court, except for the*  
 24 *preliminary hearing, trial, judgment and sentencing, and motions*  
 25 *to suppress.*



1 (b) If the defendant is represented by counsel, the attorney shall  
2 be present with the defendant at the initial court appearance and  
3 arraignment, and may enter a plea during the arraignment.  
4 However, if the defendant is represented by counsel at an initial  
5 hearing in superior court in a felony case, and if the defendant does  
6 not plead guilty or nolo contendere to any charge, the attorney shall  
7 be present with the defendant or if the attorney is not present with  
8 the defendant, the attorney shall be present in court during the  
9 hearing.

10 (c) In lieu of the physical presence of the defendant's counsel  
11 at the institution with the defendant, the court and the department  
12 shall establish a confidential telephone and facsimile transmission  
13 line between the court and the institution for communication  
14 between the defendant's counsel in court and the defendant at the  
15 institution. In this case, counsel for the defendant shall not be  
16 required to be physically present at the institution during ~~the initial~~  
17 *any court appearance and arraignment that is conducted via*  
18 electronic audiovideo communication. Nothing in this section  
19 shall be construed to prohibit the physical presence of the defense  
20 counsel with the defendant at the state prison.

