

AMENDED IN SENATE JULY 21, 2004

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 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 , 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~~, *for those appearances that the department determines to conduct* by two-way electronic audiovideo communication between the superior court and ~~any~~ a 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 any case in which the defendant is charged with a misdemeanor or  
 5 a felony and is currently incarcerated in the state prison, the  
 6 Department of Corrections may arrange for all court appearances  
 7 in superior court, except for the preliminary hearing, trial,  
 8 judgment and sentencing, and motions to suppress, to be  
 9 conducted by two-way electronic audiovideo communication  
 10 between the defendant and the courtroom in lieu of the physical  
 11 presence of the defendant in the courtroom. Nothing in this section  
 12 shall be interpreted to eliminate the authority of the court to issue  
 13 an order requiring the defendant to be physically present in the  
 14 courtroom in those cases where the court finds circumstances that  
 15 require the physical presence of the defendant in the courtroom.  
 16 ~~The~~ *For those court appearances that the department determines*  
 17 *to conduct by two-way electronic audiovideo communication, the*  
 18 department shall arrange for two-way electronic audiovideo  
 19 communication between the superior court and any state prison  
 20 facility located in the county. The department shall provide  
 21 properly maintained equipment and adequately trained staff at the  
 22 prison *as well as appropriate training for court staff* to ensure that  
 23 consistently effective two-way communication is provided



1 between the prison facility and the courtroom for all appearances  
2 ~~in superior court, except for the preliminary hearing, trial,~~  
3 ~~judgment and sentencing, and motions to suppress. that the~~  
4 *department determines to conduct by two-way electronic*  
5 *audiovideo communication.*

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

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

