

Assembly Bill No. 99

Passed the Assembly August 12, 2004

Chief Clerk of the Assembly

Passed the Senate August 5, 2004

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 99, 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, for those appearances that the department determines to conduct by two-way electronic audiovideo communication between the superior court and a state prison facility located in the county, to provide properly maintained equipment and adequately trained staff for that purpose.

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

SECTION 1. Section 977.2 of the Penal Code is amended to read:



977.2. (a) Notwithstanding Section 977 or any other law, in any case in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, the Department of Corrections may arrange for all court appearances in superior court, except for the preliminary hearing, trial, judgment and sentencing, and motions to suppress, 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. Nothing in this section shall be interpreted to eliminate 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. For those court appearances that the department determines to conduct by two-way electronic audiovideo communication, the department shall arrange for two-way electronic audiovideo communication between the superior court and any state prison facility located in the county. The department shall provide properly maintained equipment and adequately trained staff at the prison as well as appropriate training for court staff to ensure that consistently effective two-way communication is provided between the prison facility and the courtroom for all appearances that the department determines to conduct by two-way electronic audiovideo communication.

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

(c) In lieu of the physical presence of the defendant's counsel at the institution with the defendant, the court and the department shall establish a confidential telephone and facsimile transmission line between the court and the institution for communication between the defendant's counsel in court and the defendant at the institution. In this case, counsel for the defendant shall not be required to be physically present at the institution during any court



appearance that is conducted via electronic audiovideo communication. Nothing in this section shall be construed to prohibit the physical presence of the defense counsel with the defendant at the state prison.



Approved _____, 2004

Governor

