

AMENDED IN ASSEMBLY APRIL 20, 2004

AMENDED IN ASSEMBLY APRIL 1, 2004

AMENDED IN ASSEMBLY MARCH 31, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2946**

**Introduced by Assembly Member Goldberg**

February 20, 2004

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An act to add Section ~~4027.5~~ *10007* to the Penal Code, relating to inmates.

LEGISLATIVE COUNSEL'S DIGEST

AB 2946, as amended, Goldberg. Inmates: ~~county~~ *correctional* facilities: clergy access.

Existing law generally regulates the confinement and treatment of inmates in ~~county~~ *correctional* facilities.

This bill would provide that clergy ~~and lay chaplains~~ *members* would be allowed access to ~~county jails, juvenile camps, ranches, and other~~ *correctional* facilities, as specified. The bill would specify grounds for denial of access by clergy ~~or lay chaplains to inmates, and would require an appeal process for denial of access,~~ *as specified members.*

By imposing additional duties on ~~county~~ *local government* correctional facilities, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund

to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section ~~4027.5~~ 10007 is added to the Penal  
2 Code, to read:

3 ~~4027.5:~~

4 ~~10007.~~ (a) Clergy ~~and lay chaplains operating under the~~  
5 ~~auspices of a religious organization~~ *members* shall be allowed  
6 access to ~~county jails and juvenile halls, camps, ranches, and any~~  
7 ~~state correctional facilities operated by the Department of the~~  
8 ~~Youth Authority~~ *correctional facilities* to provide spiritual support  
9 and guidance to incarcerated persons. *A correctional facility may*  
10 *establish reasonable time, place, and manner restrictions to ensure*  
11 *the security and efficient administration of the facility.*

12 (b) ~~County~~ Correctional facilities may not deny clergy ~~or lay~~  
13 ~~chaplains~~ *members* access to a facility because the clergy ~~or lay~~  
14 ~~chaplain~~ *member* lodges a complaint about the behavior of staff or  
15 of the operation of the facility or provides information to the public  
16 including the media on any aspect of the operation of the facility  
17 or assists in efforts to modify the functioning of the facility.

18 (c) Clergy ~~or lay chaplains~~ *members* shall only be denied access  
19 to inmates when ~~the inmate objects or when the clergy or lay~~  
20 ~~chaplains present a clear and present danger~~ *it appears by clear*  
21 *and convincing evidence that providing the clergy member with*  
22 *access presents an imminent risk to the safety and security of the*  
23 *correctional facility through a violation of facility rules.*

24 (d) ~~When a sheriff or chief probation officer or his or her~~  
25 ~~designee seeks to deny access to a jail, lockup, or juvenile hall,~~  
26 ~~camp, or ranch to a member of the clergy or lay chaplain he or she~~  
27 ~~must provide an opportunity to appeal that decision to a neutral~~  
28 ~~fact finder. The burden shall be on the individual seeking to deny~~



1 ~~access to demonstrate that allowing access to the facility will~~  
2 ~~jeopardize the safety or security of the institution.~~

3 (d) *As used in this section, “clergy member” means a priest,*  
4 *minister, rabbi, religious practitioner, lay chaplain, or similar*  
5 *functionary acting under the auspices of a church, temple, mosque,*  
6 *or other recognized religious denomination or organization.*

7 (e) *As used in this section, “correctional facility” means a state*  
8 *prison, county jail, Department of the Youth Authority facility,*  
9 *county or city operated juvenile facility, including juvenile halls,*  
10 *camp, or schools, or other state or local correctional institution.*

11 SEC. 2. Notwithstanding Section 17610 of the Government  
12 Code, if the Commission on State Mandates determines that this  
13 act contains costs mandated by the state, reimbursement to local  
14 agencies and school districts for those costs shall be made pursuant  
15 to Part 7 (commencing with Section 17500) of Division 4 of Title  
16 2 of the Government Code. If the statewide cost of the claim for  
17 reimbursement does not exceed one million dollars (\$1,000,000),  
18 reimbursement shall be made from the State Mandates Claims  
19 Fund.

