

Assembly Bill No. 760

Passed the Assembly September 7, 2005

Chief Clerk of the Assembly

Passed the Senate September 6, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 851.5 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 760, Nava. Criminal procedure.

Existing law provides an arrested person with certain rights regarding the opportunity to make telephone calls incident to the person being booked or detained, as specified. The willful deprivation of these rights by a public officer or employee is a misdemeanor.

This bill would, in addition, provide that when, during booking, an arrested person is determined to be a custodial parent of a minor child or children, the person would be entitled to make 2 telephone calls at no expense, as specified, for the purpose of arranging for the care of the minor child or children.

By imposing additional duties on local government entities, this bill would impose a state-mandated local program. By expanding the scope of an existing crime, 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.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 851.5 of the Penal Code is amended to read:

851.5. (a) Immediately upon being booked, and, except where physically impossible, no later than three hours after

arrest, an arrested person has the right to make at least three completed telephone calls, as described in subdivision (b).

The arrested person shall be entitled to make at least three calls at no expense if the calls are completed to telephone numbers within the local calling area.

(b) At any police facility or place where an arrestee is detained, a sign containing the following information in bold block type shall be posted in a conspicuous place:

That the arrestee has the right to free telephone calls within the local dialing area, or at his or her own expense if outside the local area, to three of the following:

(1) An attorney of his or her choice or, if he or she has no funds, the public defender or other attorney assigned by the court to assist indigents, whose telephone number shall be posted. This telephone call shall not be monitored, eavesdropped upon, or recorded.

(2) A bail bondsman.

(3) A relative or other person.

(c) If, upon questioning during the booking process, the arrested person is identified as a custodial parent with responsibility for a minor child, the arrested person shall be entitled to make two additional calls at no expense if the calls are completed to telephone numbers within the local calling area to a relative or other person for the purpose of arranging for the care of the minor child or children in the parent's absence.

(d) These telephone calls shall be given immediately upon request, or as soon as practicable.

(e) This provision shall not abrogate a law enforcement officer's duty to advise a suspect of his or her right to counsel or of any other right.

(f) Any public officer or employee who willfully deprives an arrested person of any right granted by this section is guilty of a misdemeanor.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a

crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2005

Governor