

AMENDED IN ASSEMBLY MARCH 2, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1738**

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**Introduced by Assembly Member Tran**

February 4, 2010

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An act to amend Section 6228 of the Family Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1738, as amended, Tran. Domestic violence incident report.

Existing law requires state and local law enforcement agencies to provide one copy of all domestic violence incident reports, one copy of all domestic violence incident report face sheets, or both, to a victim of domestic violence, upon request. Existing law also requires law enforcement agencies to provide those documents to a representative of the victim, as defined, if the victim is deceased. Existing law provides that any person requesting those documents is required to present his or her identification, as specified, and, if that person is a representative of the victim, a certified copy of the death certificate or other satisfactory evidence of the death of the victim.

This bill would require state and local law enforcement agencies to provide those documents to the victim's representative ~~regardless of whether~~ *when the victim is not deceased, subject to certain requirements.* The bill would also revise the definition of "personal representative" to additionally include the victim's attorney and the victim's designated personal representative, as specified. By imposing additional duties on local officials, the bill would create 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, 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 6228 of the Family Code is amended to  
2 read:

3 6228. (a) State and local law enforcement agencies shall  
4 provide, without charging a fee, one copy of all domestic violence  
5 incident report face sheets, one copy of all domestic violence  
6 incident reports, or both, to a victim of domestic violence, or to  
7 his or her representative; as defined in subdivision (g), upon  
8 request. For purposes of this section, “domestic violence” has the  
9 definition given in Section 6211.

10 (b) A copy of a domestic violence incident report face sheet  
11 shall be made available during regular business hours to a victim  
12 of domestic violence or his or her representative no later than 48  
13 hours after being requested by the victim or his or her  
14 representative, unless the state or local law enforcement agency  
15 informs the victim or his or her representative of the reasons why,  
16 for good cause, the domestic violence incident report face sheet  
17 is not available, in which case the domestic violence incident report  
18 face sheet shall be made available to the victim or his or her  
19 representative no later than five working days after the request is  
20 made.

21 (c) A copy of the domestic violence incident report shall be  
22 made available during regular business hours to a victim of  
23 domestic violence or his or her representative no later than five  
24 working days after being requested by a victim or his or her  
25 representative, unless the state or local law enforcement agency  
26 informs the victim or his or her representative of the reasons why,  
27 for good cause, the domestic violence incident report is not  
28 available, in which case the domestic violence incident report shall

1 be made available to the victim or his or her representative no later  
2 than 10 working days after the request is made.

3 (d) Any person requesting copies under this section shall present  
4 state or local law enforcement with his or her identification, such  
5 as a current, valid driver's license, a state-issued identification  
6 card, or a passport and, if the person is a representative of the  
7 victim and the victim is deceased, a certified copy of the death  
8 certificate or other satisfactory evidence of the death of the victim  
9 at the time a request is made.

10 (e) This section shall apply to requests for face sheets or reports  
11 made within five years from the date of completion of the domestic  
12 violence ~~incidence~~ *incident* report.

13 (f) This section shall be known, and may be cited, as the Access  
14 to Domestic Violence Reports Act of 1999.

15 (g) (1) For purposes of this section, *if the victim is deceased*, a  
16 representative of the victim means any of the following:

17 (A) The ~~victim's~~ *surviving* spouse.

18 (B) A *surviving* child of the ~~victim~~ *decedent* who has attained  
19 18 years of age.

20 (C) ~~The victim's~~ A domestic partner, as defined in subdivision  
21 (a) of Section 297.

22 (D) A *surviving* parent of the ~~victim~~ *decedent*.

23 (E) ~~An~~ A *surviving* adult relative of the ~~victim~~.

24 (F) The public administrator if one has been appointed.

25 ~~(G) The victim's attorney.~~

26 ~~(H) The~~

27 (2) *For purposes of this section, if the victim is not deceased, a*  
28 *representative of the victim means the victim's designated personal*  
29 *representative who has written authorization signed by the victim*  
30 ~~or a court order~~ *making him or her the personal representative, or*  
31 *an attorney hired by the victim to represent him or her in the*  
32 *matter.*

33 ~~(2)~~

34 (3) A representative of the victim does not include any person  
35 who has been convicted of murder in the first degree, as defined  
36 in Section 189 of the Penal Code, of the victim, or any person  
37 identified in the incident report face sheet as a suspect. Domestic  
38 violence incident report face sheets may not be provided to a  
39 representative of the victim unless both of the following conditions  
40 are met:

1 (A) The representative shall present his or her identification,  
2 such as a current, valid driver’s license, a state-issued identification  
3 card, or a passport.

4 (B) The representative shall also present one of the following:

5 (i) If the victim is deceased, a certified copy of the death  
6 certificate or other satisfactory evidence of the death of the victim  
7 at the time of the request.

8 (ii) If the victim is alive, a written authorization signed by the  
9 victim ~~or a court order~~ making him or her the victim’s personal  
10 representative.

11 SEC. 2. If the Commission on State Mandates determines that  
12 this act contains costs mandated by the state, reimbursement to  
13 local agencies and school districts for those costs shall be made  
14 pursuant to Part 7 (commencing with Section 17500) of Division  
15 4 of Title 2 of the Government Code.

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