

AMENDED IN ASSEMBLY MARCH 23, 2010

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CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1738

Introduced by Assembly Member Tran

February 4, 2010

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 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~~ *members of the victim's immediate family*, 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 request.
8 For purposes of this section, “domestic violence” has the definition
9 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,

1 for good cause, the domestic violence incident report is not
2 available, in which case the domestic violence incident report shall
3 be made available to the victim or his or her representative no later
4 than 10 working days after the request is made.

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

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

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

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

19 (A) The surviving spouse.

20 (B) A surviving child of the decedent who has attained 18 years
21 of age.

22 (C) A domestic partner, as defined in subdivision (a) of Section
23 297.

24 (D) A surviving parent of the decedent.

25 (E) A surviving adult relative.

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

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 ~~making him or her the personal representative, or an attorney hired~~
31 ~~by the victim to represent him or her in the matter. either of the~~
32 *following:*

33 (A) *A parent, sibling, or adult child of the victim, who shall*
34 *present to law enforcement his or her identification and a signed*
35 *authorization by the victim allowing that family member to act on*
36 *behalf of the victim.*

37 (B) *An attorney for the victim, who shall present to law*
38 *enforcement his or her identification and written proof that he or*
39 *she is the attorney for the victim.*

1 (3) A representative of the victim does not include any person
2 who has been convicted of murder in the first degree, as defined
3 in Section 189 of the Penal Code, of the victim, or any person
4 identified in the incident report face sheet as a suspect. ~~Domestic~~
5 (4) *Domestic* violence incident report face sheets may not be
6 provided to a representative of the victim unless both of the
7 following conditions are met:
8 (A) The representative ~~shall present~~ *presents* his or her
9 identification, such as a current, valid driver's license, a state-issued
10 identification card, or a passport.
11 (B) The representative ~~shall also present~~ *presents* one of the
12 following:
13 (i) If the victim is deceased, a certified copy of the death
14 certificate or other satisfactory evidence of the death of the victim
15 at the time of the request.
16 (ii) If the victim is alive, a written authorization signed by the
17 victim making him or her the victim's personal representative.
18 SEC. 2. If the Commission on State Mandates determines that
19 this act contains costs mandated by the state, reimbursement to
20 local agencies and school districts for those costs shall be made
21 pursuant to Part 7 (commencing with Section 17500) of Division
22 4 of Title 2 of the Government Code.