

AMENDED IN SENATE AUGUST 3, 2010

AMENDED IN SENATE MAY 24, 2010

AMENDED IN ASSEMBLY MARCH 23, 2010

AMENDED IN ASSEMBLY MARCH 2, 2010

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, members of the victim’s immediate family, and a conservator or guardian of the victim, 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

1 representative, unless the state or local law enforcement agency
2 informs the victim or his or her representative of the reasons why,
3 for good cause, the domestic violence incident report is not
4 available, in which case the domestic violence incident report shall
5 be made available to the victim or his or her representative no later
6 than 10 working days after the request is made.

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

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

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

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

21 (A) The surviving spouse.

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

24 (C) A domestic partner, as defined in subdivision (a) of Section
25 297.

26 (D) A surviving parent of the decedent.

27 (E) A surviving adult relative.

28 (F) The personal representative of the victim, as defined in
29 Section 58 of the Probate Code, if one is appointed.

30 (G) The public administrator if one has been appointed.

31 (2) For purposes of this section, if the victim is not deceased, a
32 representative of the victim means ~~either~~ any of the 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 *(A) A parent, guardian, or adult child of the victim, or an adult*
38 *sibling of a victim 12 years of age or older, who shall present to*
39 *law enforcement identification pursuant to subparagraph (A) of*
40 *paragraph (4), and if the victim is 12 years of age or older, a*

1 *signed authorization by the victim allowing that family member*
 2 *or guardian to act on the victim’s behalf. A guardian shall also*
 3 *present to law enforcement a copy of his or her letters of*
 4 *guardianship demonstrating that he or she is the appointed*
 5 *guardian of the victim.*

6 (B) An attorney for the victim, who shall present to law
 7 enforcement ~~his or her~~ identification *pursuant to subparagraph*
 8 *(A) of paragraph (4)* and written proof that he or she is the attorney
 9 for the victim.

10 (C) A conservator ~~or guardian~~ of the victim *who shall present*
 11 *to law enforcement identification pursuant to subparagraph (A)*
 12 *of paragraph (4) and a copy of his or her letters of conservatorship*
 13 *demonstrating that he or she is the appointed conservator of the*
 14 *victim.*

15 (3) A representative of the victim does not include any person
 16 who has been convicted of murder in the first degree, as defined
 17 in Section 189 of the Penal Code, of the victim, or any person
 18 identified in the incident report face sheet as a suspect.

19 (4) Domestic violence incident report face sheets may not be
 20 provided to a representative of the victim unless both of the
 21 following conditions are met:

22 (A) The representative presents his or her identification, such
 23 as a current, valid driver’s license, a state-issued identification
 24 card, or a passport.

25 (B) The representative presents one of the following:

26 (i) If the victim is deceased, a certified copy of the death
 27 certificate or other satisfactory evidence of the death of the victim
 28 at the time of the request.

29 (ii) If the victim is alive, *12 years of age or older, and not the*
 30 *subject of a conservatorship*, a written authorization signed by the
 31 victim making him or her the victim’s personal representative.

32 SEC. 2. If the Commission on State Mandates determines that
 33 this act contains costs mandated by the state, reimbursement to
 34 local agencies and school districts for those costs shall be made
 35 pursuant to Part 7 (commencing with Section 17500) of Division
 36 4 of Title 2 of the Government Code.