

Assembly Bill No. 1738

CHAPTER 363

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

[Approved by Governor September 25, 2010. Filed with
Secretary of State September 27, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1738, 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.

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

SECTION 1. Section 6228 of the Family Code is amended to read:

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

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

(c) A copy of the domestic violence incident report shall be made available during regular business hours to a victim of domestic violence or his or her representative no later than five working days after being requested by a victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the domestic violence incident report is not available, in which case the domestic violence incident report shall be made available to the victim or his or her representative no later than 10 working days after the request is made.

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

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

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

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

- (A) The surviving spouse.
- (B) A surviving child of the decedent who has attained 18 years of age.
- (C) A domestic partner, as defined in subdivision (a) of Section 297.
- (D) A surviving parent of the decedent.
- (E) A surviving adult relative.
- (F) The personal representative of the victim, as defined in Section 58 of the Probate Code, if one is appointed.
- (G) The public administrator if one has been appointed.

(2) For purposes of this section, if the victim is not deceased, a representative of the victim means any of the following:

- (A) A parent, guardian, or adult child of the victim, or an adult sibling of a victim 12 years of age or older, who shall present to law enforcement identification pursuant to subparagraph (A) of paragraph (4), and if the victim is 12 years of age or older, a signed authorization by the victim allowing that family member or guardian to act on the victim's behalf. A guardian shall also present to law enforcement a copy of his or her letters

of guardianship demonstrating that he or she is the appointed guardian of the victim.

(B) An attorney for the victim, who shall present to law enforcement identification pursuant to subparagraph (A) of paragraph (4) and written proof that he or she is the attorney for the victim.

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

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

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

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

(B) The representative presents one of the following:

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

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

SEC. 2. If the Commission on State Mandates determines that this act contains 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.