

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2015

Introduced by Assembly Member Mitchell

February 23, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2015, as amended, Mitchell. Criminal procedure: telephone calls: arrested custodial parents.

Under existing law, 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 specified. *Existing law requires that a sign informing the arrestee of this right be posted in a conspicuous place.* Under existing law, if the arrested person is identified as a custodial parent with responsibility for a minor child, the arrested person is entitled to make 2 additional calls for the purpose of arranging for the care of the minor child or children in the parent's absence, as specified.

~~This bill would state the intent of the Legislature to enact legislation that would ensure that the right of an arrested custodial parent to make telephone calls or otherwise arrange for the care of a minor child or children during his or her absence is applied without regard to immigration status or language of the person arrested.~~

This bill would require the arresting or booking officer to inquire as to whether the arrested person is a custodial parent with responsibility for a minor child immediately upon booking, and, except where physically impossible, no later than 3 hours after arrest. The bill would

require a sign to be posted in a conspicuous place informing the arrestee that, if he or she is a custodial parent, he or she has the right to make the additional telephone calls. The bill would require that the signs informing the arrestee of his or her right to make telephone calls be made in any non-English language spoken by a substantial number of the public who are served by the police facility or place of detainment, as provided. The bill would state that the rights and duties provided by these provisions shall be enforced regardless of the arrestee's immigration status.

By imposing new duties on local agencies, 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, 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: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

- 1 SECTION 1. Section 851.5 of the Penal Code is amended to
- 2 read:
- 3 851.5. (a) (1) Immediately upon being booked, and, except
- 4 where physically impossible, no later than three hours after arrest,
- 5 an arrested person has the right to make at least three completed
- 6 telephone calls, as described in subdivision (b).
- 7 ~~The~~
- 8 (2) The arrested person shall be entitled to make at least three
- 9 calls at no expense if the calls are completed to telephone numbers
- 10 within the local calling area.
- 11 (b) At any police facility or place where an arrestee is detained,
- 12 a sign containing the following information in bold block type
- 13 shall be posted in a conspicuous place:
- 14 That the arrestee has the right to free telephone calls within the
- 15 local dialing area, or at his or her own expense if outside the local
- 16 area, to three of the following:

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

5 (2) A bail bondsman.

6 (3) A relative or other person.

7 ~~(c) If, upon questioning during the booking process, the arrested~~
8 ~~person is identified as~~ *Immediately upon being booked, and, except*
9 *where physically impossible, no later than three hours after arrest,*
10 *the arresting or booking officer shall inquire as to whether the*
11 *arrested person is a custodial parent with responsibility for a minor*
12 *child, the. Any arrested person who is a custodial parent with*
13 *responsibility for a minor child shall be entitled to make two*
14 *additional telephone calls at no expense if the telephone calls are*
15 *completed to telephone numbers within the local calling area to a*
16 *relative or other person for the purpose of arranging for the care*
17 *of the minor child or children in the parent's absence.*

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

21 *That the arrestee, if he or she is a custodial parent with*
22 *responsibility for a minor child, has the right to two additional*
23 *telephone calls within the local dialing area, or at his or her own*
24 *expense if outside the local area, for the purpose of arranging for*
25 *the care of the minor child or children in the parent's absence.*

26 ~~(e)~~

27 *(e) These telephone calls shall be given immediately upon*
28 *request, or as soon as practicable.*

29 *(f) The signs posted pursuant to subdivisions (b) and (d) shall*
30 *make the specified notifications in any non-English language*
31 *spoken by a substantial number of the public, as specified in*
32 *Section 7296.2 of the Government Code, who are served by the*
33 *police facility or place of detainment.*

34 *(g) The rights and duties set forth in this section shall be*
35 *enforced regardless of the arrestee's immigration status.*

36 ~~(e)~~

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

40 ~~(f)~~

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

4 *SEC. 2. If the Commission on State Mandates determines that*
5 *this act contains costs mandated by the state, reimbursement to*
6 *local agencies and school districts for those costs shall be made*
7 *pursuant to Part 7 (commencing with Section 17500) of Division*
8 *4 of Title 2 of the Government Code.*

9 ~~SECTION 1. It is the intent of the Legislature to enact~~
10 ~~legislation that would ensure that the right of an arrested custodial~~
11 ~~parent to make telephone calls or otherwise arrange for the care~~
12 ~~of a minor child or children during his or her absence is applied~~
13 ~~without regard to immigration status or language of the person~~
14 ~~arrested.~~