

Assembly Bill No. 2015

Passed the Assembly August 29, 2012

Chief Clerk of the Assembly

Passed the Senate August 27, 2012

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2012, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2015, 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 require the arresting or booking officer to inquire as to whether the arrested person is a custodial parent with responsibility for a minor child as soon as practicable upon arrest but, except where physically impossible, no later than 3 hours after arrest. The bill would require the booking officer or arresting officer to inform the person that he or she is entitled to, and may request to, make 2 additional telephone calls to arrange for care of a minor child, as provided, and 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 English and 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.

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

SECTION 1. Section 851.5 of the Penal Code is amended to read:

851.5. (a) (1) 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 described in subdivision (b).

(2) The arrested person shall be entitled to make at least three calls at no expense if the calls are completed to telephone numbers within the local calling area or at his or her own expense if outside the local calling area.

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

The arrestee has the right to free telephone calls within the local calling area, or at his or her own expense if outside the local calling area, to three of the following:

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

(2) A bail bondsman.

(3) A relative or other person.

(c) As soon as practicable upon being arrested but, except where physically impossible, no later than three hours after arrest, the arresting or booking officer shall inquire as to whether the arrested person is a custodial parent with responsibility for a minor child. The arresting or booking officer shall notify the arrested person who is a custodial parent with responsibility for a minor child that he or she is entitled to, and may request to, make two additional

telephone calls at no expense if the telephone calls are completed to telephone numbers within the local calling area, or at his or her own expense if outside the local calling area, to a relative or other person for the purpose of arranging for the care of the minor child or children in the parent's absence.

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

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

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

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

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

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

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

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.

Approved _____, 2012

Governor