

ASSEMBLY BILL

No. 1678

Introduced by Assembly Member Santiago

January 19, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1678, as introduced, Santiago. Provision of incident reports to victims.

Existing law requires state and local law enforcement agencies to provide, without fee, one copy of all domestic violence incident report face sheets and one copy of all domestic violence incident reports, or both, to a victim of domestic violence or to his or her personal representative, as defined, upon request.

This bill would require the state or local law enforcement agencies to provide those reports to a victim of sexual assault, stalking, human trafficking, elder abuse, or any crime in which the victim and the perpetrator are in a domestic relationship, as defined. The bill would also specifically include in the definition of "victim" a minor who is 12 years of age or older. This bill would also make technical, nonsubstantive changes to these provisions. By increasing the duties of local law enforcement, 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: 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~~, *crime*,
7 *as defined in subdivision (f)*, or to his or her representative as
8 defined in subdivision (g), upon request. ~~For purposes of this~~
9 ~~section, “domestic violence” has the definition given in Section~~
10 ~~6211.~~

11 (b) (1) A copy of a ~~domestic violence~~ *an* incident report face
12 sheet shall be made available during regular business hours to a
13 victim of ~~domestic violence~~ or his or her representative no later
14 than 48 hours after being requested by the victim or his or her
15 representative, unless the state or local law enforcement agency
16 informs the victim or his or her representative of the reasons why,
17 for good cause, the ~~domestic violence~~ incident report face sheet
18 is not available, in which case the ~~domestic violence~~ incident report
19 face sheet shall be made available to the victim or his or her
20 representative no later than five working days after the request is
21 made.

22 (e)

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

33 (d)

1 (c) Any person requesting copies under this section shall present
2 state or local law enforcement with his or her identification, ~~such~~
3 ~~as~~ *including* a current, valid driver’s license, a state-issued
4 identification card, or a ~~passport and, if~~ *passport*. If the person is
5 a representative of the victim and the victim is deceased, *the*
6 *representative shall also present* a certified copy of the death
7 certificate or other satisfactory evidence of the death of the victim
8 at the time a request is made. *If the person is a representative of*
9 *the victim and the victim is alive and not the subject of a*
10 *conservatorship, the representative shall also present a written*
11 *authorization, signed by the victim, making him or her the victim’s*
12 *personal representative.*

13 (e)

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

17 (f)

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

20 (f) *For purposes of this section, the following definitions shall*
21 *apply:*

22 (1) *“Domestic crime” means domestic violence, as defined in*
23 *Section 6211, sexual assault, stalking, human trafficking, elder*
24 *abuse, or any crime in which the victim and the perpetrator are*
25 *in a relationship described in Section 6211.*

26 (2) *“Victim” includes a minor who is 12 years of age or older.*

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

29 (A) The surviving spouse.

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

32 (C) A domestic partner, as defined in subdivision (a) of Section
33 297.

34 (D) A surviving parent of the decedent.

35 (E) A surviving adult relative.

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

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

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

1 (A) A parent, guardian, or adult child of the victim, or an adult
 2 sibling of a victim 12 years of age or older, who shall present to
 3 law enforcement identification pursuant to ~~subparagraph (A) of~~
 4 ~~paragraph (4), and if the victim is 12 years of age or older, a signed~~
 5 ~~authorization by the victim allowing that family member or~~
 6 ~~guardian to act on the victim's behalf.~~ *subdivision (c)*. A guardian
 7 shall also present to law enforcement a copy of his or her letters
 8 of guardianship demonstrating that he or she is the appointed
 9 guardian of the victim.

10 (B) An attorney for the victim, who shall present to law
 11 enforcement identification pursuant to ~~subparagraph (A) of~~
 12 ~~paragraph (4)~~ *subdivision (c)* and written proof that he or she is
 13 the attorney for the victim.

14 (C) A conservator of the victim who shall present to law
 15 enforcement identification pursuant to ~~subparagraph (A) of~~
 16 ~~paragraph (4)~~ *subdivision (c)* and a copy of his or her letters of
 17 conservatorship demonstrating that he or she is the appointed
 18 conservator of the victim.

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

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

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

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

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

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

36 SEC. 2. If the Commission on State Mandates determines that
 37 this act contains costs mandated by the state, reimbursement to
 38 local agencies and school districts for those costs shall be made

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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