

AMENDED IN ASSEMBLY FEBRUARY 25, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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~~ *violence, as defined*, or to his or her personal representative, as defined, upon request.

This bill would *also* 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.~~ *or abuse of an elder or a dependent adult, as defined*. The bill would ~~also specifically include in the definition of~~ *define* “victim” *for these purposes to include* 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, *upon request and* without charging a fee, one copy of all
 5 incident report face sheets, one copy of all incident reports, or
 6 both, to ~~a victim of domestic crime, as defined in subdivision (f),~~
 7 ~~or to his or her representative as defined in subdivision (g), upon~~
 8 ~~request.~~ *victim, or his or her representative as defined in*
 9 *subdivision (g), of a crime that constitutes an act of any of the*
 10 *following:*

- 11 (1) *Domestic violence, as defined in Section 6211.*
- 12 (2) *Sexual assault, as defined in Sections 261, 261.5, 262, 265,*
 13 *266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288,*
 14 *288a, 288.5, 289, or 311.4 of the Penal Code.*
- 15 (3) *Stalking, as defined in Section 1708.7 of the Civil Code or*
 16 *Section 646.9 of the Penal Code.*
- 17 (4) *Human trafficking, as defined in Section 236.1 of the Penal*
 18 *Code.*
- 19 (5) *Abuse of an elder or a dependent adult, as defined in Section*
 20 *15610.07 of the Welfare and Institutions Code.*

21 (b) (1) A copy of an incident report face sheet shall be made
 22 available during regular business hours to a victim or his or her
 23 representative no later than 48 hours after being requested by the
 24 victim or his or her representative, unless the state or local law
 25 enforcement agency informs the victim or his or her representative
 26 of the reasons why, for good cause, the incident report face sheet
 27 is not available, in which case the incident report face sheet shall
 28 be made available to the victim or his or her representative no later
 29 than five working days after the request is made.

30 (2) A copy of the incident report shall be made available during
 31 regular business hours to a victim or his or her representative no

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

8 (c) Any person requesting copies under this section shall present
9 state or local law enforcement with his or her identification,
10 including a current, valid driver's license, a state-issued
11 identification card, or a passport. If the person is a representative
12 of the victim and the victim is deceased, the representative shall
13 also present a certified copy of the death certificate or other
14 satisfactory evidence of the death of the victim at the time a request
15 is made. If the person is a representative of the victim and the
16 victim is alive and not the subject of a conservatorship, the
17 representative shall also present a written authorization, signed by
18 the victim, making him or her the victim's personal representative.

19 (d) This section shall apply to requests for face sheets or incident
20 reports made within five years from the date of completion of the
21 incident report.

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

24 ~~(f) For purposes of this section, the following definitions shall~~
25 ~~apply:~~

26 ~~(1) "Domestic crime" means domestic violence, as defined in~~
27 ~~Section 6211, sexual assault, stalking, human trafficking, elder~~
28 ~~abuse, or any crime in which the victim and the perpetrator are in~~
29 ~~a relationship described in Section 6211.~~

30 ~~(2) "Victim"~~

31 ~~(f) For purposes of this section, "victim" includes a minor who~~
32 ~~is 12 years of age or older.~~

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

35 (A) The surviving spouse.

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

38 (C) A domestic partner, as defined in subdivision (a) of Section
39 297.

40 (D) A surviving parent of the decedent.

- 1 (E) A surviving adult relative.
- 2 (F) The personal representative of the victim, as defined in
- 3 Section 58 of the Probate Code, if one is appointed.
- 4 (G) The public administrator if one has been appointed.
- 5 (2) For purposes of this section, if the victim is not deceased, a
- 6 “representative of the victim” means any of the following:
- 7 (A) A parent, guardian, or adult child of the victim, or an adult
- 8 sibling of a victim 12 years of age or older, who shall present to
- 9 law enforcement identification pursuant to subdivision (c). A
- 10 guardian shall also present to law enforcement a copy of his or her
- 11 letters of guardianship demonstrating that he or she is the appointed
- 12 guardian of the victim.
- 13 (B) An attorney for the victim, who shall present to law
- 14 enforcement identification pursuant to subdivision (c) and written
- 15 proof that he or she is the attorney for the victim.
- 16 (C) A conservator of the victim who shall present to law
- 17 enforcement identification pursuant to subdivision (c) and a copy
- 18 of his or her letters of conservatorship demonstrating that he or
- 19 she is the appointed conservator of the victim.
- 20 (3) A representative of the victim does not include any person
- 21 who has been convicted of murder in the first degree, as defined
- 22 in Section 189 of the Penal Code, of the victim, or any person
- 23 identified in the incident report face sheet as a suspect.
- 24 SEC. 2. If the Commission on State Mandates determines that
- 25 this act contains costs mandated by the state, reimbursement to
- 26 local agencies and school districts for those costs shall be made
- 27 pursuant to Part 7 (commencing with Section 17500) of Division
- 28 4 of Title 2 of the Government Code.