

AMENDED IN SENATE AUGUST 15, 2016
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 *charging a 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, as defined, or to his or her personal representative, as defined, upon request.

This bill would also require state or local law enforcement agencies to provide those reports to a victim of sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult, as defined. The bill would define “victim” for these purposes to include a minor who is 12 years of age or older. *The bill would require these provisions to apply to requests for reports made within 2 years from the date of completion of the sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult incident report.* This bill would also make technical, nonsubstantive changes to these provisions. By increasing the duties of local law ~~enforcement~~, *enforcement 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: 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, or his or her representative as defined in
7 subdivision (g), of a crime that constitutes an act of any of the
8 following:
9 (1) Domestic violence, as defined in Section 6211.
10 (2) Sexual assault, as defined in Sections 261, 261.5, 262, 265,
11 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288,
12 288a, 288.5, 289, or 311.4 of the Penal Code.
13 (3) Stalking, as defined in Section 1708.7 of the Civil Code or
14 Section 646.9 of the Penal Code.
15 (4) Human trafficking, as defined in Section 236.1 of the Penal
16 Code.
17 (5) Abuse of an elder or a dependent adult, as defined in Section
18 15610.07 of the Welfare and Institutions Code.
19 (b) (1) A copy of an incident report face sheet shall be made
20 available during regular business hours to a victim or his or her
21 representative no later than 48 hours after being requested by the
22 victim or his or her representative, unless the state or local law
23 enforcement agency informs the victim or his or her representative
24 of the reasons why, for good cause, the incident report face sheet
25 is not available, in which case the incident report face sheet shall
26 be made available to the victim or his or her representative no later
27 than five working days after the request is made.

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

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

21 (d) (1) This section shall apply to requests for *domestic violence*
22 face sheets or incident reports made within five years from the
23 date of completion of the incident report.

24 (2) *This section shall apply to requests for sexual assault,*
25 *stalking, human trafficking, or abuse of an elder or a dependent*
26 *adult face sheets or incident reports made within two years from*
27 *the date of completion of the incident report.*

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

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

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

34 (A) The surviving spouse.

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

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

39 (D) A surviving parent of the decedent.

40 (E) A surviving adult relative.

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

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

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

6 (A) A parent, guardian, or adult child of the victim, or an adult
7 sibling of a victim 12 years of age or older, who shall present to
8 law enforcement identification pursuant to subdivision (c). A
9 guardian shall also present to law enforcement a copy of his or her
10 letters of guardianship demonstrating that he or she is the appointed
11 guardian of the victim.

12 (B) An attorney for the victim, who shall present to law
13 enforcement identification pursuant to subdivision (c) and written
14 proof that he or she is the attorney for the victim.

15 (C) A conservator of the victim who shall present to law
16 enforcement identification pursuant to subdivision (c) and a copy
17 of his or her letters of conservatorship demonstrating that he or
18 she is the appointed 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 SEC. 2. If the Commission on State Mandates determines that
24 this act contains costs mandated by the state, reimbursement to
25 local agencies and school districts for those costs shall be made
26 pursuant to Part 7 (commencing with Section 17500) of Division
27 4 of Title 2 of the Government Code.

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