

AMENDED IN ASSEMBLY APRIL 15, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 566

Introduced by Assembly Member McClintock
*(Coauthors: Assembly Members Baldwin, Granlund, House,
Lempert, Margett, Olberg, Oller, Prenter, and Richter)*
(Coauthors: Senators Leslie and Mountjoy)

February 25, 1997

An act to amend Section 3605 of the Penal Code, relating to the death penalty.

LEGISLATIVE COUNSEL'S DIGEST

AB 566, as amended, McClintock. Death penalty: witnesses to execution.

Existing law requires the warden of a state prison to be present at the execution of a judgment of death and requires him or her to invite the presence of two physicians, the Attorney General, and at least 12 reputable citizens of his or her choice.

This bill would require the warden also to invite the members of the immediate family of the victim or victims of the defendant.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 3605 of the Penal Code is
2 amended to read:

3 3605. (a) The warden of the state prison where the
4 execution is to take place shall be present at the execution
5 and shall, *subject to any applicable requirement or*
6 *definition set forth in subdivision (b)*, invite the presence
7 of two physicians, the Attorney General, the members of
8 the immediate family of the victim or victims of the
9 defendant, and at least 12 reputable citizens, to be
10 selected by the warden. The warden shall, at the request
11 of the defendant, permit those ministers of the Gospel,
12 not exceeding two, as the defendant may name, and any
13 persons, relatives or friends, not to exceed five, to be
14 present at the execution, together with those peace
15 officers as he or she may think expedient, to witness the
16 execution. But no other persons than those specified in
17 this section may be present at the execution, nor may any
18 person under 18 years of age be allowed to witness the
19 execution.

20 (b) (1) *For purposes of an invitation required by*
21 *subdivision (a) to members of the immediate family of*
22 *the victim or victims of the defendant, both of the*
23 *following shall apply:*

24 (A) *In the case of a defendant who received a sentence*
25 *of death prior to January 1, 1998, the warden of the state*
26 *prison where the execution is to take place shall*
27 *automatically make the invitation no later than 30 days*
28 *prior to the date of the execution.*

29 (B) *In the case of a defendant who receives a sentence*
30 *of death on or after January 1, 1998, the warden of the*
31 *state prison where the execution is to take place shall*
32 *make the invitation only if a member of the immediate*
33 *family of the victim or victims of the defendant so*
34 *requests in writing, on a form prescribed by the*
35 *Department of Corrections, at the conclusion of the*
36 *penalty phase of the defendant's trial. In the event that*
37 *a written request as so described is made, the warden of*
38 *the state prison where the execution is to take place shall*



1 *make the invitation in accordance with subparagraph*
2 *(A), but only to the family member who made the*
3 *written request.*

4 *(2) For purposes of this section, “immediate family”*
5 *means those persons who are related by blood, adoption,*
6 *or marriage, within the second degree of consanguinity*
7 *or affinity.*

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