

AMENDED IN ASSEMBLY MAY 6, 1999

AMENDED IN ASSEMBLY APRIL 8, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1440

Introduced by Assembly Member Migden

(Principal coauthor: Senator Hayden)

**(Coauthor: Assembly Members ~~Honda~~ Cedillo, Honda, and
McClintock)**

(Coauthors: Senators Burton, Haynes, Polanco, and
Vasconcellos)

February 26, 1999

An act to add Sections 2602 and 2603 to the Penal Code,
relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

AB 1440, as amended, Migden. Media access to prisoners.

Existing law provides that a person sentenced to imprisonment in the state prison has the right to correspond confidentially with any member of the State Bar or holder of public office provided that the prison authorities may open and inspect incoming mail to search for contraband.

The bill would require the Department of Corrections, upon reasonable notice, to permit representatives of the news media to interview prisoners in person or randomly, as specified, and would prohibit the interview of a prisoner or parolee against his or her will. The bill would require the

department to permit the news media to receive confidential correspondence from a prisoner, except as specified.

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. It is the intent of the Legislature in
2 enacting this act to invalidate changes in Section 3261.5
3 of Title ~~14~~ 15 of the California Code of Regulations for
4 which a certificate of compliance was filed on April 14,
5 1997.

6 SEC. 2. Section 2602 is added to the Penal Code, to
7 read:

8 2602. (a) The Legislature finds and declares all of the
9 following:

10 (1) Free exchange of information from behind prison
11 walls benefits the public and fosters a safe and efficient
12 prison system.

13 (2) The Department of Corrections has historically
14 permitted media access to state prisoners without
15 endangering the safety of the prisons or the public.

16 (3) Members of the news media should be permitted
17 to interview state prisoners unless that access would pose
18 an immediate and direct threat to the security of the
19 institution or the safety of members of the public.

20 (4) There is no legitimate reason for a blanket ban on
21 media interviews with specified prisoners.

22 (b) The Department of Corrections, upon reasonable
23 notice, shall permit representatives of the news media to
24 interview prisoners in person, including prearranged
25 interviews with specified prisoners. A personal interview
26 of a particular prisoner is prohibited if the department
27 determines that the interview would pose an immediate
28 and direct threat to the security of the institution or the
29 physical safety of a member of the public. The
30 department may establish reasonable time, place, and
31 manner restrictions for prison interviews, including
32 limitations on the number of interviews per prisoner, and
33 requiring arrangements for pool interviews if requests to



1 interview any one prisoner are excessive, in order to
2 ensure the security of the institution, the physical safety
3 of the public, and the efficient administration of news
4 media interviews.

5 (1) The department shall permit random interviews
6 of individuals encountered by a representative of the
7 news media while covering a facility tour, activity, event,
8 or program.

9 (2) During any interview with a prisoner, a
10 representative of the news media may use materials
11 necessary to conduct the interview, including, but not
12 limited to, pens, pencils, papers, and audio and video
13 recording devices.

14 (3) The department shall permit the news media to
15 receive confidential correspondence from a prisoner
16 unless to do so would pose an immediate and direct threat
17 to the security of the institution or the safety of the public.

18 (4) No prisoner or parolee shall be interviewed against
19 his or her will.

20 SEC. 3. Section 2603 is added to the Penal Code, to
21 read:

22 2603. For purposes of this article, “representative of
23 the news media” means a journalist who works for, or is
24 under contract to, a newspaper, magazine, wire service,
25 book publisher, or radio or television program, or station
26 or who, through press passes issued by a governmental or
27 police agency, or through similar convincing means, can
28 demonstrate that he or she is a bona fide journalist
29 engaged in the gathering of information for distribution
30 to the public.

