

AMENDED IN ASSEMBLY MAY 26, 2000

AMENDED IN ASSEMBLY MAY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2315

Introduced by Assembly Member Mazzoni

February 24, 2000

An act to add Section 1203.15 to the Penal Code, and to add Chapter 6 (commencing with Section 16575) to Part 4 of Division 9 of the Welfare and Institutions Code, relating to children of incarcerated parents.

LEGISLATIVE COUNSEL'S DIGEST

AB 2315, as amended, Mazzoni. Children of incarcerated parents.

Existing law provides various services for the care of children, including foster care placement, child welfare services, services for children who are exposed to alcohol or drugs or who are HIV positive.

This bill would require the Attorney General and the Secretary of the Health and Human Services Agency to convene a study group within 2 months of enactment of this act to include representatives of state and local law enforcement, child welfare and mental health agencies, and the courts for the purpose of developing a model protocol that addresses how best to ensure the temporary and long-term safety, security, and care of children at the time of their parent's arrest. ~~The bill would require the arresting officer to~~

~~inquire at the time of an arrest whether the arrested individual has dependent children and where they are located. In any case in which the arresting officer suspects that the children of an arrestee may not have any provision for care and supervision, this information would be required to be shared with child protective service agencies and the courts. By increasing the duties of local officials, this bill would impose a state-mandated local program.~~

The bill would also require the report filed by the probation officer with the court prior to sentencing to include a discussion of whether or not a defendant over 18 years of age has children, and what arrangements exist for the care of the children if the defendant is to be incarcerated. The court would be required to inquire at the time of sentencing a defendant to incarceration if there is an appropriate arrangement for child care. If there is not an appropriate arrangement the court would be authorized to refer the matter of the children's care and custody to the family or probate court, or to the child protective services agency for assessment, review, and appropriate disposition. By increasing the duties of local officials, this bill would impose a state-mandated local program.

Additionally, the bill would require the Secretary of the Health and Human Services Agency and the Secretary of the Adult and Youth Correctional Agency to convene the Advisory Committee on the Children of Incarcerated Parents. The committee would be comprised of representatives from the Department of Education, the Judicial Council, visitor center providers, researchers, and local law enforcement and child welfare agencies. The committee would be required to develop recommendations on how to provide and target state and local services to children of incarcerated parents and caregivers. By increasing the duties of local officials, 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do



not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 1203.15 is added to the Penal
2 Code, to read:

3 1203.15. (a) The report filed by the probation officer
4 with the court prior to sentencing pursuant to Section
5 1203 shall include a discussion of whether or not a
6 defendant over 18 years of age has children, and what
7 arrangements exist for the care of a defendant's children
8 if the defendant is to be incarcerated. When a sentence
9 includes incarceration, the court shall inquire at the time
10 of sentencing of any defendant who has children whether
11 there is an appropriate arrangement to provide care for
12 the defendant's children if incarcerated. If the court
13 believes that an adequate care arrangement for the
14 defendant's children does not exist, the court may
15 directly refer the matter of the children's care and
16 custody to the family or probate court for appropriate
17 orders, or to the County Child Protective Services
18 Agency for assessment, review, and appropriate
19 disposition.

20 (b) The Judicial Council shall adopt rules and forms to
21 implement this section.

22 SEC. 2. Chapter 6 (commencing with Section 16575)
23 is added to Part 4 of Division 9 of the Welfare and
24 Institutions Code, to read:

25

26 CHAPTER 6. CHILDREN OF INCARCERATED PARENTS

27

28 16575. This article shall be known and may be cited as
29 the Children of Incarcerated Parents Act of 2000.



1 16576. The Legislature declares as follows:

2 (a) An estimated 80 percent of the 11,600 women in
3 state youth and adult correctional facilities, and the
4 approximately 10,000 women in county jails, are parents.
5 Most of these women are single parents who have an
6 average of two children. Approximately three-fourths of
7 these women had custody of their children at the time of
8 their arrest.

9 (b) About one in five children are present at the time
10 of their parent's arrest, and many of these children are
11 between the ages of three and six years old.

12 (c) The children of incarcerated parents may suffer
13 from separation anxiety, fear, and guilt, and may act out
14 by withdrawing or by aggressive behavior. Repeated
15 separations due to their parent's recidivism may
16 aggravate these problems.

17 (d) The children of incarcerated parents are at risk for
18 poor outcomes in school, mental health and social
19 problems, and juvenile delinquency. There is increasing
20 evidence of intergenerational incarceration.

21 (e) Most jurisdictions do not request or collect family
22 information from arrested persons, nor do they have
23 protocols in place to define official roles and
24 responsibilities for addressing the needs of the children of
25 prisoners at the time of arrest or at sentencing.

26 16577. (a) The Attorney General and the Secretary
27 of the Health and Human Services Agency shall jointly
28 convene a study group within two months of enactment
29 of this chapter, to include representatives of state and
30 local law enforcement, child welfare and mental health
31 agencies, and the courts. The study group shall develop
32 a model protocol within six months of its first meeting that
33 addresses how best to ensure the temporary and
34 long-term safety, security, and care of children at the time
35 of their parent's arrest. ~~This would include having the~~
36 ~~arresting officer inquire at the time of arrest whether the~~
37 ~~arrestees have dependent children and where those~~
38 ~~children are located. In any case in which the arresting~~
39 ~~officer suspects that the children of an arrestee may not~~
40 ~~have any provision for care and supervision, information~~



1 ~~about the children and their whereabouts shall be shared~~
2 ~~with child protective service agencies and the courts as~~
3 ~~soon as possible, in a manner specified by the model~~
4 ~~protocol.~~

5 (b) The study group shall disseminate the model
6 protocol to county boards of supervisors and city councils,
7 and to local law enforcement, judicial, child welfare, and
8 mental health agencies.

9 ~~(c) Upon enactment of this chapter, counties shall~~
10 ~~ensure that they have in place standard operating~~
11 ~~procedures for identifying, locating, and providing~~
12 ~~appropriate arrangements to ensure the safety, security,~~
13 ~~and well-being of the minor child of an arrestee. Upon~~
14 ~~receiving the model protocol developed by the state~~
15 ~~study group, counties shall again review the standard~~
16 ~~operating procedures and incorporate any elements of~~
17 ~~the model protocol that may be missing from those~~
18 ~~standard operating procedures.~~

19 *(c) Upon receiving the model protocol, counties shall*
20 *review their operating procedures for identifying,*
21 *locating, and providing appropriate arrangements to*
22 *ensure the safety, security, and well-being of the minor*
23 *child of an arrestee, and incorporate any elements of the*
24 *model protocol that may be missing from those operating*
25 *procedures.*

26 16578. (a) The Secretary of the Health and Human
27 Services Agency and the Secretary of the Adult and Youth
28 Correctional Agency shall jointly convene the Advisory
29 Committee on the Children of Incarcerated Parents. The
30 advisory committee shall include agency officials and
31 representatives from the Department of Education, the
32 Judicial Council, visitor center providers, researchers,
33 and local law enforcement and child welfare agencies, as
34 appointed by the secretaries.

35 (b) The advisory committee shall develop
36 recommendations within six months on how to best
37 provide and target state and local services to the children
38 of incarcerated parents and caregivers. The committee
39 shall suggest how to develop a data base that will track the
40 needs and outcomes of these children while ensuring



1 confidentiality of the data. The committee shall also
2 consider how to facilitate visitation with the incarcerated
3 parent when in the best interest of the child.

4 SEC. 3. Notwithstanding Section 17610 of the
5 Government Code, if the Commission on State Mandates
6 determines that this act contains costs mandated by the
7 state, reimbursement to local agencies and school
8 districts for those costs shall be made pursuant to Part 7
9 (commencing with Section 17500) of Division 4 of Title
10 2 of the Government Code. If the statewide cost of the
11 claim for reimbursement does not exceed one million
12 dollars (\$1,000,000), reimbursement shall be made from
13 the State Mandates Claims Fund.

