

AMENDED IN SENATE JUNE 12, 2000
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~~ Members
*Mazzoni and Strom-Martin***

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~~ 6 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, *by December 2001*, 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, *including the role and responsibilities of the arresting officer to make appropriate inquiries and referrals.*

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.~~ *The report shall include the location of the children and their caretakers and would be referred to the County Child Protective Services Agency and the Family Court, when appropriate,* 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, *the Attorney General,* 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 *agency officials, as well as* representatives from the Department of Education, *the Department of Justice,* the Judicial Council, visitor center providers, researchers, and local law enforcement and child welfare agencies. The committee would be required to develop, *within one year,* 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 ~~eustody 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. The report shall include the~~
22 ~~location of the children and their caretakers. This section~~
23 ~~of the presentencing report shall be referred to the~~
24 ~~County Child Protective Services Agency and the Family~~
25 ~~Court, when appropriate, for assessment, review, and~~
26 ~~appropriate disposition.~~

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

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CHAPTER 6. CHILDREN OF INCARCERATED PARENTS

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

16576. The Legislature declares as follows:

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

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

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

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

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

16577. (a) The Attorney General and the Secretary of the Health and Human Services Agency shall jointly convene a study group within ~~two~~ six months of enactment of this chapter, to include representatives of state and local law enforcement, child welfare and mental health agencies, and the courts. The study group shall develop a model protocol ~~within six months of its first meeting~~ by *December 2001* 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,



1 *including the role and responsibilities of the arresting*
2 *officer to make appropriate inquiries and referrals.*

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

7 (c) Upon receiving the model protocol, counties shall
8 review their operating procedures for identifying,
9 locating, and providing appropriate arrangements to
10 ensure the safety, security, and well-being of the minor
11 child of an arrestee, and incorporate any elements of the
12 model protocol that may be missing from those operating
13 procedures.

14 16578. (a) The Secretary of the Health and Human
15 Services Agency, *the Attorney General*, and the
16 Secretary of the Adult and Youth Correctional Agency
17 shall jointly convene the Advisory Committee on the
18 Children of Incarcerated Parents. The advisory
19 committee shall include ~~agency officials and~~ *officials from*
20 *those agencies and the Department of Justice, as well as*
21 representatives from the Department of Education, the
22 Judicial Council, visitor center providers, researchers,
23 and local law enforcement and child welfare agencies, as
24 appointed by the ~~secretaries~~ *Secretaries of those agencies*
25 *and the Attorney General.*

26 (b) The advisory committee shall develop
27 recommendations within ~~six months~~ *one year* on how to
28 best provide and target state and local services to the
29 children of incarcerated parents and caregivers. The
30 committee shall suggest how to develop a data base that
31 will track the needs and outcomes of these children while
32 ensuring confidentiality of the data. The committee shall
33 also consider how to facilitate visitation with the
34 incarcerated parent when in the best interest of the child.

35 SEC. 3. Notwithstanding Section 17610 of the
36 Government Code, if the Commission on State Mandates
37 determines that this act contains costs mandated by the
38 state, reimbursement to local agencies and school
39 districts for those costs shall be made pursuant to Part 7
40 (commencing with Section 17500) of Division 4 of Title



1 2 of the Government Code. If the statewide cost of the
2 claim for reimbursement does not exceed one million
3 dollars (\$1,000,000), reimbursement shall be made from
4 the State Mandates Claims Fund.

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