

AMENDED IN SENATE AUGUST 25, 2000

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 28, 2000

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 Members Mazzoni and
Strom-Martin**

(Coauthors: Senators Escutia, Polanco, Solis, and
Vasconcellos)

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 6 months of enactment of this act to include representatives of state and local law enforcement, child welfare and mental health agencies, parents who have been incarcerated, individuals who were minors during periods when a parent was incarcerated, and the courts for the purpose of developing, by March 2002, 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 report shall include,~~ *and* the location of the children and their caretakers ~~and~~. *At the option of county boards of supervisors, the report* would be referred to the County Child Protective Services Agency for assessment, review, and appropriate disposition, *as specified*. 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 Youth and Adult Correctional Agency to convene the Advisory Committee on the Children of Incarcerated Parents. The committee would be comprised of officials from those agencies, as well as representatives from the Department of Education, the Department of Justice, the Judicial Council, visitor center providers, researchers, parents who have been incarcerated, individuals who were minors during periods when a parent was incarcerated, 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. ~~The report shall
9 include, and the location of the children and their
10 caretakers. This section of the presentencing report shall
11 be referred to the County Child Protective Services
12 Agency for assessment, review, and appropriate
13 disposition.~~

14 (b) *At the option of county boards of supervisors, this
15 section of the presentencing report shall be referred to
16 the County Child Protective Services Agency for
17 assessment, review, and appropriate disposition to ensure
18 the safety, protection, and physical and emotional
19 well-being of children who are at risk of harm, as
20 authorized by Section 16504 of the Welfare and
21 Institutions Code.*



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

4
 5
 6

CHAPTER 6. CHILDREN OF INCARCERATED PARENTS

7 16575. This article shall be known and may be cited as
 8 the Children of Incarcerated Parents Act of 2000.

9 16576. The Legislature declares as follows:

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

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

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

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

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

34 16577. (a) ~~The Attorney General and the Secretary~~
 35 ~~of the Health and Human Services Agency shall jointly~~
 36 *shall* convene a study group within six months of
 37 enactment of this chapter, to include representatives of
 38 state and local law enforcement, child welfare and mental
 39 health agencies, parents who have been incarcerated,
 40 individuals who were minors during periods when a



1 parent was incarcerated, and the courts. The study group
2 shall develop a model protocol by March 2002 that
3 addresses how best to ensure the temporary and
4 long-term safety, security, and care of children at the time
5 of their parent's arrest, including the role and
6 responsibilities of the arresting officer to make
7 appropriate inquiries and referrals.

8 (b) The ~~study group~~ *Department of Justice* shall
9 disseminate the model protocol to county boards of
10 supervisors and city councils, and to local law
11 enforcement, judicial, child welfare, and mental health
12 agencies.

13 ~~(c) Upon receiving the model protocol, counties shall~~
14 ~~review their operating procedures for identifying,~~
15 ~~locating, and providing appropriate arrangements to~~
16 ~~ensure the safety, security, and well-being of the minor~~
17 ~~child of an arrestee, and incorporate any elements of the~~
18 ~~model protocol that may be missing from those operating~~
19 ~~procedures.~~

20 ~~16578. (a) The Secretary of the Health and Human~~
21 ~~Services Agency, the Attorney General, and the~~
22 ~~Secretary of the Youth and Adult Correctional Agency~~
23 ~~shall jointly convene the Advisory Committee on the~~
24 ~~Children of Incarcerated Parents. The advisory~~
25 ~~committee shall include officials from those agencies and~~
26 ~~the Department of Justice, as well as representatives from~~
27 ~~the Department of Education, the Judicial Council,~~
28 ~~visitor center providers, researchers, parents who have~~
29 ~~been incarcerated, individuals who were minors during~~
30 ~~periods when a parent was incarcerated, and local law~~
31 ~~enforcement and child welfare agencies, as appointed by~~
32 ~~the secretaries of those agencies and the Attorney~~
33 ~~General.~~

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



1 ~~consider how to facilitate visitation with the incarcerated~~
2 ~~parent when in the best interest of the child.~~

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

