

Assembly Bill No. 2315

Passed the Assembly August 30, 2000

Chief Clerk of the Assembly

Passed the Senate August 28, 2000

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2000, at _____ o'clock ____M.

Private Secretary of the Governor



CHAPTER _____

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, Mazzoni. Children of incarcerated parents.

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

This bill would require the Attorney General 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, what arrangements exist for the care of the children if the defendant is to be incarcerated, and the location of the children and their caretakers. 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.



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.

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

SECTION 1. Section 1203.15 is added to the Penal Code, to read:

1203.15. (a) The report filed by the probation officer with the court prior to sentencing pursuant to Section 1203 shall include a discussion of whether or not a defendant over 18 years of age has children, and what arrangements exist for the care of a defendant's children if the defendant is to be incarcerated, and the location of the children and their caretakers.

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

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

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. More than two-thirds 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 shall convene a study group within six months of enactment of this chapter, 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. The study group shall develop a model protocol by March 2002 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.

(b) The Department of Justice shall disseminate the model protocol to county boards of supervisors and city



councils, and to local law enforcement, judicial, child welfare, and mental health agencies.

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



Approved _____, 2000

Governor

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