

**ASSEMBLY BILL**

**No. 1866**

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**Introduced by Assembly Member Leno**

February 2, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1866, as introduced, Leno. 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, subject to inspection by prison authorities to search incoming mail for contraband.

The bill would require the Department of Corrections to permit representatives of the news media to interview or visit prisoners in person or randomly, as specified, subject to reasonable time, place, and manner restrictions established by the department to ensure security and accommodate efficiency of the interview. It would allow a department official or a warden discretion to adopt policies providing for prearranged visitation rights or greater access for representatives of the news media. This bill would also prohibit the interview of a prisoner or parolee against his or her will and 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 enacting this  
2 act to invalidate changes in Section 3261.5 of Title 15 of the  
3 California Code of Regulations for which a certificate of  
4 compliance was filed on April 14, 1997, to the extent it is  
5 inconsistent with Sections 2602 and 2603 of the Penal Code.

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

7 2602. (a) The Department of Corrections shall permit  
8 representatives of the news media to visit prisoners in person  
9 during a prisoner’s regular visitation hours, subject to the normal  
10 friends’ and relatives’ visiting approval process except as  
11 provided in this section. Once approved for visits at any institution,  
12 a representative of the news media shall be allowed during a  
13 one-year, renewable period to visit any prisoner at that institution  
14 who is entitled to visitation and is willing to receive visits from a  
15 representative of the news media. The department may establish  
16 reasonable time, place, and manner restrictions to ensure the  
17 security of the institution and to accommodate the efficient  
18 administration of a news media interview during a regularly  
19 scheduled visiting period. Nothing in this section shall prohibit an  
20 official of the department or a warden of a particular institution in  
21 his or her discretion from adopting a policy providing for  
22 prearranged visitation rights or greater access policies for  
23 representatives of the news media.

24 (b) (1) The department shall permit random interviews of  
25 individuals encountered by a representative of the news media  
26 while covering a facility tour, activity, program, or event.

27 (2) During any random interview or visit with a prisoner, a  
28 representative of the news media may use materials necessary to  
29 conduct the interview, including, but not limited to, pens, pencils,  
30 papers, cameras, and audio and video recording devices.

31 (3) The department shall permit the news media to receive  
32 confidential correspondence from a prisoner unless to do so would  
33 pose an immediate and direct threat to the security of the institution  
34 or the physical safety of the public.

35 (4) No prisoner or parolee shall be interviewed or receive a visit  
36 from a representative of the news media against his or her will.

37 (5) No prisoner or parolee may have his or her visitation limited  
38 or revoked because of a visit or potential visit from a representative



1 of the news media, nor may a prisoner or parolee be punished,  
2 reclassified, disciplined, or transferred to another prison against  
3 his or her wishes, for participating in a visit by a representative of  
4 the news media.

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

6 2603. For purposes of this article, “representative of the news  
7 media” means a journalist who works for, or is under contract to,  
8 a newspaper, magazine, wire service, or radio or television  
9 program, or who, through press passes issued by a governmental  
10 or police agency or through similar convincing means, can  
11 demonstrate that he or she is a bona fide journalist engaged in the  
12 gathering of information for distribution to the public.

