

AMENDED IN ASSEMBLY APRIL 16, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1866

Introduced by Assembly Member Leno

February 2, 2004

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1866, as amended, 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. *A representative of the news media may*
12 *apply to be an approved visitor at an institution without identifying*
13 *a specific inmate on the application form, and need not be on an*
14 *inmate's list of approved visitors.* Once approved for visits at any
15 institution, a representative of the news media shall be allowed
16 during a one-year, renewable period to visit any prisoner at that
17 institution who is entitled to visitation and is willing to receive
18 visits from a representative of the news media. The department
19 may establish reasonable time, place, and manner restrictions to
20 ensure the security of the institution and to accommodate the
21 efficient administration of a news media interview during a
22 regularly scheduled visiting period. Nothing in this section shall
23 prohibit an official of the department or a warden of a particular
24 institution in his or her discretion from adopting a policy providing
25 for prearranged visitation rights or greater access policies for
26 representatives of the news media.

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

30 (2) During any random interview or visit with a prisoner, a
31 representative of the news media may use materials necessary to
32 conduct the interview, including, but not limited to, pens, pencils,
33 papers, *laptop computers*, cameras, and audio and video recording
34 devices.

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



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

3 (5) No prisoner or parolee may have his or her visitation limited
4 or revoked because of a visit or potential visit from a representative
5 of the news media, nor may a prisoner or parolee be punished,
6 reclassified, disciplined, or transferred to another prison against
7 his or her wishes, for participating in a visit by a representative of
8 the news media.

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

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

