

AMENDED IN ASSEMBLY MAY 20, 2004

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~~ *Section 5009.5* 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.

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This bill would require the Department of Corrections to permit representatives of the news media to interview or visit prisoners in person or remotely, 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. It would require that any change in the employment status or freelance assignment of a representative of the news media be reported to the department immediately, and would provide that failure of the representative to do so may result in the revocation of visiting

privileges. This bill would also prohibit the interview of a prisoner or parolee against his or her will and would ~~require~~ *forbid* the department to ~~permit the news media to receive confidential correspondence from a prisoner, except~~ *retaliate against a prisoner or parolee for participating in a visit by a representative of the news media,* 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~~ 5009.5 is added to the Penal Code, to
 7 read:

8 ~~2602.~~—(a)

9 5009.5. (a) (1) The Department of Corrections shall permit
 10 representatives of the news media, *as defined in Section 3000 of*
 11 *Title 15 of the California Code of Regulations,* to visit prisoners in
 12 person during a prisoner’s regular visitation hours, subject to the
 13 normal friends’ and relatives’ visiting approval process except as
 14 provided in this section. A representative of the news media may
 15 apply to be an approved visitor at an institution without identifying
 16 a specific ~~inmate~~ *prisoner* on the application form, and need not
 17 be on ~~an inmate’s~~ *a prisoner’s* list of approved visitors. Once
 18 approved for visits at any institution, a representative of the news
 19 media shall be allowed during a one-year, renewable period to visit
 20 any prisoner at that institution who is entitled to visitation and is
 21 willing to receive visits from a representative of the news media.
 22 ~~The department may establish reasonable time, place, and manner~~
 23 ~~restrictions to ensure the security of the institution and to~~
 24 ~~accommodate the efficient administration of a news media~~
 25 ~~interview during a regularly scheduled visiting period. Nothing in~~
 26 ~~this section shall prohibit an official of the department or a warden~~
 27 ~~of a particular institution in his or her discretion from adopting a~~
 28 ~~policy providing for prearranged visitation rights or greater access~~
 29 ~~policies for representatives of the news media. Any change in the~~



1 *employment status or freelance assignment of a representative of*
2 *the news media shall be reported to the department immediately.*
3 *Failure of a representative of the news media to report a change*
4 *in employment status or freelance assignment may result in the*
5 *revocation of visiting privileges.*

6 (2) *During any visit with a prisoner, a representative of the*
7 *news media may use his or her own pens, pencils, and papers.*
8 *These items shall be subject to search.*

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

12 (2) *During any random interview*~~*or visit*~~ *with a prisoner, a*
13 *representative of the news media may use materials necessary to*
14 *conduct the interview, including, but not limited to, pens, pencils,*
15 ~~*papers, laptop computers, and papers.*~~ *The use of cameras, and*
16 ~~*audio and video recording devices.*~~

17 ~~(3) *The department shall permit the news media to receive*~~
18 ~~*confidential correspondence from a prisoner unless to do so would*~~
19 ~~*pose an immediate and direct threat to the security of the institution*~~
20 ~~*or the physical safety of the public.*~~

21 ~~(4) *devices shall require the prior approval of the institution*~~
22 ~~*head or designee.*~~

23 (c) *The department may establish reasonable time, place, and*
24 *manner restrictions to ensure the security of the institution and to*
25 *accommodate the efficient administration of a news media*
26 *interview during a regularly scheduled visiting period or random*
27 *interview.*

28 (d) *No prisoner or parolee shall be interviewed or receive a visit*
29 *from a representative of the news media against his or her will.*

30 ~~(5)~~

31 (e) *No prisoner or parolee may have his or her visitation limited*
32 *or revoked because of a visit or potential visit from a representative*
33 *of the news media, nor may a prisoner or parolee be punished,*
34 *reclassified, disciplined, or transferred to another prison against*
35 *his or her wishes, for participating in a visit by a representative of*
36 *the news media.*

37 ~~SEC. 3.—Section 2603 is added to the Penal Code, to read:~~

38 ~~2603.—For purposes of this article, “representative of the news~~
39 ~~media” means a journalist who works for, or is under contract to,~~
40 ~~a newspaper, magazine, wire service, or radio or television~~



1 ~~program, or who, through press passes issued by a governmental~~
2 ~~or police agency or through similar convincing means, can~~
3 ~~demonstrate that he or she is a bona fide journalist engaged in the~~
4 ~~gathering of information for distribution to the public.~~

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