

AMENDED IN ASSEMBLY APRIL 19, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 100

Introduced by Assembly Member Cohn

January 11, 2005

An act to amend Section 977.2 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 100, as amended, Cohn. Arraignment: by audiovideo communication.

Existing law provides that in all cases in which the defendant is charged with a misdemeanor or a felony and is currently incarcerated in the state prison, the Department of Corrections may arrange for specified court appearances to be conducted by 2-way electronic audiovideo communication between the defendant and the courtroom in lieu of the physical presence of the defendant in the courtroom, as specified.

This bill would provide that the local law enforcement agency having jurisdiction over a defendant currently incarcerated in a *city or county jail* may, *with the consent of the defendant and the court in which the defendant is to appear*, also arrange for specified court appearances of the defendant to be conducted by 2-way electronic audiovideo communication in lieu of the physical presence of the defendant in the courtroom, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 977.2 of the Penal Code is amended to
2 read:

3 977.2. (a) (1) Notwithstanding Section 977 or any other law,
4 in any case in which the defendant is charged with a
5 misdemeanor or a felony and is currently incarcerated in the state
6 prison, the Department of Corrections may arrange for all court
7 appearances in superior court, except for the preliminary hearing,
8 trial, judgment and sentencing, and motions to suppress, to be
9 conducted by two-way electronic audiovideo communication
10 between the defendant and the courtroom in lieu of the physical
11 presence of the defendant in the courtroom. Nothing in this
12 section shall be interpreted to eliminate the authority of the court
13 to issue an order requiring the defendant to be physically present
14 in the courtroom in those cases where the court finds
15 circumstances that require the physical presence of the defendant
16 in the courtroom. For those court appearances that the
17 department determines to conduct by two-way electronic
18 audiovideo communication, the department shall arrange for
19 two-way electronic audiovideo communication between the
20 superior court and any state prison facility located in the county.
21 The department shall provide properly maintained equipment and
22 adequately trained staff at the prison as well as appropriate
23 training for court staff to ensure that consistently effective
24 two-way communication is provided between the prison facility
25 and the courtroom for all appearances that the department
26 determines to conduct by two-way electronic audiovideo
27 communication.

28 (2) Notwithstanding Section 977 or any other law, in any case
29 in which the defendant is charged with a misdemeanor or a
30 felony and is currently incarcerated in a *city or* county jail, the
31 law enforcement agency having jurisdiction over the defendant
32 may, *with the consent of the defendant and the court in which the*
33 *defendant is to appear*, arrange for all court appearances in
34 municipal or superior court, except for the preliminary hearing,
35 trial, judgment and sentencing, and motions to suppress, to be
36 conducted by two-way electronic audiovideo communication
37 between the defendant and the courtroom in lieu of the physical
38 presence of the defendant in the courtroom. Nothing in this

1 section shall be interpreted to eliminate the authority of the court
2 to issue an order requiring the defendant to be physically present
3 in the courtroom in those cases where the court finds
4 circumstances that require the physical presence of the defendant
5 in the courtroom. For those court appearances that the law
6 enforcement agency having jurisdiction over the defendant
7 determines to conduct by two-way electronic audiovideo
8 communication, the law enforcement agency shall arrange for the
9 two-way electronic audiovideo communication between the
10 municipal or superior court and the *city or* county jail. To ensure
11 that consistently effective two-way communication is provided
12 between the *city or* county jail and the courtroom for all
13 appearances that the law enforcement agency determines to
14 conduct by two-way electronic audiovideo communication, the
15 law enforcement agency shall, at the very least, ensure that
16 properly maintained equipment and adequately trained staff are
17 available at the *city or* county jail and that appropriately trained
18 court staff are available in the courtroom.

19 (b) If the defendant is represented by counsel, the attorney
20 shall be present with the defendant at the initial court appearance
21 and arraignment, and may enter a plea during the arraignment.
22 However, if the defendant is represented by counsel at an initial
23 hearing in superior court in a felony case, and if the defendant
24 does not plead guilty or nolo contendere to any charge, the
25 attorney shall be present with the defendant or if the attorney is
26 not present with the defendant, the attorney shall be present in
27 court during the hearing.

28 (c) In lieu of the physical presence of the defendant's counsel
29 at the institution with the defendant, the court and the department
30 or law enforcement agency shall establish a confidential
31 telephone and facsimile transmission line between the court and
32 the institution for communication between the defendant's
33 counsel in court and the defendant at the institution. In this case,
34 counsel for the defendant shall not be required to be physically
35 present at the institution during any court appearance that is
36 conducted via electronic audiovideo communication.

- 1 (d) Nothing in this section shall be construed to prohibit the
- 2 physical presence of the defense counsel with the defendant at
- 3 the state prison or *a city or* county jail.