

AMENDED IN SENATE JUNE 21, 2005

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 124250 of the Health and Safety Code, relating to domestic violence.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 100, as amended, Cohn. ~~Arraignment: by audiovideo communication.~~ *Battered womens' shelters: grant program.*

Existing law requires the Maternal and Child Health Branch of the State Department of Health Services to administer a comprehensive shelter-based services grant program to battered women's shelters, and requires the department to consult with an advisory council that remains in existence until January 1, 2006, in the administration of the grant program.

This bill would extend the period during which the advisory council would remain in existence to January 1, 2010.

~~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~~ yes.
State-mandated local program: no.

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

1 SECTION 1. Section 124250 of the Health and Safety Code is
2 amended to read:
3 124250. (a) The following definitions shall apply for
4 purposes of this section:
5 (1) “Domestic violence” means the infliction or threat of
6 physical harm against past or present adult or adolescent female
7 intimate partners, and shall include physical, sexual, and
8 psychological abuse against the woman, and is a part of a pattern
9 of assaultive, coercive, and controlling behaviors directed at
10 achieving compliance from or control over, that woman.
11 (2) “Shelter-based” means an established system of services
12 where battered women and their children may be provided safe
13 or confidential emergency housing on a 24-hour basis, including,
14 but not limited to, hotel or motel arrangements, haven, and safe
15 houses.
16 (3) “Emergency shelter” means a confidential or safe location
17 that provides emergency housing on a 24-hour basis for battered
18 women and their children.
19 (b) The Maternal and Child Health Branch of the State
20 Department of Health Services shall administer a comprehensive
21 shelter-based services grant program to battered women’s
22 shelters pursuant to this section.
23 (c) The Maternal and Child Health Branch shall administer
24 grants, awarded as the result of a request for application process,
25 to battered women’s shelters that propose to maintain shelters or
26 services previously granted funding pursuant to this section, to
27 expand existing services or create new services, and to establish
28 new battered women’s shelters to provide services, in any of the
29 following four areas:

- 1 (1) Emergency shelter to women and their children escaping
2 violent family situations.
- 3 (2) Transitional housing programs to help women and their
4 children find housing and jobs so that they are not forced to
5 choose between returning to a violent relationship or becoming
6 homeless. The programs may offer up to 18 months of housing,
7 case management, job training and placement, counseling,
8 support groups, and classes in parenting and family budgeting.
- 9 (3) Legal and other types of advocacy and representation to
10 help women and their children pursue the appropriate legal
11 options.
- 12 (4) Other support services for battered women and their
13 children.
- 14 (d) (1) The Maternal and Child Health Branch of the State
15 Department of Health Services shall conduct a minimum of one
16 site visit per grant term to each agency funded to provide
17 shelter-based services to battered women and their children. The
18 purpose of the site visit shall be a performance assessment of,
19 and technical assistance for, each agency visited. The
20 performance assessment shall include, but need not be limited to,
21 a review of all of the following:
- 22 (A) Progress in meeting program goals and objectives.
 - 23 (B) Agency organization and facilities.
 - 24 (C) Personnel policies, files, and training.
 - 25 (D) Recordkeeping, budgeting, and expenditures.
 - 26 (E) Documentation, data collection, and client confidentiality.
- 27 (2) Subsequent to each site visit conducted under paragraph
28 (1), the Maternal and Child Health Branch shall provide a written
29 report to the agency summarizing the agency's performance, any
30 deficiencies noted, and any corrective action needed.
- 31 (3) Where an agency receives funding from both the Maternal
32 and Child Health Branch of the State Department of Health
33 Services and the Domestic Violence Branch of the Office of
34 Criminal Justice Planning during any grant cycle, the Maternal
35 and Child Health Branch and the Domestic Violence Branch
36 shall, to the extent feasible, coordinate agency site visits and
37 share performance assessment data with the goal of improving
38 efficiency, eliminating duplication, and reducing administrative
39 costs.

1 (e) In implementing the grant program pursuant to this section,
2 the State Department of Health Services shall consult with an
3 advisory council that shall remain in existence until January 1,
4 ~~2006~~ 2010. The council shall be composed of not to exceed 13
5 voting members and two nonvoting members appointed as
6 follows:

7 (1) Seven members appointed by the Governor.

8 (2) Three members appointed by the Speaker of the Assembly.

9 (3) Three members appointed by the Senate Committee on
10 Rules.

11 (4) Two nonvoting ex officio members who shall be Members
12 of the Legislature, one appointed by the Speaker of the Assembly
13 and one appointed by the Senate Committee on Rules. Any
14 Member of the Legislature appointed to the council shall meet
15 with, and participate in the activities of, the council to the extent
16 that participation is not incompatible with his or her position as a
17 Member of the Legislature.

18 The membership of the council shall consist of domestic
19 violence advocates, battered women service providers, and
20 representatives of women's organizations, law enforcement, and
21 other groups involved with domestic violence. At least one-half
22 of the council membership shall consist of domestic violence
23 advocates or battered women service providers from
24 organizations such as the California Alliance Against Domestic
25 Violence.

26 It is the intent of the Legislature that the council membership
27 reflect the ethnic, racial, cultural, and geographic diversity of the
28 state.

29 (f) The department shall collaborate closely with the council in
30 the development of funding priorities, the framing of the Request
31 for Proposals, and the solicitation of proposals.

32 (g) (1) The Maternal and Child Health Branch of the State
33 Department of Health Services shall administer grants, awarded
34 as the result of a request for application process, to agencies to
35 conduct demonstration projects to serve battered women,
36 including, but not limited to, creative and innovative service
37 approaches, such as community response teams and pilot projects
38 to develop new interventions emphasizing prevention and
39 education, and other support projects identified by the advisory
40 council.

1 (2) For purposes of this subdivision, “agency” means a state
2 agency, a local government, a community-based organization, or
3 a nonprofit organization.

4 (h) It is the intent of the Legislature that services funded by
5 this program include services in underserved and ethnic and
6 racial communities. Therefore, the Maternal and Child Health
7 Branch of the State Department of Health Services shall do all of
8 the following:

9 (1) Fund shelters pursuant to this section that reflect the
10 ethnic, racial, economic, cultural, and geographic diversity of the
11 state.

12 (2) Target geographic areas and ethnic and racial
13 communities of the state whereby, based on a needs assessment,
14 it is determined that no shelter-based services exist or that
15 additional resources are necessary.

16 (i) The director may award additional grants to shelter-based
17 agencies when it is determined that there exists a critical need for
18 shelter or shelter-based services.

19 (j) As a condition of receiving funding pursuant to this section,
20 battered women’s shelters shall do all of the following:

21 (1) Provide matching funds or in-kind contributions equivalent
22 to not less than 20 percent of the grant they would receive. The
23 matching funds or in-kind contributions may come from other
24 governmental or private sources.

25 (2) Ensure that appropriate staff and volunteers having client
26 contact meet the definition of “domestic violence counselor” as
27 specified in subdivision (a) of Section 1037.1 of the Evidence
28 Code. The minimum training specified in paragraph (2) of
29 subdivision (a) of Section 1037.1 of the Evidence Code shall be
30 provided to those staff and volunteers who do not meet the
31 requirements of paragraph (1) of subdivision (a) of Section
32 1037.1 of the Evidence Code.

33 ~~SECTION 1. Section 977.2 of the Penal Code is amended to~~
34 ~~read:~~

35 ~~977.2. (a) (1) Notwithstanding Section 977 or any other law,~~
36 ~~in any case in which the defendant is charged with a~~
37 ~~misdemeanor or a felony and is currently incarcerated in the state~~
38 ~~prison, the Department of Corrections may arrange for all court~~
39 ~~appearances in superior court, except for the preliminary hearing,~~
40 ~~trial, judgment and sentencing, and motions to suppress, to be~~

1 ~~conducted by two-way electronic audiovideo communication~~
2 ~~between the defendant and the courtroom in lieu of the physical~~
3 ~~presence of the defendant in the courtroom. Nothing in this~~
4 ~~section shall be interpreted to eliminate the authority of the court~~
5 ~~to issue an order requiring the defendant to be physically present~~
6 ~~in the courtroom in those cases where the court finds~~
7 ~~circumstances that require the physical presence of the defendant~~
8 ~~in the courtroom. For those court appearances that the~~
9 ~~department determines to conduct by two-way electronic~~
10 ~~audiovideo communication, the department shall arrange for~~
11 ~~two-way electronic audiovideo communication between the~~
12 ~~superior court and any state prison facility located in the county.~~
13 ~~The department shall provide properly maintained equipment and~~
14 ~~adequately trained staff at the prison as well as appropriate~~
15 ~~training for court staff to ensure that consistently effective~~
16 ~~two-way communication is provided between the prison facility~~
17 ~~and the courtroom for all appearances that the department~~
18 ~~determines to conduct by two-way electronic audiovideo~~
19 ~~communication.~~

20 (2) ~~Notwithstanding Section 977 or any other law, in any case~~
21 ~~in which the defendant is charged with a misdemeanor or a~~
22 ~~felony and is currently incarcerated in a city or county jail, the~~
23 ~~law enforcement agency having jurisdiction over the defendant~~
24 ~~may, with the consent of the defendant and the court in which the~~
25 ~~defendant is to appear, arrange for all court appearances in~~
26 ~~municipal or superior court, except for the preliminary hearing,~~
27 ~~trial, judgment and sentencing, and motions to suppress, to be~~
28 ~~conducted by two-way electronic audiovideo communication~~
29 ~~between the defendant and the courtroom in lieu of the physical~~
30 ~~presence of the defendant in the courtroom. Nothing in this~~
31 ~~section shall be interpreted to eliminate the authority of the court~~
32 ~~to issue an order requiring the defendant to be physically present~~
33 ~~in the courtroom in those cases where the court finds~~
34 ~~circumstances that require the physical presence of the defendant~~
35 ~~in the courtroom. For those court appearances that the law~~
36 ~~enforcement agency having jurisdiction over the defendant~~
37 ~~determines to conduct by two-way electronic audiovideo~~
38 ~~communication, the law enforcement agency shall arrange for the~~
39 ~~two-way electronic audiovideo communication between the~~
40 ~~municipal or superior court and the city or county jail. To ensure~~

1 ~~that consistently effective two-way communication is provided~~
2 ~~between the city or county jail and the courtroom for all~~
3 ~~appearances that the law enforcement agency determines to~~
4 ~~conduct by two-way electronic audiovideo communication, the~~
5 ~~law enforcement agency shall, at the very least, ensure that~~
6 ~~properly maintained equipment and adequately trained staff are~~
7 ~~available at the city or county jail and that appropriately trained~~
8 ~~court staff are available in the courtroom.~~

9 (b) ~~If the defendant is represented by counsel, the attorney~~
10 ~~shall be present with the defendant at the initial court appearance~~
11 ~~and arraignment, and may enter a plea during the arraignment.~~
12 ~~However, if the defendant is represented by counsel at an initial~~
13 ~~hearing in superior court in a felony case, and if the defendant~~
14 ~~does not plead guilty or nolo contendere to any charge, the~~
15 ~~attorney shall be present with the defendant or if the attorney is~~
16 ~~not present with the defendant, the attorney shall be present in~~
17 ~~court during the hearing.~~

18 (c) ~~In lieu of the physical presence of the defendant's counsel~~
19 ~~at the institution with the defendant, the court and the department~~
20 ~~or law enforcement agency shall establish a confidential~~
21 ~~telephone and facsimile transmission line between the court and~~
22 ~~the institution for communication between the defendant's~~
23 ~~counsel in court and the defendant at the institution. In this case,~~
24 ~~counsel for the defendant shall not be required to be physically~~
25 ~~present at the institution during any court appearance that is~~
26 ~~conducted via electronic audiovideo communication.~~

27 (d) ~~Nothing in this section shall be construed to prohibit the~~
28 ~~physical presence of the defense counsel with the defendant at~~
29 ~~the state prison or a city or county jail.~~