

AMENDED IN SENATE AUGUST 18, 2000

AMENDED IN SENATE MAY 31, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2101

Introduced by Assembly Member Migden

February 22, 2000

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2101, as amended, Migden. 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; ~~upon reasonable notice,~~ to permit representatives of the news media to interview *or visit* prisoners in person or randomly, as specified, ~~and 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.~~ ~~The bill~~ 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
2 enacting this act to invalidate changes in Section 3261.5
3 of Title 15 of the California Code of Regulations for which
4 a certificate of compliance was filed on April 14, 1997, to
5 *the extent it is inconsistent with Sections 2602 and 2603 of*
6 *the Penal Code.*

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

9 ~~2602. (a) The Legislature finds and declares all of the~~

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

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



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

6 (3) The department shall permit the news media to
7 receive confidential correspondence from a prisoner
8 unless to do so would pose an immediate and direct threat
9 to the security of the institution or the physical safety of
10 the public.

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

14 (5) No prisoner or parolee may have his or her
15 visitation limited or revoked because of a visit or potential
16 visit from a representative of the news media, nor may a
17 prisoner or parolee be punished, reclassified, disciplined,
18 or transferred to another prison against his or her wishes,
19 for participating in a visit by a representative of the news
20 media. following:

21 ~~(1) Free exchange of information from behind prison~~
22 ~~walls benefits the public and fosters a safe and efficient~~
23 ~~prison system.~~

24 ~~(2) The State of California has historically permitted~~
25 ~~media access to state prisoners without endangering the~~
26 ~~safety of the prisons or the public.~~

27 ~~(3) Members of the news media should be permitted~~
28 ~~to interview state prisoners unless that access would pose~~
29 ~~an immediate and direct threat to the security of the~~
30 ~~institution or the safety of members of the public.~~

31 ~~(4) There is no legitimate reason for a blanket ban on~~
32 ~~media interviews with specified prisoners.~~

33 ~~(b) The Department of Corrections, upon reasonable~~
34 ~~notice, shall permit representatives of the news media to~~
35 ~~interview prisoners in person, including prearranged~~
36 ~~interviews with specified prisoners. A personal interview~~
37 ~~of a particular prisoner is prohibited if the department~~
38 ~~determines that the interview would pose an immediate~~
39 ~~and direct threat to the security of the institution or the~~
40 ~~physical safety of a member of the public. The~~



1 ~~department may establish reasonable time, place, and~~
 2 ~~manner restrictions for prison interviews, including~~
 3 ~~limitations on the number of interviews per prisoner, and~~
 4 ~~requiring arrangements for pool interviews if requests to~~
 5 ~~interview any one prisoner are excessive, in order to~~
 6 ~~ensure the security of the institution, the physical safety~~
 7 ~~of the public, and the efficient administration of news~~
 8 ~~media interviews.~~

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

13 ~~(2) During any interview with a prisoner, a~~
 14 ~~representative of the news media may use materials~~
 15 ~~necessary to conduct the interview, including, but not~~
 16 ~~limited to, pens, pencils, papers, and audio and video~~
 17 ~~recording devices.~~

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

22 ~~(4) No prisoner or parolee shall be interviewed against~~
 23 ~~his or her will.~~

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

26 2603. For purposes of this article, “representative of
 27 the news media” means a journalist who works for, or is
 28 under contract to, a newspaper, magazine, wire service,
 29 or radio or television program, or who, through press
 30 passes issued by a governmental or police agency or
 31 through similar convincing means, can demonstrate that
 32 he or she is a bona fide journalist engaged in the gathering
 33 of information for distribution to the public.

