

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 28, 2000

AMENDED IN SENATE JUNE 12, 2000

AMENDED IN ASSEMBLY MAY 26, 2000

AMENDED IN ASSEMBLY MAY 3, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2315

**Introduced by Assembly Members Mazzoni and
Strom-Martin**

(Coauthors: Senators Escutia, Polanco, Solis, and
Vasconcellos)

February 24, 2000

An act to add Section 1203.15 to the Penal Code, and to add Chapter 6 (commencing with Section 16575) to Part 4 of Division 9 of the Welfare and Institutions Code, relating to children of incarcerated parents.

LEGISLATIVE COUNSEL'S DIGEST

AB 2315, as amended, Mazzoni. Children of incarcerated parents.

Existing law provides various services for the care of children, including foster care placement, child welfare services, services for children who are exposed to alcohol or drugs or who are HIV positive.

This bill would require the Attorney General and the Secretary of the Health and Human Services Agency to

convene a study group within 6 months of enactment of this act to include representatives of state and local law enforcement, child welfare and mental health agencies, parents who have been incarcerated, individuals who were minors during periods when a parent was incarcerated, and the courts for the purpose of developing, by ~~December 2001~~

March 2002, a model protocol that addresses how best to ensure the temporary and long-term safety, security, and care of children at the time of their parent's arrest, including the role and responsibilities of the arresting officer to make appropriate inquiries and referrals.

The bill would also require the report filed by the probation officer with the court prior to sentencing to include a discussion of whether or not a defendant over 18 years of age has children, and what arrangements exist for the care of the children if the defendant is to be incarcerated. The report shall include the location of the children and their caretakers and would be referred to the County Child Protective Services Agency for assessment, review, and appropriate disposition. By increasing the duties of local officials, this bill would impose a state-mandated local program.

Additionally, the bill would require the Secretary of the Health and Human Services Agency, the Attorney General, and the Secretary of the Youth and Adult Correctional Agency to convene the Advisory Committee on the Children of Incarcerated Parents. The committee would be comprised of officials from those agencies, as well as representatives from the Department of Education, the Department of Justice, the Judicial Council, visitor center providers, researchers, parents who have been incarcerated, individuals who were minors during periods when a parent was incarcerated, and local law enforcement and child welfare agencies. The committee would be required to develop, within one year, recommendations on how to provide and target state and local services to children of incarcerated parents and caregivers. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for



making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 1203.15 is added to the Penal
2 Code, to read:

3 1203.15. The report filed by the probation officer with
4 the court prior to sentencing pursuant to Section 1203
5 shall include a discussion of whether or not a defendant
6 over 18 years of age has children, and what arrangements
7 exist for the care of a defendant’s children if the
8 defendant is to be incarcerated. The report shall include
9 the location of the children and their caretakers. This
10 section of the presentencing report shall be referred to
11 the County Child Protective Services Agency for
12 assessment, review, and appropriate disposition.

13 SEC. 2. Chapter 6 (commencing with Section 16575)
14 is added to Part 4 of Division 9 of the Welfare and
15 Institutions Code, to read:

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17 CHAPTER 6. CHILDREN OF INCARCERATED PARENTS

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19 16575. This article shall be known and may be cited as
20 the Children of Incarcerated Parents Act of 2000.

21 16576. The Legislature declares as follows:

22 (a) An estimated 80 percent of the 11,600 women in
23 state youth and adult correctional facilities, and the
24 approximately 10,000 women in county jails, are parents.
25 Most of these women are single parents who have an
26 average of two children. Approximately three-fourths of



1 these women had custody of their children at the time of
2 their arrest.

3 (b) About one in five children are present at the time
4 of their parent's arrest, and many of these children are
5 between the ages of three and six years old.

6 (c) The children of incarcerated parents may suffer
7 from separation anxiety, fear, and guilt, and may act out
8 by withdrawing or by aggressive behavior. Repeated
9 separations due to their parent's recidivism may
10 aggravate these problems.

11 (d) The children of incarcerated parents are at risk for
12 poor outcomes in school, mental health and social
13 problems, and juvenile delinquency. There is increasing
14 evidence of intergenerational incarceration.

15 (e) Most jurisdictions do not request or collect family
16 information from arrested persons, nor do they have
17 protocols in place to define official roles and
18 responsibilities for addressing the needs of the children of
19 prisoners at the time of arrest or at sentencing.

20 16577. (a) The Attorney General and the Secretary
21 of the Health and Human Services Agency shall jointly
22 convene a study group within six months of enactment of
23 this chapter, to include representatives of state and local
24 law enforcement, child welfare and mental health
25 agencies, parents who have been incarcerated,
26 individuals who were minors during periods when a
27 parent was incarcerated, and the courts. The study group
28 shall develop a model protocol by ~~December 2001~~ *March*
29 *2002* that addresses how best to ensure the temporary and
30 long-term safety, security, and care of children at the time
31 of their parent's arrest, including the role and
32 responsibilities of the arresting officer to make
33 appropriate inquiries and referrals.

34 (b) The study group shall disseminate the model
35 protocol to county boards of supervisors and city councils,
36 and to local law enforcement, judicial, child welfare, and
37 mental health agencies.

38 (c) Upon receiving the model protocol, counties shall
39 review their operating procedures for identifying,
40 locating, and providing appropriate arrangements to



1 ensure the safety, security, and well-being of the minor
2 child of an arrestee, and incorporate any elements of the
3 model protocol that may be missing from those operating
4 procedures.

5 16578. (a) The Secretary of the Health and Human
6 Services Agency, the Attorney General, and the
7 Secretary of the Youth and Adult Correctional Agency
8 shall jointly convene the Advisory Committee on the
9 Children of Incarcerated Parents. The advisory
10 committee shall include officials from those agencies and
11 the Department of Justice, as well as representatives from
12 the Department of Education, the Judicial Council,
13 visitor center providers, researchers, parents who have
14 been incarcerated, individuals who were minors during
15 periods when a parent was incarcerated, and local law
16 enforcement and child welfare agencies, as appointed by
17 the secretaries of those agencies and the Attorney
18 General.

19 (b) The advisory committee shall develop
20 recommendations within one year on how to best provide
21 and target state and local services to the children of
22 incarcerated parents and caregivers. The committee shall
23 suggest how to develop a data base that will track the
24 needs and outcomes of these children while ensuring
25 confidentiality of the data. The committee shall also
26 consider how to facilitate visitation with the incarcerated
27 parent when in the best interest of the child.

28 SEC. 3. Notwithstanding Section 17610 of the
29 Government Code, if the Commission on State Mandates
30 determines that this act contains costs mandated by the
31 state, reimbursement to local agencies and school
32 districts for those costs shall be made pursuant to Part 7
33 (commencing with Section 17500) of Division 4 of Title
34 2 of the Government Code. If the statewide cost of the
35 claim for reimbursement does not exceed one million
36 dollars (\$1,000,000), reimbursement shall be made from
37 the State Mandates Claims Fund.

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