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AB-1678 Provision of incident reports to victims. (2015-2016)

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Assembly Bill No. 1678

CHAPTER 875

An act to amend Section 6228 of the Family Code, relating to domestic violence.

[Approved by Governor September 30, 2016. Filed with Secretary of State September 30, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1678, Santiago. Provision of incident reports to victims.

Existing law requires state and local law enforcement agencies to provide, without charging a fee, one copy of all domestic violence incident report face sheets and one copy of all domestic violence incident reports, or both, to a victim of domestic violence, as defined, or to his or her personal representative, as defined, upon request.

This bill would also require state or local law enforcement agencies to provide a copy of those reports to a victim of sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult, as defined. The bill would define "victim" for these purposes to include a minor who is 12 years of age or older. The bill would require these provisions to apply to requests for reports made within 2 years from the date of completion of the sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult incident report. This bill would also make technical, nonsubstantive changes to these provisions. By increasing the duties of local law enforcement agencies, 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.

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 Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 6228 of the Family Code is amended to read:

6228. (a) State and local law enforcement agencies shall provide, upon request and without charging a fee, one copy of all incident report face sheets, one copy of all incident reports, or both, to a victim, or his or her representative as defined in subdivision (g), of a crime that constitutes an act of any of the following:

(1) Domestic violence, as defined in Section 6211.

(2) Sexual assault, as defined in Sections 261, 261.5, 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286, 288, 288a, 288.5, 289, or 311.4 of the Penal Code.

(3) Stalking, as defined in Section 1708.7 of the Civil Code or Section 646.9 of the Penal Code.

(4) Human trafficking, as defined in Section 236.1 of the Penal Code.

(5) Abuse of an elder or a dependent adult, as defined in Section 15610.07 of the Welfare and Institutions Code.

(b) (1) A copy of an incident report face sheet shall be made available during regular business hours to a victim or his or her representative no later than 48 hours after being requested by the victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the incident report face sheet is not available, in which case the incident report face sheet shall be made available to the victim or his or her representative no later than five working days after the request is made.

(2) A copy of the incident report shall be made available during regular business hours to a victim or his or her representative no later than five working days after being requested by a victim or his or her representative, unless the state or local law enforcement agency informs the victim or his or her representative of the reasons why, for good cause, the incident report is not available, in which case the incident report shall be made available to the victim or his or her representative no later than 10 working days after the request is made.

(c) Any person requesting copies under this section shall present state or local law enforcement with his or her identification, including a current, valid driver's license, a state-issued identification card, or a passport. If the person is a representative of the victim and the victim is deceased, the representative shall also present a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time a request is made. If the person is a representative of the victim and the victim is alive and not the subject of a conservatorship, the representative shall also present a written authorization, signed by the victim, making him or her the victim's personal representative.

(d) (1) This section shall apply to requests for domestic violence face sheets or incident reports made within five years from the date of completion of the incident report.

(2) This section shall apply to requests for sexual assault, stalking, human trafficking, or abuse of an elder or a dependent adult face sheets or incident reports made within two years from the date of completion of the incident report.

(e) This section shall be known and may be cited as the Access to Domestic Violence Reports Act of 1999.

(f) For purposes of this section, "victim" includes a minor who is 12 years of age or older.

(g) (1) For purposes of this section, if the victim is deceased, a "representative of the victim" means any of the following:

(A) The surviving spouse.

(B) A surviving child of the decedent who has attained 18 years of age.

(C) A domestic partner, as defined in subdivision (a) of Section 297.

(D) A surviving parent of the decedent.

(E) A surviving adult relative.

(F) The personal representative of the victim, as defined in Section 58 of the Probate Code, if one is appointed.

(G) The public administrator if one has been appointed.

(2) For purposes of this section, if the victim is not deceased, a "representative of the victim" means any of the following:

(A) A parent, guardian, or adult child of the victim, or an adult sibling of a victim 12 years of age or older, who shall present to law enforcement identification pursuant to subdivision (c). A guardian shall also present to law enforcement a copy of his or her letters of guardianship demonstrating that he or she is the appointed guardian of the victim.

(B) An attorney for the victim, who shall present to law enforcement identification pursuant to subdivision (c) and written proof that he or she is the attorney for the victim.

(C) A conservator of the victim who shall present to law enforcement identification pursuant to subdivision (c) and a copy of his or her letters of conservatorship demonstrating that he or she is the appointed conservator of the victim.

(3) A representative of the victim does not include any person who has been convicted of murder in the first degree, as defined in Section 189 of the Penal Code, of the victim, or any person identified in the incident report face sheet as a suspect.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.