

Date of Hearing: May 12, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 990 (Santiago) – As Amended April 22, 2021

Policy Committee: Public Safety

Vote: 6 - 1

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill creates a statutory civil right to visitation for any person incarcerated in a state prison or county jail. This bill also states the right of visitation may not be infringed unless the deprivation is necessary and narrowly tailored to further the legitimate security interests of the government. Specifically, this bill:

- 1) Establishes that in-person contact visits, noncontact visits and family visits shall all be provided at least four days per week. Requires the California Department of Corrections and Rehabilitation (CDCR) to ensure sufficient visiting and calling space and times for every person who seeks a visit or call when requested.
- 2) Requires emergency phone calls be made available to persons inside and outside CDCR custody when the incarcerated person has been hospitalized for a serious medical reason.
- 3) Allows an inmate to identify a designated person as a medical contact and sets forth procedures for notifying that person of the incarcerated person's medical issues.
- 4) Requires CDCR to maintain a dedicated line for outside people to call to inform the CDCR that a family member, approved visitor or caller, or primary support person of the incarcerated person has been hospitalized, becomes critically ill or has died. CDCR shall notify the incarcerated person of this call.

FISCAL EFFECT:

- 1) Costs (General Fund) in the tens of millions to possibly low hundreds of millions of dollars to CDCR for significantly expanded visitation, dedicated phone lines and coordination with a visitation representative. CDCR currently allows visitation only two days a week for eight hours each day and in some cases, only video calls. This bill expands visitation to four days a week for possibly more than eight hours per day and provides for in-person and family visits. This may require capital outlay for additional visitation space since not all CDCR prisons have space sufficient to accommodate visitation four days a week. Costs include approximately \$3.5 million dollars to the California Correctional Health Care Services (CCHCS) for 40 new positions to assist hospitalized incarcerated persons with designating visitors, medical power of attorney and next of kin authorization forms.

- 2) Reimbursable costs (GF or Proposition 30) possibly in the tens of millions of dollars to counties for additional visitation space, staff and infrastructure to accommodate a civil right to visitation. Although the requirements in this bill pertaining to visitation and the right to designate a medical contact about the inmate's medical issues only apply to CDCR, this bill still requires county jails abide by a statutory civil right to visitation. To the extent the more specific provisions of this bill apply to county jails, including the right to visitation at least four days a week and possibly in-person visitation, county jails may be required to build new space to accommodate expanded visitation. GF costs will depend on whether the Commission on State Mandates determines this bill imposes local reimbursable costs. Pursuant to Proposition 30 (November 2012), any legislation enacted after September 30, 2012, that has an overall effect of increasing costs already borne by a local agency for programs or levels of service mandated by realignment (including management of local jails, child welfare services and foster care) applies to local agencies only to the extent the state provides annual funding for the cost increase. This bill may have significant costs to local agencies and, as a result, may require the state to reimburse counties for the costs of enforcing a statutory civil right to visitation. Proposition 30 has never been litigated and, as a result, it is unclear what constitutes a reimbursable state-mandated local program pursuant to Proposition 30. However, the state is responsible for providing counties money for jail construction to accommodate an increased number of inmates post-realignment. This includes construction necessary for rehabilitation services and visitation.

COMMENTS:

- 1) **Purpose and Background.** According to the author:

AB 990 strengthens visiting rights for family members of incarcerated people. This bill will support the children left behind in communities that are heavily impacted by incarceration, will improve in-custody conduct, and reduce recidivism.

CDCR significantly increased telephone and video communications for incarcerated people and their family and friends, particularly during the pandemic when in-person visitation was suspended. Recently, CDCR partnered with the California Department of Technology (CDT) to contract with Global Tel*Link Corporation (GTL) to provide reduced telephone rates for calls with an incarcerated person. As of March 2020, nationwide calls are 2.5 cents per minute, down 5.1 cents per minute in prior years. Each incarcerated person receives 15 minutes of free phone calls every two weeks. During the pandemic, CDCR provided regular video and audio calls at no cost.

- 2) **Argument in Support.** According to the Anti-Recidivism Coalition:

In a 2020 budget request, CDCR recognized that high quality visiting programs for inmates have been proven to reduce prison violence, maintain family bonds, break the intergenerational cycle of incarceration and smooth the reentry process, thereby reducing recidivism rates.

3) **Argument in Opposition.** According to the California Correctional Peace Officers Association:

CCPOA has several issues with the bill. The first of which is the expansion of the current visitation days and hours.... The additional workload would place an unreasonable burden on our current correctional officers and necessarily leave inappropriate and unsafe staff to inmate ratios in other areas of state prison facilities. Without providing the needed correctional officer presence during visitation, the safety of visitors would not be guaranteed.

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