

**ASSEMBLY BILL**

**No. 651**

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**Introduced by Assembly Member Bryan  
(Principal coauthor: Assembly Member Solache)**

February 13, 2025

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An act to amend Section 2625 of the Penal Code, and to amend Section 349 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 651, as introduced, Bryan. Juveniles: dependency: incarcerated parent.

Existing law requires notice of, and the opportunity for an incarcerated parent to be physically present in, proceedings terminating their parental rights or seeking to adjudicate the child of a prisoner a dependent child of the court. Existing law prohibits these proceedings from being adjudicated without the physical presence of the parent unless the court receives a knowing waiver from the parent of their right to be physically present at the proceedings, or an affidavit signed by a person in charge of the incarcerating institution that the prisoner does not intend to appear at the proceeding. Existing law authorizes, in the court's discretion, an incarcerated parent who has waived the right to be physically present at those proceedings to be given the opportunity to participate in the proceeding by videoconference, if that technology is available. Existing law authorizes, if videoconferencing technology is not available, the use of teleconferencing.

This bill would also require notice of, and the opportunity for an incarcerated parent to be physically present in, specified additional dependency hearings relating to their child. The bill would additionally require an incarcerated parent who has waived the right to be physically

present to be given the opportunity to participate in those proceedings by videoconference, and, if videoconferencing technology is not available, require the use of teleconferencing. By increasing the duties of local county jail 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.

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 the statutory provisions noted above.

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 2625 of the Penal Code is amended to  
2 read:

3     2625. (a) For the purposes of this section only, the term  
4 “prisoner” includes any individual in custody in a state prison, the  
5 California Rehabilitation Center, or a county jail, or who is a ward  
6 ~~of the Department of the Youth Authority~~ *confined in a secure*  
7 *youth treatment facility* or who, upon a verdict or finding that the  
8 individual was insane at the time of committing an offense, or  
9 mentally incompetent to be tried or adjudged to punishment, is  
10 confined in a state hospital for the care and treatment of persons  
11 with mental health disorders or in any other public or private  
12 treatment facility.

13     (b) In a proceeding brought under Part 4 (commencing with  
14 Section 7800) of Division 12 of the Family Code, and Section  
15 366.26 of the Welfare and Institutions Code, if the proceeding  
16 seeks to terminate the parental rights of a prisoner, or a proceeding  
17 brought under Section 300 of the Welfare and Institutions Code,  
18 if the proceeding seeks to adjudicate the child of a prisoner a  
19 dependent child of the court, *a proceeding brought under Section*  
20 *388 of the Welfare and Institutions Code, if the prisoner is the*  
21 *petitioner, or a hearing described in Section 361, 366.21, 366.22,*  
22 *or 366.25, when that hearing is related to the child of the prisoner,*  
23 *or any hearing at which parentage of a child of the prisoner is to*

1 *be determined*, the superior court of the county in which the  
2 proceeding is pending, or a judge thereof, shall order notice of any  
3 court proceeding regarding the proceeding transmitted to the  
4 prisoner.

5 (c) Service of notice shall be made pursuant to Section 7881 or  
6 7882 of the Family Code or Section 290.2, 291, 293, or 294 of the  
7 Welfare and Institutions Code, as appropriate.

8 (d) Upon receipt by the court of a statement from the prisoner  
9 or the prisoner's attorney indicating the prisoner's desire to be  
10 present during the court's proceedings, the court shall issue an  
11 order for the temporary removal of the prisoner from the institution,  
12 and for the prisoner's production before the court. A proceeding  
13 ~~may shall~~ not be held under Part 4 (commencing with Section  
14 7800) of Division 12 of the Family Code or Section 366.26 of the  
15 Welfare and Institutions Code and a petition to adjudge the child  
16 of a prisoner a dependent child of the court pursuant to ~~subdivision~~  
17 ~~(a), (b), (c), (d), (e), (f), (i), or (j) of~~ Section 300 of the Welfare  
18 and Institutions Code ~~may shall~~ not be adjudicated without the  
19 physical presence of the prisoner or the prisoner's attorney, unless  
20 the court has before it a knowing waiver of the right of physical  
21 presence signed by the prisoner or an affidavit signed by the  
22 warden, superintendent, or other person in charge of the institution,  
23 or a designated representative stating that the prisoner has, by  
24 express statement or action, indicated an intent not to appear at  
25 the proceeding.

26 (e) In any other action or proceeding in which a prisoner's  
27 parental or marital rights are subject to adjudication, an order for  
28 the prisoner's temporary removal from the institution and for the  
29 prisoner's production before the court may be made by the superior  
30 court of the county in which the action or proceeding is pending,  
31 or by a judge thereof. A copy of the order shall be transmitted to  
32 the warden, superintendent, or other person in charge of the  
33 institution not less than 15 days before the order is to be executed.  
34 The order shall be executed by the sheriff of the county in which  
35 it shall be made, whose duty it shall be to bring the prisoner before  
36 the proper court, to keep the prisoner safely, and when the  
37 prisoner's presence is no longer required, to return the prisoner to  
38 the institution from which the prisoner was taken. The expense of  
39 executing the order shall be a proper charge against, and shall be  
40 paid by, the county in which the order shall be made.

1 The order shall be to the following effect:

2 County of \_\_\_\_ (as the case may be).

3 The people of the State of California to the warden of \_\_\_\_:

4 An order having been made this day by me, that (name of  
5 prisoner) be produced in this court as a party in the case of \_\_\_\_,  
6 you are commanded to deliver (name of prisoner) into the custody  
7 of \_\_\_\_ for the purpose of (recite purposes).

8 Dated this \_\_\_\_ day of \_\_\_\_, 20\_\_.

9 (f) When a prisoner is removed from the institution pursuant to  
10 this section, the prisoner shall remain in the constructive custody  
11 of the warden, superintendent, or other person in charge of the  
12 institution.

13 (g) A prisoner who is a parent of a child involved in a  
14 dependency hearing described in this section and who has either  
15 waived the right to physical presence at the hearing pursuant to  
16 subdivision (d) or who has not been ordered before the court ~~may,~~  
17 ~~at the court's discretion,~~ *shall*, in order to facilitate the parent's  
18 participation, be given the opportunity to participate in the hearing  
19 by videoconference, if that technology is available, and if that  
20 participation otherwise complies with the law. If videoconferencing  
21 technology is not available, teleconferencing ~~may~~ *shall* be utilized  
22 to facilitate parental participation. ~~Because of the significance of~~  
23 ~~dependency court hearings for parental rights and children's~~  
24 ~~long-term care, physical attendance by the parent at the hearings~~  
25 ~~is preferred to participation by videoconference or teleconference.~~  
26 This subdivision does not limit a prisoner's right to physically  
27 attend a dependency hearing as provided in this section. This  
28 section does not authorize the use of videoconference or  
29 teleconference to replace in-person family visits with prisoners.

30 (h) It is the intent of the Legislature to maintain internal job  
31 placement opportunities and preserve earned privileges for  
32 prisoners, and prevent the removal of prisoners subject to this  
33 section from court-ordered courses as a result of their participation  
34 in the proceedings described in this section.

35 (i) Notwithstanding any other law, a court ~~may~~ *shall* not order  
36 the removal and production of a prisoner sentenced to death,  
37 whether or not that sentence is being appealed, in any action or  
38 proceeding in which the prisoner's parental rights are subject to  
39 adjudication.

1 SEC. 2. Section 349 of the Welfare and Institutions Code is  
2 amended to read:

3 349. (a) A minor who is the subject of a juvenile court hearing,  
4 and any person entitled to notice of the hearing under Sections  
5 ~~290.1 and 290.2~~, 290.1, 290.2, 291, 293, and 294 is entitled to be  
6 present at the hearing.

7 (b) The minor and any person who is entitled to that notice has  
8 the right to be represented at the hearing by counsel of ~~his or her~~  
9 *their* own choice.

10 (c) If the minor is present at the hearing, the court shall inform  
11 the minor that ~~he or she has~~ *they have* the right to address the court  
12 and participate in the hearing and the court shall allow the minor,  
13 if the minor so desires, to address the court and participate in the  
14 hearing.

15 (d) If the minor is 10 years of age or older and ~~he or she the~~  
16 *minor* is not present at the hearing, the court shall determine  
17 whether the minor was properly notified of ~~his or her~~ *their* right  
18 to attend the hearing and inquire whether the minor was given an  
19 opportunity to attend. If that minor was not properly notified or if  
20 ~~he or she the~~ *minor* wished to be present and was not given an  
21 opportunity to be present, the court shall continue the hearing to  
22 allow the minor to be present unless the court finds that it is in the  
23 best interest of the minor not to continue the hearing. The court  
24 shall continue the hearing only for that period of time necessary  
25 to provide notice and secure the presence of the child. The court  
26 may issue any and all orders reasonably necessary to ensure that  
27 the child has an opportunity to attend.

28 (e) Nothing in this section shall prevent or limit any child's right  
29 to attend or participate in the hearing.

30 SEC. 3. If the Commission on State Mandates determines that  
31 this act contains costs mandated by the state, reimbursement to  
32 local agencies and school districts for those costs shall be made  
33 pursuant to Part 7 (commencing with Section 17500) of Division  
34 4 of Title 2 of the Government Code.