

Introduced by Senator Morrow

February 21, 2002

An act to amend Sections 14021, 14022, 14025, 14025.5, and 14026.5 of the Penal Code, relating to witnesses.

LEGISLATIVE COUNSEL'S DIGEST

SB 1739, as introduced, Morrow. Witnesses: protection.

Existing law establishes a Witness Protection Program administered by the Attorney General to provide for the relocation or other protection of a witness in a criminal proceeding where there is credible evidence, as defined, of substantial danger that the witness may suffer intimidation or retaliatory violence. Existing law authorizes the Attorney General to enter into an agreement with a witness under specified terms, and provides that a witness selected by the Attorney General may receive services under the program from "victim of crime" funds. Existing law provides for the Attorney General to determine whether family, friends, or associates of the witness are endangered, and therefore are also subject to protection under these provisions. Existing law provides that the Attorney General may reimburse state and local agencies for the costs of providing witness protection services when an action is brought by local prosecutors. Existing law provides immunity to the Attorney General for any condition in the witness protection agreement that cannot reasonably be met due to a witness committing a crime while in the program.

This bill would allow local and state prosecutors, rather than just the Attorney General, to select witnesses for inclusion in the program; to enter into witness protection contracts to provide protection on specified terms; and to determine the eligibility of family, friends, or associates of a witness for protection. This bill would permit the



Attorney General to reimburse state and local agencies for the costs of protection services when an action is brought by state prosecutors, as well as when an action is brought by local prosecutors. This bill would also provide immunity to state and local prosecutors, rather than just the Attorney General, for any condition in the witness protection agreement that cannot reasonably be met due to a witness committing a crime during participation in the program.

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. Section 14021 of the Penal Code is amended to
2 read:

3 14021. As used in this title:

4 (a) "Witness" means any person who has been summoned, or
5 is reasonably expected to be summoned, to testify in a criminal
6 matter, including grand jury proceedings, for the people whether
7 or not formal legal proceedings have been filed. Active or passive
8 participation in the criminal matter does not disqualify an
9 individual from being a witness. "Witness" may also apply to
10 family, friends, or associates of the witness who are deemed by ~~the~~
11 ~~Attorney General~~ *local or state prosecutors* to be endangered.

12 (b) "Credible evidence" means evidence leading a reasonable
13 person to believe that substantial reliability should be attached to
14 the evidence.

15 (c) "Protection" means formal admission into a witness
16 protection program established by this title memorialized by a
17 written agreement between ~~the Attorney General~~ *local or state*
18 *prosecutors* and the witness.

19 SEC. 2. Section 14022 of the Penal Code is amended to read:

20 14022. The program shall be administered by the Attorney
21 General. In any criminal proceeding within this state, when the
22 action is brought by local *or state* prosecutors, where credible
23 evidence exists of a substantial danger that a witness may suffer
24 intimidation or retaliatory violence, the Attorney General may
25 reimburse state and local agencies for the costs of providing
26 witness protection services.

27 SEC. 3. Section 14025 of the Penal Code is amended to read:



1 14025. The witness protection agreement shall be in writing,
2 and shall specify the responsibilities of the protected person that
3 establish the conditions for ~~the Attorney General~~ *local or state*
4 *prosecutors* providing protection. The protected person shall agree
5 to all of the following:

6 (a) If a witness or potential witness, to testify in and provide
7 information to all appropriate law enforcement officials
8 concerning all appropriate proceedings.

9 (b) To refrain from committing any crime.

10 (c) To take all necessary steps to avoid detection by others of
11 the facts concerning the protection provided to that person under
12 this title.

13 (d) To comply with legal obligations and civil judgments
14 against that person.

15 (e) To cooperate with all reasonable requests of officers and
16 employees of this state who are providing protection under this
17 title.

18 (f) To designate another person to act as agent for the service
19 of process.

20 (g) To make a sworn statement of all outstanding legal
21 obligations, including obligations concerning child custody and
22 visitation.

23 (h) To disclose any probation or parole responsibilities, and if
24 the person is on probation or parole.

25 (i) To regularly inform the appropriate program official of his
26 or her activities and current address.

27 SEC. 4. Section 14025.5 of the Penal Code is amended to
28 read:

29 14025.5. The ~~Attorney General~~ *State of California, the*
30 *counties and cities within the state, and their respective officers*
31 *and employees* shall not be liable for any condition in the witness
32 protection agreement that cannot reasonably be met due to a
33 witness committing a crime during participation in the program.

34 SEC. 5. Section 14026.5 of the Penal Code is amended to
35 read:

36 14026.5. For the purposes of this title, notwithstanding
37 Article 1 (commencing with Section 13959) of Chapter 5 of Part
38 4 of Division 3 of Title 2 of the Government Code, a witness, as
39 defined in subdivision (a) of Section 14021, selected by ~~the~~
40 ~~Attorney General~~ *local or state prosecutors* to receive services



- 1 under the program established pursuant to this title because he or
- 2 she has been or may be victimized due to the testimony he or she
- 3 will give, shall be deemed a victim.

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