

AMENDED IN SENATE APRIL 24, 1995

SENATE BILL

No. 1221

Introduced by Senator Calderon

*(Coauthors: Senators Ayala, Costa, Haynes, Johannessen,
and Monteith)*

*(Coauthors: Assembly Members Bowler, Cunneen, Harvey,
Rainey, and Woods)*

February 24, 1995

An act to ~~repeal and add~~ *amend* Section 2601 of the Penal Code, relating to prisoners.

LEGISLATIVE COUNSEL'S DIGEST

SB 1221, as amended, Calderon. Prisoners: civil rights.

Existing law specifies certain civil rights of a state prisoner, including, among others, the right to *inherit, own, sell, or convey real or personal property and to purchase, receive, and read any and all newspapers, periodicals, and books accepted for distribution by the United States Post Office and to initiate civil actions, subject to specified limitations.*

This bill would ~~repeal this provision and provide instead~~ *eliminate certain of these civil rights of a state prisoner, including the right to correspond with any member of the State Bar or holder of public office, to have personal visits, to initiate civil actions, to marry, to create a power of appointment, to make a will, and to receive specified benefits.* The bill also would provide that a state prisoner is *otherwise* entitled only to those rights established by the California and the United States Constitutions.

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 2601 of the Penal Code is~~
2 *SECTION 1. Section 2601 of the Penal Code is*
3 *amended to read:*
4 2601. (a) *Except as provided in subdivision (b), each*
5 *person described in Section 2600 is entitled only to those*
6 *rights established by the California Constitution and the*
7 *United States Constitution. Furthermore, any other*
8 *activities permitted to any inmate beyond those required*
9 *constitutionally shall be subject to rules established by the*
10 *Director of Corrections who may grant privileges and*
11 *specify allowable conduct for the inmates on a group or*
12 *individual basis.*
13 (b) Subject only to the provisions of that section, each
14 person described in Section 2600 shall have the following
15 civil rights:
16 ~~(a)~~
17 (1) To inherit, own, sell, or convey real or personal
18 property, including all written and artistic material
19 produced or created by such person during the period of
20 imprisonment. However, to the extent authorized in
21 Section 2600, the Department of Corrections may restrict
22 or prohibit sales or conveyances that are made for
23 business purposes.
24 ~~(b) To correspond, confidentially, with any member~~
25 ~~of the State Bar or holder of public office, provided that~~
26 ~~the prison authorities may open and inspect incoming~~
27 ~~mail to search for contraband.~~
28 ~~(c) (1)~~
29 (2) (A) To purchase, receive, and read any and all
30 newspapers, periodicals, and books accepted for
31 distribution by the United States Post Office. Pursuant to
32 this section, prison authorities may exclude any of the
33 following matter:
34 (A)



1 (i) Obscene publications or writings, and mail
2 containing information concerning where, how, or from
3 whom this matter may be obtained.

4 ~~(B)~~

5 (ii) Any matter of a character tending to incite
6 murder, arson, riot, violent racism, or any other form of
7 violence.

8 ~~(C)~~

9 (iii) Any matter concerning gambling or a lottery.

10 ~~(2)~~

11 (B) Nothing in this section shall be construed as
12 limiting the right of prison authorities to do the following:

13 ~~(A)~~

14 (i) Open and inspect any and all packages received by
15 an inmate.

16 ~~(B)~~

17 (ii) Establish reasonable restrictions as to the number
18 of newspapers, magazines, and books that the inmate may
19 have in his or her cell or elsewhere in the prison at one
20 time.

21 ~~(d) To have personal visits. However, the department
22 may provide any restrictions that are necessary for the
23 reasonable security of the institution.~~

24 ~~(e) To initiate civil actions, subject to a three dollar
25 (\$3) filing fee to be collected by the Department of
26 Corrections, and subject to Title 3a (commencing with
27 Section 391) of the Code of Civil Procedure.~~

28 ~~(f) To marry.~~

29 ~~(g) To create a power of appointment.~~

30 ~~(h) To make a will.~~

31 ~~(i) To receive all benefits provided for in Sections 3370
32 and 3371 of the Labor Code and in Section 5069.
33 repealed.~~

34 ~~SEC. 2. Section 2601 is added to the Penal Code, to
35 read:~~

36 ~~2601. Each person described in Section 2600 is
37 entitled only to those rights established by the California
38 Constitution and the United States Constitution.
39 Furthermore, any other activities permitted to any
40 inmate beyond those required constitutionally shall be~~



1 ~~subject to rules established by the Director of Corrections~~
2 ~~who may grant privileges and specify allowable conduct~~
3 ~~for the inmates on a group or individual basis.~~

4 ~~SEC. 3.—~~

5 *SEC. 2.* The Legislature finds and declares that the
6 provision of any civil rights to inmates in the state prison
7 beyond those specified in Section ~~2~~ 1 of this bill is an
8 unnecessary burden and cost to the law-abiding citizens
9 and taxpayers of California.

