

Resolution 05-13-2009

Domestic Violence Incident Reports and Face Sheets

RESOLVED, that the Conference of Delegates recommend that legislation be sponsored to amend Family Code section 6228 to read as follows:

1 §6228

2 (a) State and local law enforcement agencies shall provide, without charging a fee,
3 one copy of all domestic violence incident report face sheets, one copy of all domestic
4 violence incident reports, or both, to a victim of domestic violence, or to his or her
5 representative ~~if the victim is deceased~~, as defined in subdivision (g), upon request. For
6 purposes of this section, "domestic violence" has the definition given in Section 6211.

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

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

21 (d) Any person requesting copies under this section shall present state or local law
22 enforcement with his or her identification, such as a current, valid driver's license, a state-
23 issued identification card, or a passport and, if the person is a representative of the victim,
24 and the victim is deceased, a certified copy of the death certificate or other satisfactory
25 evidence of the death of the victim at the time a request is made.

26 (e) This section shall apply to requests for face sheets or reports made within five
27 years from the date of completion of the domestic violence incidence report.

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

30 (g) (1) For purposes of this section, a representative of the victim means any of the
31 following:

32 (A) The surviving spouse.

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

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

35 (D) A surviving parent of the decedent.

36 (E) A surviving adult relative.

37 (F) The public administrator if one has been appointed.

38 (H) His or her attorney.

39 (2) A representative of the victim does not include any person who has been
40 convicted of murder in the first degree, as defined in Section 189 of the Penal Code, of the
41 victim, or any person identified in the incident report face sheet as a suspect. Domestic
42 violence incident report face sheets may not be provided to a representative of the victim
43 unless the representative presents his or her identification, such as a current, valid driver's
44 license, a state-issued identification card, or a passport and a certified copy of the death
45 certificate or other satisfactory evidence of the death of the victim at the time of the request,
46 or if the victim is alive, a signed authorization from the victim, or a court order.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Orange County Bar Association

STATEMENT OF REASONS

Existing Law: Does not take into account a victim who is alive, but not capable of obtaining the domestic violence incident report face sheets, and further, as currently written does not list an attorney as a possible representative of the victim.

This resolution: Would modify the Family Code to allow a representative of a victim of domestic violence who is alive, but not able to obtain a copy of the domestic violence incident report face sheets his or her self, and further adds an attorney as one of the defined representatives.

The Problem: Currently, if the victim is alive, they have to obtain the copies of the domestic violence incident report face sheets themselves, as opposed to an authorized representative, and further, as currently written, does not include in its definition of an authorized representative, the victim's attorney. As modified, the problem would be solved.

IMPACT STATEMENT

This proposed resolution does not affect any other law, statute, or rule.

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