

AMENDED IN SENATE JUNE 19, 2002
AMENDED IN SENATE APRIL 22, 2002
AMENDED IN ASSEMBLY JANUARY 22, 2002
AMENDED IN ASSEMBLY APRIL 25, 2001
CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 299

**Introduced by Assembly Members Rod Pacheco, Bogh, and
Cohn**

February 16, 2001

~~An act to amend Section 784.7 of the Penal Code, relating to criminal jurisdiction.~~ *An act to amend Sections 11166 and 11166.3 of the Penal Code, relating to reporting requirements.*

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as amended, Rod Pacheco. ~~Criminal jurisdiction~~ *Reporting requirements.*

Existing law, the Child Abuse and Neglect Reporting Act, requires certain persons, mandated reporters, to report incidents of child abuse or neglect.

This bill would require the mandated reporter to include with this report any documentary evidence relating to the incident, if requested by the investigating agency. The bill would also require the mandated reporter to report an incident of child abuse or neglect even if at the time of the report, the alleged victim is 18 years of age or older.

The bill would require law enforcement and child welfare agencies to cross-report all cases of suspected child abuse in instances where the

alleged victim has reached the age of majority. The bill would also provide that law enforcement agencies have jurisdiction to investigate reports of child abuse when the victim has reached the age of majority.

By imposing additional duties upon local law enforcement and child welfare agencies, 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 these statutory provisions.

~~Under existing law, when 2 or more specified offenses involving criminal sexual acts and stalking are alleged to have occurred in more than one jurisdictional territory, territorial jurisdiction is vested in a court in any jurisdiction where at least one offense occurred as long as the defendant and the victim are the same for all of the offenses.~~

~~This bill would grant a court exercising jurisdiction over multiple offenses involving criminal sexual acts and stalking that occurred in more than one jurisdictional territory jurisdiction over properly joivable offenses involving the same victim.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 784.7 of the Penal Code is amended to~~
- 2 *SECTION 1. Section 11166 of the Penal Code is amended to*
- 3 *read:*
- 4 11166. (a) Except as provided in subdivision (c), a mandated
- 5 reporter shall make a report to an agency specified in Section
- 6 11165.9 whenever the mandated reporter, in his or her professional
- 7 capacity or within the scope of his or her employment, has
- 8 knowledge of or observes a child whom the mandated reporter
- 9 knows or reasonably suspects has been the victim of child abuse



1 or neglect. The mandated reporter shall make a report to the
2 agency immediately or as soon as is practicably possible by
3 telephone, and the mandated reporter shall prepare and send a
4 written report thereof within 36 hours of receiving the information
5 concerning the incident. *The mandated reporter is encouraged to*
6 *include with the report any documentary evidence the mandated*
7 *reporter possesses relating to the incident. If the documentary*
8 *evidence is not included with the report, the mandated reporter*
9 *shall provide the information, including, but not limited to, other*
10 *reports, memoranda, and letters, upon request of the agency*
11 *investigating the report.*

12 (1) For the purposes of this article, “reasonable suspicion”
13 means that it is objectively reasonable for a person to entertain a
14 suspicion, based upon facts that could cause a reasonable person
15 in a like position, drawing, when appropriate, on his or her training
16 and experience, to suspect child abuse or neglect. For the purpose
17 of this article, the pregnancy of a minor does not, in and of itself,
18 constitute a basis for a reasonable suspicion of sexual abuse.

19 (2) The agency shall be notified and a report shall be prepared
20 and sent even if the child has expired, regardless of whether or not
21 the possible abuse was a factor contributing to the death, and even
22 if suspected child abuse was discovered during an autopsy. *The*
23 *agency shall also be notified and a report shall be prepared and*
24 *sent even if at the time, the alleged victim has reached the age of*
25 *majority. Law enforcement and child welfare agencies shall*
26 *cross-report all cases of suspected child abuse in instances where*
27 *the alleged victim has reached the age of majority.*

28 (3) A report made by a mandated reporter pursuant to this
29 section shall be known as a mandated report.

30 (b) Any mandated reporter who fails to report an incident of
31 known or reasonably suspected child abuse or neglect as required
32 by this section is guilty of a misdemeanor punishable by up to six
33 months confinement in a county jail or by a fine of one thousand
34 dollars (\$1,000) or by both that fine and punishment.

35 (c) (1) A clergy member who acquires knowledge or a
36 reasonable suspicion of child abuse or neglect during a penitential
37 communication is not subject to subdivision (a). For the purposes
38 of this subdivision, “penitential communication” means a
39 communication, intended to be in confidence, including, but not
40 limited to, a sacramental confession, made to a clergy member



1 who, in the course of the discipline or practice of his or her church,
2 denomination, or organization, is authorized or accustomed to
3 hear those communications, and under the discipline, tenets,
4 customs, or practices of his or her church, denomination, or
5 organization, has a duty to keep those communications secret.

6 (2) Nothing in this subdivision shall be construed to modify or
7 limit a clergy member's duty to report known or suspected child
8 abuse or neglect when the clergy member is acting in some other
9 capacity that would otherwise make the clergy member a
10 mandated reporter.

11 (d) Any commercial film and photographic print processor
12 who has knowledge of or observes, within the scope of his or her
13 professional capacity or employment, any film, photograph,
14 videotape, negative, or slide depicting a child under the age of 16
15 years engaged in an act of sexual conduct, shall report the instance
16 of suspected child abuse to the law enforcement agency having
17 jurisdiction over the case immediately, or as soon as practically
18 possible, by telephone, and shall prepare and send a written report
19 of it with a copy of the film, photograph, videotape, negative, or
20 slide attached within 36 hours of receiving the information
21 concerning the incident. As used in this subdivision, "sexual
22 conduct" means any of the following:

23 (1) Sexual intercourse, including genital-genital, oral-genital,
24 anal-genital, or oral-anal, whether between persons of the same or
25 opposite sex or between humans and animals.

26 (2) Penetration of the vagina or rectum by any object.

27 (3) Masturbation for the purpose of sexual stimulation of the
28 viewer.

29 (4) Sadoomasochistic abuse for the purpose of sexual
30 stimulation of the viewer.

31 (5) Exhibition of the genitals, pubic, or rectal areas of any
32 person for the purpose of sexual stimulation of the viewer.

33 (e) Any other person who has knowledge of or observes a child
34 whom he or she knows or reasonably suspects has been a victim
35 of child abuse or neglect may report the known or suspected
36 instance of child abuse or neglect to an agency specified in Section
37 11165.9.

38 (f) When two or more persons, who are required to report,
39 jointly have knowledge of a known or suspected instance of child
40 abuse or neglect, and when there is agreement among them, the



1 telephone report may be made by a member of the team selected
2 by mutual agreement and a single report may be made and signed
3 by the selected member of the reporting team. Any member who
4 has knowledge that the member designated to report has failed to
5 do so shall thereafter make the report.

6 (g) (1) The reporting duties under this section are individual,
7 and no supervisor or administrator may impede or inhibit the
8 reporting duties, and no person making a report shall be subject to
9 any sanction for making the report. However, internal procedures
10 to facilitate reporting and apprise supervisors and administrators
11 of reports may be established provided that they are not
12 inconsistent with this article.

13 (2) The internal procedures shall not require any employee
14 required to make reports pursuant to this article to disclose his or
15 her identity to the employer.

16 (3) Reporting the information regarding a case of possible child
17 abuse or neglect to an employer, supervisor, school principal,
18 school counselor, coworker, or other person shall not be a
19 substitute for making a mandated report to an agency specified in
20 Section 11165.9.

21 (h) A county probation or welfare department shall
22 immediately, or as soon as practically possible, report by
23 telephone, fax, or electronic transmission to the law enforcement
24 agency having jurisdiction over the case, to the agency given the
25 responsibility for investigation of cases under Section 300 of the
26 Welfare and Institutions Code, and to the district attorney's office
27 every known or suspected instance of child abuse or neglect, as
28 defined in Section 11165.6, except acts or omissions coming
29 within subdivision (b) of Section 11165.2, or reports made
30 pursuant to Section 11165.13 based on risk to a child which relates
31 solely to the inability of the parent to provide the child with regular
32 care due to the parent's substance abuse, which shall be reported
33 only to the county welfare or probation department. A county
34 probation or welfare department also shall send, fax, or
35 electronically transmit a written report thereof within 36 hours of
36 receiving the information concerning the incident to any agency
37 to which it makes a telephone report under this subdivision.

38 (i) A law enforcement agency shall immediately, or as soon as
39 practically possible, report by telephone to the agency given
40 responsibility for investigation of cases under Section 300 of the



1 Welfare and Institutions Code and to the district attorney's office
2 every known or suspected instance of child abuse or neglect
3 reported to it, except acts or omissions coming within subdivision
4 (b) of Section 11165.2, which shall be reported only to the county
5 welfare or probation department. A law enforcement agency shall
6 report to the county welfare or probation department every known
7 or suspected instance of child abuse or neglect reported to it which
8 is alleged to have occurred as a result of the action of a person
9 responsible for the child's welfare, or as the result of the failure of
10 a person responsible for the child's welfare to adequately protect
11 the minor from abuse when the person responsible for the child's
12 welfare knew or reasonably should have known that the minor was
13 in danger of abuse. A law enforcement agency also shall send, fax,
14 or electronically transmit a written report thereof within 36 hours
15 of receiving the information concerning the incident to any agency
16 to which it makes a telephone report under this subdivision.

17 *SEC. 2. Section 11166.3 of the Penal Code is amended to read:*

18 11166.3. (a) The Legislature intends that in each county the
19 law enforcement agencies and the county welfare or probation
20 department shall develop and implement cooperative
21 arrangements in order to coordinate existing duties in connection
22 with the investigation of suspected child abuse or neglect cases.
23 The local law enforcement agency having jurisdiction over a case
24 reported under Section 11166 shall report to the county welfare or
25 probation department that it is investigating the case within 36
26 hours after starting its investigation. The county welfare
27 department or probation department shall, in cases where a minor
28 is a victim of actions specified in Section 288 of this code and a
29 petition has been filed pursuant to Section 300 of the Welfare and
30 Institutions Code with regard to the minor, evaluate what action or
31 actions would be in the best interest of the child victim.
32 Notwithstanding any other provision of law, the county welfare
33 department or probation department shall submit in writing its
34 findings and the reasons therefor to the district attorney on or
35 before the completion of the investigation. The written findings
36 and the reasons therefor shall be delivered or made accessible to
37 the defendant or his or her counsel in the manner specified in
38 Section 859.

39 (b) The local law enforcement agency having jurisdiction over
40 a case reported under Section 11166 shall report to the district



1 office of the State Department of Social Services any case reported
2 under this section if the case involves a facility specified in
3 paragraph (5) or (6) of subdivision (a) of Section 1502, Section
4 1596.750 or 1596.76 of the Health and Safety Code, and the
5 licensing of the facility has not been delegated to a county agency.
6 The law enforcement agency shall send a copy of its investigation
7 report and any other pertinent materials to the licensing agency
8 upon the request of the licensing agency.

9 *(c) The local law enforcement agency shall have jurisdiction to*
10 *investigate reports of child abuse made when the victim has*
11 *reached the age of majority pursuant to subdivision (h) of Section*
12 *11166.*

13 *SEC. 3. Notwithstanding Section 17610 of the Government*
14 *Code, if the Commission on State Mandates determines that this*
15 *act contains costs mandated by the state, reimbursement to local*
16 *agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code. If the statewide cost of the*
19 *claim for reimbursement does not exceed one million dollars*
20 *(\$1,000,000), reimbursement shall be made from the State*
21 *Mandates Claims Fund.*

22 read:

23 ~~784.7. When more than one violation of Section 261, 262,~~
24 ~~264.1, 273a, 273.5, 286, 288, 288a, 288.5, 289, or 646.9 occurs in~~
25 ~~more than one jurisdictional territory, and the defendant and the~~
26 ~~victim are the same for all of the offenses, the jurisdiction of any~~
27 ~~of those offenses, and of any offenses involving the same victim~~
28 ~~that are properly joinable with those offenses, is in any jurisdiction~~
29 ~~where at least one of the offenses occurred.~~

