

**Introduced by Senator Polanco**

February 21, 2002

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An act to amend Section 11167.5 of, and to add Section 13732 to, the Penal Code, relating to domestic violence.

LEGISLATIVE COUNSEL'S DIGEST

SB 1745, as introduced, Polanco. Domestic violence reporting.

Existing law provides that mandated written and telephoned reports of known or suspected child abuse by health practitioners and other specified professionals shall be confidential, and that violations of this confidentiality shall be punishable as misdemeanors, as specified. Existing law also provides, however, that authorized persons within county health departments shall be permitted to receive copies of reports made by specified health practitioners pursuant to provisions of law requiring reports of maternal substance abuse and copies of needs assessments prepared by health practitioners related to pregnant and postpartum substance abusing women.

This bill would make a nonsubstantive, technical correction to existing law authorizing persons within county health departments to receive copies of the aforementioned reports and assessments made by specified health professionals regarding maternal substance abuse.

Existing law requires law enforcement agencies to prepare reports regarding calls for assistance that are related to domestic violence.

This bill would state the Legislature's findings and declarations with respect to the relationship between domestic violence and the abuse and neglect of children. This bill would require child protective services agencies to develop protocols in collaboration with other groups, as specified, as to how law enforcement and child welfare agencies will

cooperate in their response to a domestic violence related incident in a home in which a child resides.

By increasing the duties of local agencies, this bill would create 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.

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. The Legislature finds and declares as follows:
- 2 (a) Public agencies have a responsibility to provide services
- 3 and support to children who are at risk of abuse and neglect.
- 4 (b) Children who reside in homes where there is domestic
- 5 violence face a heightened risk of abuse and neglect.
- 6 (c) Serious abuse and neglect can be prevented with early
- 7 intervention and the provision of supportive services to families
- 8 that face a risk of domestic violence.
- 9 (d) More costly and traumatic outcomes such as foster care
- 10 placement and family separation can be prevented with early
- 11 detection and cross-referencing among agencies interacting with
- 12 families that face a risk of domestic violence.
- 13 SEC. 2. Section 11167.5 of the Penal Code is amended to
- 14 read:
- 15 11167.5. (a) The reports required by Sections 11166 and
- 16 11166.2 shall be confidential and may be disclosed only as
- 17 provided in subdivision (b). Any violation of the confidentiality
- 18 provided by this article is a misdemeanor punishable by
- 19 imprisonment in a county jail not to exceed six months, by a fine



1 of five hundred dollars (\$500), or by both that imprisonment and  
2 fine.

3 (b) Reports of suspected child abuse or neglect and information  
4 contained therein may be disclosed only to the following:

5 (1) Persons or agencies to whom disclosure of the identity of  
6 the reporting party is permitted under Section 11167.

7 (2) Persons or agencies to whom disclosure of information is  
8 permitted under subdivision (b) of Section 11170.

9 (3) Persons or agencies with whom investigations of child  
10 abuse or neglect are coordinated under the regulations  
11 promulgated under Section 11174.

12 (4) Multidisciplinary personnel teams as defined in subdivision  
13 (d) of Section 18951 of the Welfare and Institutions Code.

14 (5) Persons or agencies responsible for the licensing of  
15 facilities which care for children, as specified in Section 11165.7.

16 (6) The State Department of Social Services or any county  
17 licensing agency which has contracted with the state, as specified  
18 in paragraph (3) of subdivision (b) of Section 11170, when an  
19 individual has applied for a community care license or child day  
20 care license, or for employment in an out-of-home care facility, or  
21 when a complaint alleges child abuse or neglect by an operator or  
22 employee of an out-of-home care facility.

23 (7) Hospital scan teams. As used in this paragraph, “hospital  
24 scan team” means a team of three or more persons established by  
25 a hospital, or two or more hospitals in the same county, consisting  
26 of health care professionals and representatives of law  
27 enforcement and child protective services, the members of which  
28 are engaged in the identification of child abuse or neglect. The  
29 disclosure authorized by this section includes disclosure among all  
30 hospital scan teams.

31 (8) Coroners and medical examiners when conducting a  
32 postmortem examination of a child.

33 (9) The Board of Prison Terms, who may subpoena an  
34 employee of a county welfare department who can provide  
35 relevant evidence and reports that both (A) are not unfounded,  
36 pursuant to Section 11165.12, and (B) concern only the current  
37 incidents upon which parole revocation proceedings are pending  
38 against a parolee charged with child abuse or neglect. The reports  
39 and information shall be confidential pursuant to subdivision (d)  
40 of Section 11167.



1 (10) Personnel from an agency responsible for making a  
2 placement of a child pursuant to Section 361.3 of, and Article 7  
3 (commencing with Section 305) of Chapter 2 of Part 1 of Division  
4 2 of, the Welfare and Institutions Code.

5 (11) Persons who have been identified by the Department of  
6 Justice as listed in the Child Abuse Central Index pursuant to  
7 subdivision (c) of Section 11170. Nothing in this paragraph shall  
8 preclude a submitting agency prior to disclosure from redacting  
9 the name, address, and telephone number of a witness, person who  
10 reports under this article, or victim in order to maintain  
11 confidentiality as required by law.

12 (12) Out-of-state law enforcement agencies conducting an  
13 investigation of child abuse or neglect only when an agency makes  
14 the request for reports of suspected child abuse or neglect in  
15 writing and on official letterhead, identifying the suspected abuser  
16 or victim by name. The request shall be signed by the department  
17 supervisor of the requesting law enforcement agency. The written  
18 request shall cite the out-of-state statute or interstate compact  
19 provision that requires that the information contained within these  
20 reports is to be disclosed only to law enforcement, prosecutorial  
21 entities, or multidisciplinary investigative teams, and shall cite the  
22 criminal penalties for unlawful disclosure provided by the  
23 requesting state or the applicable interstate compact provision. In  
24 the absence of both ~~(1)~~ (A) a specific out-of-state statute or  
25 interstate compact provision that requires that the information  
26 contained within these reports be disclosed only to law  
27 enforcement, prosecutorial entities, or multidisciplinary  
28 investigative teams, and ~~(2)~~ (B) criminal penalties equivalent to  
29 the penalties in California for unlawful disclosure, access shall be  
30 denied.

31 (13) Persons who have verified with the Department of Justice  
32 that they are listed in the Child Abuse Central Index as provided  
33 by subdivision (e) of Section 11170. Disclosure under this section  
34 shall be subject to the California Public Records Act (Chapter 3.5  
35 (commencing with Section 6250) of Division 7 of Title 1 of the  
36 Government Code). Nothing in this section prohibits a submitting  
37 agency prior to disclosure from redacting the name, address, and  
38 telephone number of a witness, person who reports under this  
39 article, or victim to maintain confidentiality as required by law.



1 (14) Each chairperson of a county child death review team, or  
2 his or her designee, to whom disclosure of information is permitted  
3 under this article, relating to the death of one or more children and  
4 any prior child abuse or neglect investigation reports maintained  
5 involving the same victim, siblings, or suspects. Local child death  
6 review teams may share any relevant information regarding case  
7 reviews involving child death with other child death review teams.

8 (c) Authorized persons within county health departments shall  
9 be permitted to receive copies of any reports made by health  
10 practitioners, as defined in ~~Section 11165.8, paragraphs (21) to~~  
11 *(28), inclusive, of subdivision (a) of Section 11165.7, and* pursuant  
12 to Section 11165.13, and copies of assessments completed  
13 pursuant to Sections 123600 and 123605 of the Health and Safety  
14 Code, to the extent permitted by federal law. Any information  
15 received pursuant to this subdivision is protected by subdivision  
16 (e).

17 (d) Nothing in this section requires the Department of Justice  
18 to disclose information contained in records maintained under  
19 Section 11169 or under the regulations promulgated pursuant to  
20 Section 11174, except as otherwise provided in this article.

21 (e) This section shall not be interpreted to allow disclosure of  
22 any reports or records relevant to the reports of child abuse or  
23 neglect if the disclosure would be prohibited by any other  
24 provisions of state or federal law applicable to the reports or  
25 records relevant to the reports of child abuse or neglect.

26 SEC. 3. Section 13732 is added to the Penal Code, to read:

27 13732. (a) The Legislature finds and declares that a  
28 substantial body of research demonstrates a strong connection  
29 between domestic violence and child abuse. However, despite this  
30 connection, child abuse and domestic violence services and  
31 agencies often fail to coordinate appropriately at the local level. It  
32 is the intent of the Legislature in enacting this section to improve  
33 preventative and supportive services to families experiencing  
34 violence in order to prevent further abuse of children and the  
35 victims of domestic violence. It is the further intent of this section  
36 that child protective services agencies develop a protocol which  
37 clearly sets forth the criteria for a child protective services  
38 response to a domestic violence related incident in a home in which  
39 a child resides.



1 (b) Commencing January 1, 2003, child protective services  
2 agencies shall develop protocols in collaboration with law  
3 enforcement, prosecution, child abuse and domestic violence  
4 experts, and community-based organizations serving abused  
5 children and victims of domestic violence as to how law  
6 enforcement and child welfare agencies will cooperate in their  
7 response to incidents of domestic violence in homes in which a  
8 child resides.

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

