

ASSEMBLY BILL

No. 299

Introduced by Assembly Member Maze

February 9, 2005

An act to amend Section 11165.9 of the Penal Code, and to amend Section 827 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 299, as introduced, Maze. Juvenile case files.

Existing law requires that reports of suspected child abuse or neglect be made by mandated reporters to any police department or sheriff's department, county probation department, as specified, or the county welfare department.

This bill would require a police department or sheriff's department that receives that report to transmit it to the county welfare office within 60 minutes of receiving it. By imposing new duties on local law enforcement, the bill would impose a state-mandated local program.

Existing law delineates the persons who are authorized to inspect juvenile case files.

This bill would make a technical change to that provision.

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.

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. Section 11165.9 of the Penal Code is amended
 2 to read:
 3 11165.9. Reports of suspected child abuse or neglect shall be
 4 made by mandated reporters to any police department or sheriff's
 5 department, not including a school district police or security
 6 department, county probation department, if designated by the
 7 county to receive mandated reports, or the county welfare
 8 department. Any of those agencies shall accept a report of
 9 suspected child abuse or neglect whether offered by a mandated
 10 reporter or another person, or referred by another agency, even if
 11 the agency to whom the report is being made lacks subject matter
 12 or geographical jurisdiction to investigate the reported case,
 13 unless the agency can immediately electronically transfer the call
 14 to an agency with proper jurisdiction. When an agency takes a
 15 report about a case of suspected child abuse or neglect in which
 16 that agency lacks jurisdiction, the agency shall immediately refer
 17 the case by telephone, fax, or electronic transmission to an
 18 agency with proper jurisdiction. *A police department or sheriff's*
 19 *department that receives a report pursuant to this section shall*
 20 *transmit that report to the county welfare office within 60*
 21 *minutes of receiving the report.*
 22 SEC. 2. Section 827 of the Welfare and Institutions Code is
 23 amended to read:
 24 827. (a) (1) Except as provided in Section 828, a case file
 25 may be inspected only by the following:
 26 (A) Court personnel.
 27 (B) The district attorney, a city attorney, or city prosecutor
 28 authorized to prosecute criminal or juvenile cases under state
 29 law.
 30 (C) The minor who is the subject of the proceeding.
 31 (D) His or her parents or guardian.
 32 (E) The attorneys for the parties, and judges, referees, other
 33 hearing officers, probation officers and law enforcement officers
 34 who are actively participating in criminal or juvenile proceedings
 35 involving the minor.

1 (F) The superintendent or designee of the school district where
2 the minor is enrolled or attending school.

3 ~~(G) Members of the child protective agencies~~ *Mandated*
4 *reporters*, as defined in Section 11165.9 of the Penal Code.

5 (H) The State Department of Social Services to carry out its
6 duties pursuant to Division 9 (commencing with Section 10000),
7 and Part 5 (commencing with Section 7900) of Division 12 of the
8 Family Code to oversee and monitor county child welfare
9 agencies, children in foster care or receiving foster care
10 assistance, and out-of-state placements.

11 (I) To authorized legal staff or special investigators who are
12 peace officers who are employed by, or who are authorized
13 representatives of, the State Department of Social Services, as
14 necessary to the performance of their duties to inspect, license,
15 and investigate community care facilities, and to ensure that the
16 standards of care and services provided in those facilities are
17 adequate and appropriate and to ascertain compliance with the
18 rules and regulations to which the facilities are subject. The
19 confidential information shall remain confidential except for
20 purposes of inspection, licensing, or investigation pursuant to
21 Chapter 3 (commencing with Section 1500) and Chapter 3.4
22 (commencing with Section 1596.70) of Division 2 of the Health
23 and Safety Code, or a criminal, civil, or administrative
24 proceeding in relation thereto. The confidential information may
25 be used by the State Department of Social Services in a criminal,
26 civil, or administrative proceeding. The confidential information
27 shall be available only to the judge or hearing officer and to the
28 parties to the case. Names that are confidential shall be listed in
29 attachments separate to the general pleadings. The confidential
30 information shall be sealed after the conclusion of the criminal,
31 civil, or administrative hearings, and shall not subsequently be
32 released except in accordance with this subdivision. If the
33 confidential information does not result in a criminal, civil, or
34 administrative proceeding, it shall be sealed after the State
35 Department of Social Services decides that no further action will
36 be taken in the matter of suspected licensing violations. Except as
37 otherwise provided in this subdivision, confidential information
38 in the possession of the State Department of Social Services shall
39 not contain the name of the minor.

1 (J) Members of children’s multidisciplinary teams, persons or
2 agencies providing treatment or supervision of the minor.

3 (K) A judge, commissioner, or other hearing officer assigned
4 to a family law case with issues concerning custody or visitation,
5 or both, involving the minor, and the following persons, if
6 actively participating in the family law case: a family court
7 mediator assigned to a case involving the minor pursuant to
8 Article 1 (commencing with Section 3160) of Chapter 11 of Part
9 2 of Division 8 of the Family Code, a court-appointed evaluator
10 or a person conducting a court-connected child custody
11 evaluation, investigation, or assessment pursuant to Section 3118
12 of the Family Code, and counsel appointed for the minor in the
13 family law case pursuant to Section 3150 of the Family Code.
14 Prior to allowing counsel appointed for the minor in the family
15 law case to inspect the file, the court clerk may require counsel to
16 provide a certified copy of the court order appointing him or her
17 as the minor’s counsel.

18 (L) Juvenile justice commissions as established under Section
19 225. The confidentiality provisions of Section 10850 shall apply
20 to a juvenile justice commission and its members.

21 (M) Any other person who may be designated by court order
22 of the judge of the juvenile court upon filing a petition.

23 (2) Notwithstanding any other law and subject to subparagraph
24 (A) of paragraph (3), juvenile case files, except those relating to
25 matters within the jurisdiction of the court pursuant to Section
26 601 or 602, which pertain to a deceased child who was within the
27 jurisdiction of the juvenile court pursuant to Section 300, shall be
28 released to the public pursuant to an order by the juvenile court
29 after a petition has been filed and interested parties have been
30 afforded an opportunity to file an objection. Any information
31 relating to another child or which could identify another child,
32 except for information about the deceased, shall be redacted from
33 the juvenile case file prior to release, unless a specific order is
34 made by the juvenile court to the contrary. Except as provided in
35 this paragraph, the presiding judge of the juvenile court may
36 issue an order prohibiting or limiting access to the juvenile case
37 file, or any portion thereof, of a deceased child only upon a
38 showing that release of the juvenile case file or any portion
39 thereof is detrimental to the safety, protection, or physical, or
40 emotional well-being of another child who is directly or

1 indirectly connected to the juvenile case that is the subject of the
2 petition.

3 (3) Access to juvenile case files pertaining to matters within
4 the jurisdiction of the juvenile court pursuant to Section 300 shall
5 be limited as follows:

6 (A) If a juvenile case file, or any portion thereof, is privileged
7 or confidential pursuant to any other state law or federal law or
8 regulation, the requirements of that state law or federal law or
9 regulation prohibiting or limiting release of the juvenile case file
10 or any portions thereof shall prevail. Unless a person is listed in
11 subparagraphs (A) to (L), inclusive, of paragraph (1) and is
12 entitled to access under the other state law or federal law or
13 regulation without a court order, all those seeking access,
14 pursuant to other authorization, to portions of, or information
15 relating to the contents of, juvenile case files protected under
16 another state law or federal law or regulation, shall petition the
17 juvenile court. The juvenile court may only release the portion
18 of, or information relating to the contents of, juvenile case files
19 protected by another state law or federal law or regulation if
20 disclosure is not detrimental to the safety, protection, or physical
21 or emotional well-being of a child who is directly or indirectly
22 connected to the juvenile case that is the subject of the petition.
23 This paragraph shall not be construed to limit the ability of the
24 juvenile court to carry out its duties in conducting juvenile court
25 proceedings.

26 (B) Prior to the release of the juvenile case file or any portion
27 thereof, the court shall afford due process, including a notice of
28 and an opportunity to file an objection to the release of the record
29 or report to all interested parties.

30 (4) A juvenile case file, any portion thereof, and information
31 relating to the content of the juvenile case file, shall not be
32 disseminated by the receiving agencies to any persons or
33 agencies, other than those persons or agencies authorized to
34 receive documents pursuant to this section. Further, a juvenile
35 case file, any portion thereof, and information relating to the
36 content of the juvenile case file, shall not be made as an
37 attachment to any other documents without the prior approval of
38 the presiding judge of the juvenile court, unless it is used in
39 connection with and in the course of a criminal investigation or a

1 proceeding brought to declare a person a dependent child or ward
2 of the juvenile court.

3 (b) (1) While the Legislature reaffirms its belief that juvenile
4 court records, in general, should be confidential, it is the intent of
5 the Legislature in enacting this subdivision to provide for a
6 limited exception to juvenile court record confidentiality to
7 promote more effective communication among juvenile courts,
8 family courts, law enforcement agencies, and schools to ensure
9 the rehabilitation of juvenile criminal offenders as well as to
10 lessen the potential for drug use, violence, other forms of
11 delinquency, and child abuse.

12 (2) Notwithstanding subdivision (a), written notice that a
13 minor enrolled in a public school, kindergarten to grade 12,
14 inclusive, has been found by a court of competent jurisdiction to
15 have committed any felony or any misdemeanor involving
16 curfew, gambling, alcohol, drugs, tobacco products, carrying of
17 weapons, a sex offense listed in Section 290 of the Penal Code,
18 assault or battery, larceny, vandalism, or graffiti shall be
19 provided by the court, within seven days, to the superintendent of
20 the school district of attendance. Written notice shall include
21 only the offense found to have been committed by the minor and
22 the disposition of the minor's case. This notice shall be
23 expeditiously transmitted by the district superintendent to the
24 principal at the school of attendance. The principal shall
25 expeditiously disseminate the information to those counselors
26 directly supervising or reporting on the behavior or progress of
27 the minor. In addition, the principal shall disseminate the
28 information to any teacher or administrator directly supervising
29 or reporting on the behavior or progress of the minor whom the
30 principal believes needs the information to work with the pupil in
31 an appropriate fashion, to avoid being needlessly vulnerable or to
32 protect other persons from needless vulnerability.

33 Any information received by a teacher, counselor, or
34 administrator under this subdivision shall be received in
35 confidence for the limited purpose of rehabilitating the minor and
36 protecting students and staff, and shall not be further
37 disseminated by the teacher, counselor, or administrator, except
38 insofar as communication with the juvenile, his or her parents or
39 guardians, law enforcement personnel, and the juvenile's

1 probation officer is necessary to effectuate the juvenile's
2 rehabilitation or to protect students and staff.

3 An intentional violation of the confidentiality provisions of this
4 paragraph is a misdemeanor punishable by a fine not to exceed
5 five hundred dollars (\$500).

6 (3) If a minor is removed from public school as a result of the
7 court's finding described in subdivision (b), the superintendent
8 shall maintain the information in a confidential file and shall
9 defer transmittal of the information received from the court until
10 the minor is returned to public school. If the minor is returned to
11 a school district other than the one from which the minor came,
12 the parole or probation officer having jurisdiction over the minor
13 shall so notify the superintendent of the last district of
14 attendance, who shall transmit the notice received from the court
15 to the superintendent of the new district of attendance.

16 (c) Each probation report filed with the court concerning a
17 minor whose record is subject to dissemination pursuant to
18 subdivision (b) shall include on the face sheet the school at which
19 the minor is currently enrolled. The county superintendent shall
20 provide the court with a listing of all of the schools within each
21 school district, within the county, along with the name and
22 mailing address of each district superintendent.

23 (d) Each notice sent by the court pursuant to subdivision (b)
24 shall be stamped with the instruction: "Unlawful Dissemination
25 Of This Information Is A Misdemeanor." Any information
26 received from the court shall be kept in a separate confidential
27 file at the school of attendance and shall be transferred to the
28 minor's subsequent schools of attendance and maintained until
29 the minor graduates from high school, is released from juvenile
30 court jurisdiction, or reaches the age of 18, whichever occurs
31 first. After that time the confidential record shall be destroyed. At
32 any time after the date by which a record required to be
33 destroyed by this section should have been destroyed, the minor
34 or his or her parent or guardian shall have the right to make a
35 written request to the principal of the school that the minor's
36 school records be reviewed to ensure that the record has been
37 destroyed. Upon completion of any requested review and no later
38 than 30 days after the request for the review was received, the
39 principal or his or her designee shall respond in writing to the
40 written request and either shall confirm that the record has been

1 destroyed or, if the record has not been destroyed, shall explain
2 why destruction has not yet occurred.

3 Except as provided in paragraph (2) of subdivision (b), no
4 liability shall attach to any person who transmits or fails to
5 transmit any notice or information required under subdivision
6 (b).

7 (e) For purposes of this section, a “juvenile case file” means a
8 petition filed in any juvenile court proceeding, reports of the
9 probation officer, and all other documents filed in that case or
10 made available to the probation officer in making his or her
11 report, or to the judge, referee, or other hearing officer, and
12 thereafter retained by the probation officer, judge, referee, or
13 other hearing officer.

14 SEC. 3. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local 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.