

ASSEMBLY BILL

No. 2938

**Introduced by Assembly Member Sharon Runner
(Coauthor: Assembly Member Bass)**

February 24, 2006

An act to amend Section 11174.34 of the Penal Code, and to amend Sections 827 and 10850 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2938, as introduced, Sharon Runner. Juvenile case files.

Existing federal law, the Child Abuse Prevention and Treatment Act, provides grants to those states that enact state laws that, among other requirements, allow public disclosure of information regarding cases of child abuse or neglect that result in a child fatality or near fatality. Existing state law requires county child welfare agencies to create a record in the Child Welfare Services/Case Management System on all cases of child death suspected to be related to child abuse or neglect. Existing state law also generally provides for the confidentiality of juvenile case files. However, state law requires the release to the public, under specified conditions, of juvenile case files that pertain to a deceased child who was a dependent child of the juvenile court.

This bill would instead require county child welfare agencies to create a record in the Child Welfare Services/Case Management System on all cases of child fatality or near fatality, as defined, suspected to be related to child abuse or neglect. The bill would expand the above provision requiring the release of juvenile case files in the case of a child death to additionally require the release of juvenile court records and both county and state case files, as

specified, pertaining to a case of child abuse or neglect that resulted in a child fatality or near fatality. The bill would also require that certain information be redacted. By imposing additional duties on local agencies, the 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.

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. (a) The Legislature hereby finds and declares
2 the following:

3 (1) A provision of the federal Child Abuse Prevention and
4 Treatment Act, hereafter CAPTA, provides grants to states
5 whose laws allow for public disclosure of the findings or
6 information in cases of child abuse or neglect that resulted in a
7 child fatality or near fatality (42 U.S.C. Sec. 5106a). The CAPTA
8 disclosure requirements are an exception to general
9 confidentiality laws and are intended to ensure that the public has
10 access to information in order to prevent tragedies from
11 recurring.

12 (2) Providing access to government records relating to
13 agencies charged with protecting children from abuse or neglect
14 provides the public with insight into the circumstances that led to
15 the fatality or near fatality so that other children will not suffer a
16 similar fate.

17 (3) The federal Department of Health and Human Services has
18 notified California that it is out of compliance with federal law
19 requiring the public disclosure of information about cases of
20 child abuse or neglect that have resulted in a child fatality or near
21 fatality, and that the state risks losing over three million dollars
22 (\$3,000,000) in federal CAPTA funds if it does not come into
23 compliance.

1 (4) Reports published by California’s Death Review Council
2 do not comply with CAPTA requirements.

3 (5) Paragraph (1) of subdivision (b) of Section 3 of Article I of
4 the California Constitution provides that the people have the right
5 of access to information concerning the conduct of the people’s
6 business, and, therefore, the meetings of public bodies and the
7 writings of public officials and agencies shall be open to public
8 scrutiny.

9 (b) Therefore, it is the intent of the Legislature to do all of the
10 following:

11 (1) Ensure that California is in compliance with CAPTA and
12 not jeopardize the receipt of over three million dollars
13 (\$3,000,000) in federal CAPTA funds.

14 (2) Allow for the public disclosure of case-specific facts and
15 information regarding child abuse or neglect that have resulted in
16 a child fatality or near fatality.

17 (3) Permit the broadest disclosure of government records
18 relating to child fatalities and near fatalities as possible while
19 protecting the confidentiality of siblings, half-siblings, and other
20 children, government employees, and mandatory and voluntary
21 reporters of child abuse, without jeopardizing a criminal
22 investigation or proceeding.

23 SEC. 2. Section 11174.34 of the Penal Code is amended to
24 read:

25 11174.34. (a) (1) The purpose of this section shall be to
26 coordinate and integrate state and local efforts to address fatal
27 child abuse or neglect, and to create a body of information to
28 prevent child deaths.

29 (2) It is the intent of the Legislature that the California State
30 Child Death Review Council, the Department of Justice, the State
31 Department of Social Services, the State Department of Health
32 Services, and state and local child death review teams shall share
33 data and other information necessary from the Department of
34 Justice Child Abuse Central Index and Supplemental Homicide
35 File, the State Department of Health Services Vital Statistics and
36 the Department of Social Services Child Welfare Services/Case
37 Management System files to establish accurate information on
38 the nature and extent of child abuse or neglect related fatalities in
39 California as those documents relate to child fatality cases.
40 Further, it is the intent of the Legislature to ensure that records of

1 child abuse or neglect related fatalities are entered into the State
2 Department of Social Services, Child Welfare Services/Case
3 Management System. It is also the intent that training and
4 technical assistance be provided to child death review teams and
5 professionals in the child protection system regarding
6 multiagency case review.

7 (b) (1) It shall be the duty of the California State Child Death
8 Review Council to oversee the statewide coordination and
9 integration of state and local efforts to address fatal child abuse
10 or neglect and to create a body of information to prevent child
11 deaths. The Department of Justice, the State Department of
12 Social Services, the State Department of Health Services, the
13 California Coroner's Association, the County Welfare Directors
14 Association, Prevent Child Abuse California, the California
15 Homicide Investigators Association, the agency or agencies
16 designated by the Director of Finance pursuant to Section 13820,
17 the Inter-Agency Council on Child Abuse and Neglect/National
18 Center on Child Fatality Review, the California Conference of
19 Local Health Officers, the California Conference of Local
20 Directors of Maternal, Child, and Adolescent Health, the
21 California Conference of Local Health Department Nursing
22 Directors, the California District Attorneys Association, and at
23 least three regional representatives, chosen by the other members
24 of the council, working collaboratively for the purposes of this
25 section, shall be known as the California State Child Death
26 Review Council. The council shall select a chairperson or
27 cochairpersons from the members.

28 (2) The Department of Justice is hereby authorized to carry out
29 the purposes of this section by coordinating council activities and
30 working collaboratively with the agencies and organizations in
31 paragraph (1), and may consult with other representatives of
32 other agencies and private organizations, to help accomplish the
33 purpose of this section.

34 (c) Meetings of the agencies and organizations involved shall
35 be convened by a representative of the Department of Justice. All
36 meetings convened between the Department of Justice and any
37 organizations required to carry out the purpose of this section
38 shall take place in this state. There shall be a minimum of four
39 meetings per calendar year.

1 (d) To accomplish the purpose of this section, the Department
2 of Justice and agencies and organizations involved shall engage
3 in the following activities:

4 (1) Analyze and interpret state and local data on child death in
5 an annual report to be submitted to local child death review
6 teams with copies to the Governor and the Legislature, no later
7 than July 1 *of* each year. Copies of the report shall also be
8 distributed to public officials in the state who deal with child
9 abuse issues and to those agencies responsible for child death
10 investigation in each county. The report shall contain, but not be
11 limited to, information provided by state agencies and the county
12 child death review teams for the preceding year.

13 The state data shall include the Department of Justice Child
14 Abuse Central Index and Supplemental Homicide File, the State
15 Department of Health Services Vital Statistics, and the State
16 Department of Social Services Child Welfare Services/Case
17 Management System.

18 (2) In conjunction with the agency or agencies designated by
19 the Director of Finance pursuant to Section 13820, coordinate
20 statewide and local training for county death review teams and
21 the members of the teams, including, but not limited to, training
22 in the application of the interagency child death investigation
23 protocols and procedures established under Sections ~~11166.7~~
24 ~~11174.32~~ and ~~11166.8~~ ~~11174.33~~ to identify child deaths
25 associated with abuse or neglect.

26 (e) The State Department of Health Services, in collaboration
27 with the California State Child Death Review Council, shall
28 design, test and implement a statewide child abuse or neglect
29 fatality tracking system incorporating information collected by
30 local child death review teams. The department shall:

31 (1) Establish a minimum case selection criteria and review
32 protocols of local child death review teams.

33 (2) Develop a standard child death review form with a
34 minimum core set of data elements to be used by local child
35 death review teams, and collect and analyze that data.

36 (3) Establish procedural safeguards in order to maintain
37 appropriate confidentiality and integrity of the data.

38 (4) Conduct annual reviews to reconcile data reported to the
39 State Department of Health Services Vital Statistics, Department
40 of Justice Homicide Files and Child Abuse Central Index, and the

1 State Department of Social Services Child Welfare Services/Case
2 Management System data systems, with data provided from local
3 child death review teams.

4 (5) Provide technical assistance to local child death review
5 teams in implementing and maintaining the tracking system.

6 (6) This subdivision shall become operative on July 1, 2000,
7 and shall be implemented only to the extent that funds are
8 appropriated for its purposes in the Budget Act.

9 (f) Local child death review teams shall participate in a
10 statewide child abuse or neglect fatalities monitoring system by:

11 (1) Meeting the minimum standard protocols set forth by the
12 State Department of Health Services in collaboration with the
13 California State Child Death Review Council.

14 (2) Using the standard data form to submit information on
15 child abuse or neglect fatalities in a timely manner established by
16 the State Department of Health Services.

17 (g) The California State Child Death Review Council shall
18 monitor the implementation of the monitoring system and
19 incorporate the results and findings of the system and review into
20 an annual report.

21 (h) The Department of Justice shall direct the creation,
22 maintenance, updating, and distribution electronically and by
23 paper, of a statewide child death review team directory, which
24 shall contain the names of the members of the agencies and
25 private organizations participating under this section, and the
26 members of local child death review teams and local liaisons to
27 those teams. The department shall work in collaboration with
28 members of the California State Child Death Review Council to
29 develop a directory of professional experts, resources, and
30 information from relevant agencies and organizations and local
31 child death review teams, and to facilitate regional working
32 relationships among teams. The Department of Justice shall
33 maintain and update these directories annually.

34 (i) The agencies or private organizations participating under
35 this section shall participate without reimbursement from the
36 state. Costs incurred by participants for travel or per diem shall
37 be borne by the participant agency or organization. The
38 participants shall be responsible for collecting and compiling
39 information to be included in the annual report. The Department

1 of Justice shall be responsible for printing and distributing the
2 annual report using available funds and existing resources.

3 (j) The agency or agencies designated by the Director of
4 Finance pursuant to Section 13820, in coordination with the State
5 Department of Social Services, the Department of Justice, and
6 the California State Child Death Review Council shall contract
7 with state or nationally recognized organizations in the area of
8 child death review to conduct statewide training and technical
9 assistance for local child death review teams and relevant
10 organizations, develop standardized definitions for fatal child
11 abuse or neglect, develop protocols for the investigation of fatal
12 child abuse or neglect, and address relevant issues such as grief
13 and mourning, data collection, training for medical personnel in
14 the identification of child abuse or neglect fatalities, domestic
15 violence fatality review, and other related topics and programs.
16 The provisions of this subdivision shall only be implemented to
17 the extent that the agency or agencies designated by the Director
18 of Finance pursuant to Section 13820 can absorb the costs of
19 implementation within its current funding, or to the extent that
20 funds are appropriated for its purposes in the Budget Act.

21 (k) Law enforcement and child welfare agencies shall
22 cross-report all cases of child death suspected to be related to
23 child abuse or neglect whether or not the deceased child has any
24 known surviving siblings.

25 (l) County child welfare agencies shall create a record in the
26 Child Welfare Services/Case Management System (CWS/CMS)
27 on all cases of child ~~death~~ *fatality or near fatality* suspected to be
28 related to child abuse or neglect, whether or not the deceased
29 child has any known surviving siblings. Upon notification that
30 the ~~death~~ *fatality or near fatality* was determined not to be related
31 to child abuse or neglect, the child welfare agency shall enter that
32 information into the Child Welfare Services/Case Management
33 System. *For the purposes of this subdivision, a “near fatality”*
34 *means a severe childhood injury resulting in admission to a*
35 *critical care unit for greater than 24 hours following the injury.*

36 SEC. 3. Section 827 of the Welfare and Institutions Code is
37 amended to read:

38 827. (a) (1) Except as provided in Section 828, a case file
39 may be inspected only by the following:

40 (A) Court personnel.

- 1 (B) The district attorney, a city attorney, or city prosecutor
2 authorized to prosecute criminal or juvenile cases under state
3 law.
- 4 (C) The minor who is the subject of the proceeding.
- 5 (D) His or her parents or guardian.
- 6 (E) The attorneys for the parties, judges, referees, other
7 hearing officers, probation officers, and law enforcement officers
8 who are actively participating in criminal or juvenile proceedings
9 involving the minor.
- 10 (F) The superintendent or designee of the school district where
11 the minor is enrolled or attending school.
- 12 (G) Members of the child protective agencies as defined in
13 Section 11165.9 of the Penal Code.
- 14 (H) The State Department of Social Services to carry out its
15 duties pursuant to Division 9 (commencing with Section 10000)
16 *of this code*, and Part 5 (commencing with Section 7900) of
17 Division 12; of the Family Code, to oversee and monitor county
18 child welfare agencies, children in foster care or receiving foster
19 care assistance, and out-of-state placements.
- 20 (I) Authorized legal staff or special investigators who are
21 peace officers who are employed by, or who are authorized
22 representatives of, the State Department of Social Services, as
23 necessary to the performance of their duties to inspect, license,
24 and investigate community care facilities, and to ensure that the
25 standards of care and services provided in those facilities are
26 adequate and appropriate and to ascertain compliance with the
27 rules and regulations to which the facilities are subject. The
28 confidential information shall remain confidential except for
29 purposes of inspection, licensing, or investigation pursuant to
30 Chapter 3 (commencing with Section 1500) and Chapter 3.4
31 (commencing with Section 1596.70) of Division 2 of the Health
32 and Safety Code, or a criminal, civil, or administrative
33 proceeding in relation thereto. The confidential information may
34 be used by the State Department of Social Services in a criminal,
35 civil, or administrative proceeding. The confidential information
36 shall be available only to the judge or hearing officer and to the
37 parties to the case. Names that are confidential shall be listed in
38 attachments separate to the general pleadings. The confidential
39 information shall be sealed after the conclusion of the criminal,
40 civil, or administrative hearings, and may not subsequently be

1 released except in accordance with this subdivision. If the
2 confidential information does not result in a criminal, civil, or
3 administrative proceeding, it shall be sealed after the State
4 Department of Social Services decides that no further action will
5 be taken in the matter of suspected licensing violations. Except as
6 otherwise provided in this subdivision, confidential information
7 in the possession of the State Department of Social Services may
8 not contain the name of the minor.

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

11 (K) A judge, commissioner, or other hearing officer assigned
12 to a family law case with issues concerning custody or visitation,
13 or both, involving the minor, and the following persons, if
14 actively participating in the family law case: a family court
15 mediator assigned to a case involving the minor pursuant to
16 Article 1 (commencing with Section 3160) of Chapter 11 of Part
17 2 of Division 8 of the Family Code, a court-appointed evaluator
18 or a person conducting a court-connected child custody
19 evaluation, investigation, or assessment pursuant to Section 3111
20 or 3118 of the Family Code, and counsel appointed for the minor
21 in the family law case pursuant to Section 3150 of the Family
22 Code. Prior to allowing counsel appointed for the minor in the
23 family law case to inspect the file, the court clerk may require
24 counsel to provide a certified copy of the court order appointing
25 him or her as the minor’s counsel.

26 (L) A court-appointed investigator who is actively
27 participating in a guardianship case involving a minor pursuant to
28 Part 2 (commencing with Section 1500) of Division 4 of the
29 Probate Code and acting within the scope of his or her duties in
30 that case.

31 (M) A local child support agency for the purpose of
32 establishing paternity and establishing and enforcing child
33 support orders.

34 (N) Juvenile justice commissions as established under Section
35 225. The confidentiality provisions of Section 10850 shall apply
36 to a juvenile justice commission and its members.

37 (O) Any other person who may be designated by court order
38 of the judge of the juvenile court upon filing a petition.

39 (2) Notwithstanding any other law and subject to subparagraph
40 (A) of paragraph (3), including paragraphs (3) and (4), juvenile

1 case files, any juvenile court records, and any county welfare
2 department and State Department of Social Services case files,
3 regardless of whether they are maintained electronically or on
4 paper, except those relating to matters within the jurisdiction of
5 the court pursuant to Section 601 or 602, that pertain to a
6 ~~deceased case of child abuse or neglect that has resulted in a~~
7 ~~child fatality or near fatality of a child who was within the~~
8 ~~jurisdiction of the juvenile court pursuant to Section 300,~~ shall be
9 released to the public pursuant to an order by the juvenile court
10 after a petition has been filed and interested parties have been
11 afforded an opportunity to file an objection. Any information
12 relating to another child or which could identify another child,
13 except for information about the deceased, shall be redacted from
14 the juvenile case file prior to release, unless a specific order is
15 made by the juvenile court to the contrary. Except as provided in
16 this paragraph, the presiding judge of the juvenile court may
17 issue an order prohibiting or limiting access to the juvenile case
18 file, or any portion thereof, of a deceased child only upon a
19 showing that release of the juvenile case file or any portion
20 thereof is detrimental to the safety, protection, or physical or
21 emotional well-being of another child who is directly or
22 indirectly connected to the juvenile case that is the subject of the
23 petition and shall not be exempt from disclosure under any
24 provision of the California Public Records Act (Chapter 3.5
25 (commencing with Section 6250) of Division 7 of Title 1 of the
26 Government Code).

27 (A) Prior to releasing any record pursuant to this paragraph
28 the custodian of the records shall redact the following
29 information:

30 (i) Any information relating to another child, or that could
31 identify another child, except for information about the deceased
32 child or the child who suffered a near fatality.

33 (ii) The names, addresses, telephone numbers, or any other
34 identifying information of any county or state personnel referred
35 to in the juvenile case file.

36 (iii) The names, addresses, telephone numbers, or any other
37 identifying information of any individual reporting abuse or
38 neglect of a child.

39 (iv) Any information that would jeopardize a criminal
40 investigation or proceeding.

1 (B) *The custodian of any records required to be released*
2 *pursuant to this paragraph that contain redacted information*
3 *shall specify in a separate document the specific bases, as*
4 *enumerated in subparagraph (A), for each redaction.*

5 (C) *If the custodian of a juvenile case file required to be*
6 *released under this paragraph believes that, despite the*
7 *permitted redaction, disclosure of the case file, or any portion*
8 *thereof, would be seriously and unavoidably detrimental to the*
9 *safety, protection, or physical or mental and emotional*
10 *well-being of another child who is directly or indirectly*
11 *connected to the juvenile case file that is the subject of the*
12 *petition, he or she may, with notice to the requesting person,*
13 *petition the presiding judge of the juvenile court to issue an order*
14 *prohibiting or limiting access to the case file. If a person who*
15 *requests a case file under this paragraph believes that any*
16 *redactions or limitations in released case files do not comply*
17 *with this paragraph, he or she may, with notice to the custodian*
18 *of the case file, petition the presiding judge of the juvenile court*
19 *to issue an order granting access to all or a portion of the case*
20 *file.*

21 (D) *For the purposes of this paragraph, a “near fatality”*
22 *means a severe childhood injury resulting in admission to a*
23 *critical care unit for greater than 24 hours following the injury.*

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

27 (A) *If a juvenile case file, or any portion thereof, is privileged*
28 *or confidential pursuant to any other state law or federal law or*
29 *regulation, the requirements of that state law or federal law or*
30 *regulation prohibiting or limiting release of the juvenile case file*
31 *or any portions thereof shall prevail. Unless a person is listed in*
32 *subparagraphs (A) to (N), inclusive, of paragraph (1) and is*
33 *entitled to access under the other state law or federal law or*
34 *regulation without a court order, all those seeking access,*
35 *pursuant to other authorization, to portions of, or information*
36 *relating to the contents of, juvenile case files protected under*
37 *another state law or federal law or regulation, shall petition the*
38 *juvenile court. The juvenile court may only release the portion*
39 *of, or information relating to the contents of, juvenile case files*
40 *protected by another state law or federal law or regulation if*

1 disclosure is not detrimental to the safety, protection, or physical
2 or emotional well-being of a child who is directly or indirectly
3 connected to the juvenile case that is the subject of the petition.
4 This paragraph shall not be construed to limit the ability of the
5 juvenile court to carry out its duties in conducting juvenile court
6 proceedings.

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

11 (4) A juvenile case file, any portion thereof, and information
12 relating to the content of the juvenile case file, may not be
13 disseminated by the receiving agencies to any persons or
14 agencies, other than those persons or agencies authorized to
15 receive documents pursuant to this section. Further, a juvenile
16 case file, any portion thereof, and information relating to the
17 content of the juvenile case file, may not be made as an
18 attachment to any other documents without the prior approval of
19 the presiding judge of the juvenile court, unless it is used in
20 connection with and in the course of a criminal investigation or a
21 proceeding brought to declare a person a dependent child or ward
22 of the juvenile court.

23 (b) (1) While the Legislature reaffirms its belief that juvenile
24 court records, in general, should be confidential, it is the intent of
25 the Legislature in enacting this subdivision to provide for a
26 limited exception to juvenile court record confidentiality to
27 promote more effective communication among juvenile courts,
28 family courts, law enforcement agencies, and schools to ensure
29 the rehabilitation of juvenile criminal offenders as well as to
30 lessen the potential for drug use, violence, other forms of
31 delinquency, and child abuse.

32 (2) Notwithstanding subdivision (a), written notice that a
33 minor enrolled in a public school, kindergarten to grade 12,
34 inclusive, has been found by a court of competent jurisdiction to
35 have committed any felony or any misdemeanor involving
36 curfew, gambling, alcohol, drugs, tobacco products, carrying of
37 weapons, a sex offense listed in Section 290 of the Penal Code,
38 assault or battery, larceny, vandalism, or graffiti shall be
39 provided by the court, within seven days, to the superintendent of
40 the school district of attendance. Written notice shall include

1 only the offense found to have been committed by the minor and
2 the disposition of the minor's case. This notice shall be
3 expeditiously transmitted by the district superintendent to the
4 principal at the school of attendance. The principal shall
5 expeditiously disseminate the information to those counselors
6 directly supervising or reporting on the behavior or progress of
7 the minor. In addition, the principal shall disseminate the
8 information to any teacher or administrator directly supervising
9 or reporting on the behavior or progress of the minor whom the
10 principal believes needs the information to work with the pupil in
11 an appropriate fashion, to avoid being needlessly vulnerable or to
12 protect other persons from needless vulnerability.

13 Any information received by a teacher, counselor, or
14 administrator under this subdivision shall be received in
15 confidence for the limited purpose of rehabilitating the minor and
16 protecting students and staff, and shall not be further
17 disseminated by the teacher, counselor, or administrator, except
18 insofar as communication with the juvenile, his or her parents or
19 guardians, law enforcement personnel, and the juvenile's
20 probation officer is necessary to effectuate the juvenile's
21 rehabilitation or to protect students and staff.

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

25 (3) If a minor is removed from public school as a result of the
26 court's finding described in subdivision (b), the superintendent
27 shall maintain the information in a confidential file and shall
28 defer transmittal of the information received from the court until
29 the minor is returned to public school. If the minor is returned to
30 a school district other than the one from which the minor came,
31 the parole or probation officer having jurisdiction over the minor
32 shall so notify the superintendent of the last district of
33 attendance, who shall transmit the notice received from the court
34 to the superintendent of the new district of attendance.

35 (c) Each probation report filed with the court concerning a
36 minor whose record is subject to dissemination pursuant to
37 subdivision (b) shall include on the face sheet the school at which
38 the minor is currently enrolled. The county superintendent shall
39 provide the court with a listing of all of the schools within each

1 school district, within the county, along with the name and
2 mailing address of each district superintendent.

3 (d) Each notice sent by the court pursuant to subdivision (b)
4 shall be stamped with the instruction: “Unlawful Dissemination
5 Of This Information Is A Misdemeanor.” Any information
6 received from the court shall be kept in a separate confidential
7 file at the school of attendance and shall be transferred to the
8 minor’s subsequent schools of attendance and maintained until
9 the minor graduates from high school, is released from juvenile
10 court jurisdiction, or reaches ~~the age of 18 years~~ *18 years of age*,
11 whichever occurs first. After that time the confidential record
12 shall be destroyed. At any time after the date by which a record
13 required to be destroyed by this section should have been
14 destroyed, the minor or his or her parent or guardian shall have
15 the right to make a written request to the principal of the school
16 that the minor’s school records be reviewed to ensure that the
17 record has been destroyed. Upon completion of any requested
18 review and no later than 30 days after the request for the review
19 was received, the principal or his or her designee shall respond in
20 writing to the written request and either shall confirm that the
21 record has been destroyed or, if the record has not been
22 destroyed, shall explain why destruction has not yet occurred.

23 Except as provided in paragraph (2) of subdivision (b), no
24 liability shall attach to any person who transmits or fails to
25 transmit any notice or information required under subdivision
26 (b).

27 (e) For purposes of this section, a “juvenile case file” means a
28 petition filed in any juvenile court proceeding, reports of the
29 probation officer, and all other documents filed in that case or
30 made available to the probation officer in making his or her
31 report, or to the judge, referee, or other hearing officer, and
32 thereafter retained by the probation officer, judge, referee, or
33 other hearing officer.

34 SEC. 4. Section 10850 of the Welfare and Institutions Code is
35 amended to read:

36 10850. (a) Except as otherwise provided in this section, all
37 applications and records concerning any individual made or kept
38 by any public officer or agency in connection with the
39 administration of any provision of this code relating to any form
40 of public social services for which grants-in-aid are received by

1 this state from the United States government shall be
2 confidential, and shall not be open to examination for any
3 purpose not directly connected with the administration of that
4 program, or any investigation, prosecution, or criminal or civil
5 proceeding conducted in connection with the administration of
6 any such program. The disclosure of any information that
7 identifies by name or address any applicant for or recipient of
8 these grants-in-aid to any committee or legislative body is
9 prohibited, except as provided in subdivision (b).

10 (b) Except as otherwise provided in this section, no person
11 shall publish or disclose or permit or cause to be published or
12 disclosed any list of persons receiving public social services. Any
13 county welfare department in this state may release lists of
14 applicants for, or recipients of, public social services, to any
15 other county welfare department or the State Department of
16 Social Services, and these lists or any other records shall be
17 released when requested by any county welfare department or the
18 State Department of Social Services. These lists or other records
19 shall only be used for purposes directly connected with the
20 administration of public social services. Except for those
21 purposes, no person shall publish, disclose, or use or permit or
22 cause to be published, disclosed, or used any confidential
23 information pertaining to an applicant or recipient.

24 Any county welfare department and the State Department of
25 Social Services shall provide any governmental entity that is
26 authorized by law to conduct an audit or similar activity in
27 connection with the administration of public social services,
28 including any committee or legislative body so authorized, with
29 access to any public social service applications and records
30 described in subdivision (a) to the extent of the authorization.
31 Those committees, legislative bodies and other entities may only
32 request or use these records for the purpose of investigating the
33 administration of public social services, and shall not disclose the
34 identity of any applicant or recipient except in the case of a
35 criminal or civil proceeding conducted in connection with the
36 administration of public social services.

37 However, this section shall not prohibit the furnishing of this
38 information to other public agencies to the extent required for
39 verifying eligibility or for other purposes directly connected with
40 the administration of public social services, or to county

1 superintendents of schools or superintendents of school districts
 2 only as necessary for the administration of federally assisted
 3 programs providing assistance in cash or in-kind or services
 4 directly to individuals on the basis of need. Any person
 5 knowingly and intentionally violating this subdivision is guilty of
 6 a misdemeanor.

7 Further, in the context of a petition for the appointment of a
 8 conservator for a person who is receiving or has received aid
 9 from a public agency, as indicated above, or in the context of a
 10 criminal prosecution for a violation of Section 368 of the Penal
 11 Code, both of the following shall apply:

12 (1) An Adult Protective Services employee or Ombudsman
 13 may answer truthfully at any proceeding related to the petition or
 14 prosecution, when asked if he or she is aware of information that
 15 he or she believes is related to the legal mental capacity of that
 16 aid recipient or the need for a conservatorship for that aid
 17 recipient. If the Adult Protective Services employee or
 18 Ombudsman states that he or she is aware of ~~such~~ *that*
 19 information, the court may order the Adult Protective Services
 20 employee or Ombudsman to testify about his or her observations
 21 and to disclose all relevant agency records.

22 (2) The court may order the Adult Protective Services
 23 employee or Ombudsman to testify about his or her observations
 24 and to disclose any relevant agency records if the court has other
 25 independent reason to believe that the Adult Protective Services
 26 employee or Ombudsman has information that would facilitate
 27 the resolution of the matter.

28 (c) The State Department of Social Services may make rules
 29 and regulations governing the custody, use, and preservation of
 30 all records, papers, files, and communications pertaining to the
 31 administration of the laws relating to public social services under
 32 their jurisdiction. The rules and regulations shall be binding on
 33 all departments, officials and employees of the state, or of any
 34 political subdivision of the state and may provide for giving
 35 information to or exchanging information with agencies, public
 36 or political subdivisions of the state, and may provide for giving
 37 information to or exchanging information with agencies, public
 38 or private, that are engaged in planning, providing, or securing
 39 social services for or in behalf of recipients or applicants; and for
 40 making case records available for research purposes, provided

1 that making these case records available will not result in the
2 disclosure of the identity of applicants for or recipients of public
3 social services and will not disclose any personal information in
4 a manner that would link the information disclosed to the
5 individual to whom it pertains, unless the department has
6 complied with subdivision (t) of Section 1798.24 of the Civil
7 Code.

8 (d) Any person, including every public officer and employee,
9 who knowingly secures or possesses, other than in the course of
10 official duty, an official list or a list compiled from official
11 sources, published or disclosed in violation of this section, of
12 persons who have applied for or who have been granted any form
13 of public social services for which state or federal funds are made
14 available to the counties is guilty of a misdemeanor.

15 (e) This section shall not be construed to prohibit an employee
16 of a county welfare department from disclosing confidential
17 information concerning a public social services applicant or
18 recipient to a state or local law enforcement agency investigating
19 or gathering information regarding a criminal act committed in a
20 welfare department office, a criminal act against any county or
21 state welfare worker, or any criminal act witnessed by any county
22 or state welfare worker while involved in the administration of
23 public social services at any location. Further, this section shall
24 not be construed to prohibit an employee of a county welfare
25 department from disclosing confidential information concerning
26 a public social services applicant or recipient to a state or local
27 law enforcement agency investigating or gathering information
28 regarding a criminal act intentionally committed by the applicant
29 or recipient against any off-duty county or state welfare worker
30 in retaliation for an act performed in the course of the welfare
31 worker's duty when the person committing the offense knows or
32 reasonably should know that the victim is a state or county
33 welfare worker. These criminal acts shall include only those that
34 are in violation of state or local law. Disclosure of confidential
35 information pursuant to this subdivision shall be limited to the
36 applicant's or recipient's name, physical description, and
37 address.

38 (f) The provisions of this section shall be operative only to the
39 extent permitted by federal law and shall not apply to, but
40 exclude, Chapter 7 (commencing with Section 14000) of this

1 division, entitled “Basic Health Care”, and for which a
2 grant-in-aid is received by the state under Title XIX of the Social
3 Security Act.

4 (g) *This section shall not be construed to limit any release to*
5 *the public of juvenile case files required to be released pursuant*
6 *to paragraph (2) of subdivision (a) of Section 827.*

7 SEC. 5. If the Commission on State Mandates determines that
8 this act contains costs mandated by the state, reimbursement to
9 local agencies and school districts for those costs shall be made
10 pursuant to Part 7 (commencing with Section 17500) of Division
11 4 of Title 2 of the Government Code.