

AMENDED IN ASSEMBLY MARCH 29, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1504

Introduced by Assembly Member Anderson

February 23, 2007

An act relating to identity theft to amend Section 300 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 1504, as amended, Anderson. Credit reporting: identity theft: children.

~~Existing state and federal law define and regulate consumer credit reporting agencies. Existing law makes it a crime for a person to use the personal identifying information of another to obtain, or attempt to obtain, credit, goods, and services, which is commonly known as identity theft. Existing law requires consumer reporting agencies to block reporting any information that the consumer alleges appears as a result of identity theft, if the consumer submits a valid police report, as specified. Existing law permits a credit reporting agency to unblock that information upon establishing specified facts by a preponderance of the evidence. Existing law provides that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court in cases of abuse, the failure of a parent or guardian to adequately supervise or protect the child, as specified, and the failure of a parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, among others.~~

~~This bill would state the intent of the Legislature to enact legislation to protect minors from the harm they suffer when a parent or other adult uses a minor's name to obtain a credit card, and despite the fact that~~

~~the credit card company subsequently voids the fraudulent contract, the debts associated with the fraud continue to be reported by a consumer reporting agency in connection with the minor.~~ *provide that a child may come within the jurisdiction of the juvenile court and become a dependent child of the court if the child has been a victim of identity theft, as defined, perpetrated by the parent or guardian or a member of his or her household.*

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

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

1 SECTION 1. Section 300 of the Welfare and Institutions Code
2 is amended to read:

3 300. Any child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:

6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child’s parent or guardian. For the purposes
9 of this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child’s siblings, or a combination of these and other
13 actions by the parent or guardian which indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, “serious
15 physical harm” does not include reasonable and age-appropriate
16 spanking to the buttocks where there is no evidence of serious
17 physical injury.

18 (b) The child has suffered, or there is a substantial risk that the
19 child will suffer, serious physical harm or illness, as a result of the
20 failure or inability of his or her parent or guardian to adequately
21 supervise or protect the child, or the willful or negligent failure of
22 the child’s parent or guardian to adequately supervise or protect
23 the child from the conduct of the custodian with whom the child
24 has been left, or by the willful or negligent failure of the parent or
25 guardian to provide the child with adequate food, clothing, shelter,
26 or medical treatment, or by the inability of the parent or guardian
27 to provide regular care for the child due to the parent’s or
28 guardian’s mental illness, developmental disability, or substance

1 abuse. No child shall be found to be a person described by this
2 subdivision solely due to the lack of an emergency shelter for the
3 family. Whenever it is alleged that a child comes within the
4 jurisdiction of the court on the basis of the parent's or guardian's
5 willful failure to provide adequate medical treatment or specific
6 decision to provide spiritual treatment through prayer, the court
7 shall give deference to the parent's or guardian's medical treatment,
8 nontreatment, or spiritual treatment through prayer alone in
9 accordance with the tenets and practices of a recognized church
10 or religious denomination, by an accredited practitioner thereof,
11 and shall not assume jurisdiction unless necessary to protect the
12 child from suffering serious physical harm or illness. In making
13 its determination, the court shall consider (1) the nature of the
14 treatment proposed by the parent or guardian, (2) the risks to the
15 child posed by the course of treatment or nontreatment proposed
16 by the parent or guardian, (3) the risk, if any, of the course of
17 treatment being proposed by the petitioning agency, and (4) the
18 likely success of the courses of treatment or nontreatment proposed
19 by the parent or guardian and agency. The child shall continue to
20 be a dependent child pursuant to this subdivision only so long as
21 is necessary to protect the child from risk of suffering serious
22 physical harm or illness.

23 (c) The child is suffering serious emotional damage, or is at
24 substantial risk of suffering serious emotional damage, evidenced
25 by severe anxiety, depression, withdrawal, or untoward aggressive
26 behavior toward self or others, as a result of the conduct of the
27 parent or guardian or who has no parent or guardian capable of
28 providing appropriate care. No child shall be found to be a person
29 described by this subdivision if the willful failure of the parent or
30 guardian to provide adequate mental health treatment is based on
31 a sincerely held religious belief and if a less intrusive judicial
32 intervention is available.

33 (d) The child has been sexually abused, or there is a substantial
34 risk that the child will be sexually abused, as defined in Section
35 11165.1 of the Penal Code, by his or her parent or guardian or a
36 member of his or her household, or the parent or guardian has
37 failed to adequately protect the child from sexual abuse when the
38 parent or guardian knew or reasonably should have known that
39 the child was in danger of sexual abuse.

1 (e) The child is under the age of five years and has suffered
2 severe physical abuse by a parent, or by any person known by the
3 parent, if the parent knew or reasonably should have known that
4 the person was physically abusing the child. For the purposes of
5 this subdivision, “severe physical abuse” means any of the
6 following: any single act of abuse which causes physical trauma
7 of sufficient severity that, if left untreated, would cause permanent
8 physical disfigurement, permanent physical disability, or death;
9 any single act of sexual abuse which causes significant bleeding,
10 deep bruising, or significant external or internal swelling; or more
11 than one act of physical abuse, each of which causes bleeding,
12 deep bruising, significant external or internal swelling, bone
13 fracture, or unconsciousness; or the willful, prolonged failure to
14 provide adequate food. A child may not be removed from the
15 physical custody of his or her parent or guardian on the basis of a
16 finding of severe physical abuse unless the social worker has made
17 an allegation of severe physical abuse pursuant to Section 332.

18 (f) The child’s parent or guardian caused the death of another
19 child through abuse or neglect.

20 (g) The child has been left without any provision for support;
21 physical custody of the child has been voluntarily surrendered
22 pursuant to Section 1255.7 of the Health and Safety Code and the
23 child has not been reclaimed within the 14-day period specified
24 in subdivision (e) of that section; the child’s parent has been
25 incarcerated or institutionalized and cannot arrange for the care of
26 the child; or a relative or other adult custodian with whom the child
27 resides or has been left is unwilling or unable to provide care or
28 support for the child, the whereabouts of the parent are unknown,
29 and reasonable efforts to locate the parent have been unsuccessful.

30 (h) The child has been freed for adoption by one or both parents
31 for 12 months by either relinquishment or termination of parental
32 rights or an adoption petition has not been granted.

33 (i) The child has been subjected to an act or acts of cruelty by
34 the parent or guardian or a member of his or her household, or the
35 parent or guardian has failed to adequately protect the child from
36 an act or acts of cruelty when the parent or guardian knew or
37 reasonably should have known that the child was in danger of
38 being subjected to an act or acts of cruelty.

39 (j) The child’s sibling has been abused or neglected, as defined
40 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk

1 that the child will be abused or neglected, as defined in those
2 subdivisions. The court shall consider the circumstances
3 surrounding the abuse or neglect of the sibling, the age and gender
4 of each child, the nature of the abuse or neglect of the sibling, the
5 mental condition of the parent or guardian, and any other factors
6 the court considers probative in determining whether there is a
7 substantial risk to the child.

8 *(k) The child has been a victim of identity theft, as defined in*
9 *Section 530.5 of the Penal Code, perpetrated by the parent or*
10 *guardian or a member of his or her household.*

11 It is the intent of the Legislature that nothing in this section
12 disrupt the family unnecessarily or intrude inappropriately into
13 family life, prohibit the use of reasonable methods of parental
14 discipline, or prescribe a particular method of parenting. Further,
15 nothing in this section is intended to limit the offering of voluntary
16 services to those families in need of assistance but who do not
17 come within the descriptions of this section. To the extent that
18 savings accrue to the state from child welfare services funding
19 obtained as a result of the enactment of the act that enacted this
20 section, those savings shall be used to promote services which
21 support family maintenance and family reunification plans, such
22 as client transportation, out-of-home respite care, parenting
23 training, and the provision of temporary or emergency in-home
24 caretakers and persons teaching and demonstrating homemaking
25 skills. The Legislature further declares that a physical disability,
26 such as blindness or deafness, is no bar to the raising of happy and
27 well-adjusted children and that a court's determination pursuant
28 to this section shall center upon whether a parent's disability
29 prevents him or her from exercising care and control. The
30 Legislature further declares that a child whose parent has been
31 adjudged a dependent child of the court pursuant to this section
32 shall not be considered to be at risk of abuse or neglect solely
33 because of the age, dependent status, or foster care status of the
34 parent.

35 As used in this section, "guardian" means the legal guardian of
36 the child.

37 ~~SECTION 1. It is the intent of the Legislature to enact~~
38 ~~legislation to protect minors from the harm they suffer when a~~
39 ~~parent or other adult uses a minor's name to obtain a credit card,~~
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- 3 connection with the minor.

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