

AMENDED IN SENATE MAY 1, 2007
AMENDED IN SENATE APRIL 19, 2007
AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 39

Introduced by Senator Migden

December 12, 2006

An act to amend Section 827 of, and to add ~~Section~~ *Sections 826.7 and 10850.4* to, the Welfare and Institutions Code, relating to ~~juveniles~~ *child abuse and neglect*.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Migden. County welfare agencies *and departments*: child abuse and neglect: files.

(1) Existing law requires the case file of a dependent child or ward of the juvenile court to be kept confidential, except as specified. Existing law permits the juvenile case files that pertain to a deceased child who was within the jurisdiction of the juvenile court, as provided, to be released to the public after a petition has been filed and interested parties have been afforded an opportunity to file an objection, subject to certain limitations.

This bill would revise those provisions and instead require that juvenile case files ~~relating that pertain~~ to any child who died as the result of child abuse or neglect shall be released to the public, subject to certain limitations set forth in the bill.

(2) Existing law provides for a system of child welfare services administered by each county, with oversight by the State Department of Social Services.

This bill would require the custodian of records within a county welfare *agency or* department to disclose, within 5 days from a request, or upon substantiation ~~or inconclusiveness~~, specified records, subject to the redaction of certain identifying personal information, of child abuse or neglect that results in the death of a child.

This bill would also require all county welfare *agencies and* departments to notify the ~~department~~ *State Department of Social Services*, as provided, of all child fatalities that occurred within its jurisdiction that were the result of child abuse or neglect, and would require the ~~department~~ *State Department of Social Services* to establish a procedure for that notification. *The bill would also require the State Department of Social Services to adopt emergency regulations to implement the above-described changes, as specified, which regulations would be excepted from the rulemaking provisions of the Administrative Procedures Act.*

By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(3) 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. The Legislature finds and declares the following:
- 2 (a) During ~~2004~~ 2002, approximately 140 children in California
- 3 were officially reported as having died as a result of abuse or
- 4 neglect. The State Death Review Council has concluded that
- 5 official reports of child abuse deaths represent a significant
- 6 undercount of the actual number of child abuse and neglect
- 7 fatalities.
- 8 (b) A child’s death from abuse or neglect often leads to calls
- 9 for reform of the public child protection system. Without accurate
- 10 and complete information about the circumstances leading to the

1 child’s death, public debate is stymied and the reforms, if adopted
2 at all, may do little to prevent further tragedies.

3 (c) Providing public access to juvenile case files in cases where
4 a child fatality occurs as a result of abuse or neglect will promote
5 public scrutiny and an informed debate of the circumstances that
6 led to the fatality thereby promoting the development of child
7 protection policies, procedures, practices, and strategies that will
8 reduce or avoid future child deaths and injuries.

9 (d) The current procedures for accessing information about a
10 child’s death from abuse or neglect are costly, at times resulting
11 in lengthy delays in the release of that information, fail to provide
12 adequate guidance for what information should and should not be
13 disclosed, and permit significant variation from one jurisdiction
14 to another in the nature and extent of the information released.

15 ~~(e) The federal Child Abuse Prevention and Treatment Act (42~~
16 ~~U.S.C. Sec. 5106a; hereafter CAPTA) provides grants to states~~
17 ~~whose laws allow public disclosure of findings and information~~
18 ~~in cases of child abuse or neglect that resulted in a child fatality.~~
19 ~~The CAPTA disclosures are an explicit exception to general~~
20 ~~confidentiality laws and are intended to ensure that the public has~~
21 ~~access to information in order to prevent tragedies from recurring.~~
22 ~~California receives funds under CAPTA that are used to support~~
23 ~~its child protection system and the state is therefore obligated to~~
24 ~~comply with the public disclosure provisions of CAPTA.~~

25 (f) It is the intent of the Legislature to maximize public access
26 to juvenile case files in cases where a child fatality occurs as a
27 result of child abuse or neglect by removing legal impediments to
28 public agency disclosure of these records while also ensuring that
29 basic privacy protections are consistently afforded.

30 *(e) Thus, it is the intent of the Legislature to maximize public*
31 *access to juvenile case files in cases where a child fatality occurs*
32 *as a result of child abuse or neglect by both providing for an*
33 *administrative release of certain documents without the filing of*
34 *a legal petition pursuant to paragraph (2) of subdivision (a) of*
35 *Section 827 of the Welfare and Institutions Code, while also*
36 *ensuring that basic privacy protections are consistently afforded,*
37 *and by enacting reforms to the current process of filing a petition*
38 *pursuant to paragraph (2) of subdivision (a) of Section 827 of the*
39 *Welfare and Institutions Code that will offer clarifying guidance*

1 to juvenile courts of the legal standards that apply to those petitions
 2 and an expedited process for their disposition.

3 (f) In petitions governed by paragraph (2) of subdivision (a) of
 4 Section 827 of the Welfare and Institutions Code, the Legislature
 5 has concluded that when a dependent child dies within the
 6 jurisdiction of the juvenile court, the presumption of confidentiality
 7 for juvenile case files evaporates and the requirement of an
 8 expedited decision becomes manifest, because community reaction
 9 to the child’s death may abate with the passage of time and, without
 10 a prompt investigation and assessment, the opportunity to effect
 11 positive change may be lost.

12 SEC. 2. Section 826.7 is added to the Welfare and Institutions
 13 Code, to read:

14 826.7. Juvenile case files that pertain to a child who died as
 15 the result of abuse or neglect shall be released by the custodian
 16 of records of the county welfare department or agency to the public
 17 pursuant to Section 10850.4 or an order issued pursuant to
 18 paragraph (2) of subdivision (a) of Section 827.

19 ~~SEC. 2.~~

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

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

- 24 (A) Court personnel.
- 25 (B) The district attorney, a city attorney, or city prosecutor
- 26 authorized to prosecute criminal or juvenile cases under state law.
- 27 (C) The minor who is the subject of the proceeding.
- 28 (D) The minor’s parents or guardian.
- 29 (E) The attorneys for the parties, judges, referees, other hearing
- 30 officers, probation officers, and law enforcement officers who are
- 31 actively participating in criminal or juvenile proceedings involving
- 32 the minor.
- 33 (F) The superintendent or designee of the school district where
- 34 the minor is enrolled or attending school.
- 35 (G) Members of the child protective agencies as defined in
- 36 Section 11165.9 of the Penal Code.
- 37 (H) The State Department of Social Services, to carry out its
- 38 duties pursuant to Division 9 (commencing with Section 10000),
- 39 and Part 5 (commencing with Section 7900) of Division 12, of the
- 40 Family Code to oversee and monitor county child welfare agencies,

1 children in foster care or receiving foster care assistance, ~~and~~
2 out-of-state placements, and Section 10850.4, *and paragraph (2)*.

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

32 (J) Members of children's multidisciplinary teams, persons, or
33 agencies providing treatment or supervision of the minor.

34 (K) A judge, commissioner, or other hearing officer assigned
35 to a family law case with issues concerning custody or visitation,
36 or both, involving the minor, and the following persons, if actively
37 participating in the family law case: a family court mediator
38 assigned to a case involving the minor pursuant to Article 1
39 (commencing with Section 3160) of Chapter 11 of Part 2 of
40 Division 8 of the Family Code, a court-appointed evaluator or a

1 person conducting a court-connected child custody evaluation,
2 investigation, or assessment pursuant to Section 3111 or 3118 of
3 the Family Code, and counsel appointed for the minor in the family
4 law case pursuant to Section 3150 of the Family Code. Prior to
5 allowing counsel appointed for the minor in the family law case
6 to inspect the file, the court clerk may require counsel to provide
7 a certified copy of the court order appointing him or her as the
8 minor's counsel.

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

13 (M) A local child support agency for the purpose of establishing
14 paternity and establishing and enforcing child support orders.

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

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

20 ~~(2) Notwithstanding any other provision of law, including~~
21 ~~paragraphs (3) and (4), juvenile case files that pertain to a child~~
22 ~~who died as the result of abuse or neglect shall be released by the~~
23 ~~eustodian of the records of the county welfare agency to the public~~
24 ~~pursuant to Section 10850.4.~~

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

1 *the juvenile case file or any portion thereof is detrimental to the*
2 *safety, protection, or physical or emotional well-being of another*
3 *child who is directly or indirectly connected to the juvenile case*
4 *that is the subject of the petition.*

5 *(B) This paragraph represents a presumption in favor of the*
6 *release of documents when a child is deceased unless the statutory*
7 *reasons for confidentiality are shown to exist.*

8 *(C) If a child whose records are sought has died, and documents*
9 *are sought pursuant to this paragraph, no weighing or balancing*
10 *of the interests of those other than a child is permitted.*

11 *(D) A petition filed under this paragraph shall be served on*
12 *interested parties by the petitioner, if the petitioner is in possession*
13 *of their identity and address, and on the custodian of records.*
14 *Upon receiving a petition, the custodian of records shall serve a*
15 *copy of the request upon all interested parties that have not been*
16 *served by the petitioner or on the interested parties served by the*
17 *petitioner if the custodian of records possesses information, such*
18 *as a more recent address, indicating that the service by the*
19 *petitioner may have been ineffective.*

20 *(E) The custodian of records shall serve the petition within 10*
21 *calendar days of receipt. If any interested party, including the*
22 *custodian of records, objects to the petition, the party shall file*
23 *and serve the objection on the petitioning party no later than 15*
24 *calendar days of service of the petition.*

25 *(F) The petitioning party shall have 10 calendar days to file*
26 *any reply. The juvenile court shall set the matter for hearing no*
27 *more than 60 calendar days from the date the petition is served*
28 *on the custodian of records. The court shall render its decision*
29 *within 30 days of the hearing. The matter shall be decided solely*
30 *upon the basis of the petition and supporting exhibits and*
31 *declarations, if any, the objection and any supporting exhibits or*
32 *declarations, if any, and the reply and any supporting declarations*
33 *or exhibits thereto, and argument at hearing. The court may solely*
34 *upon its own motion order the appearance of witnesses. Any order*
35 *of the court shall be immediately reviewable by petition to the*
36 *appellate court for the issuance of an extraordinary writ. If no*
37 *objection is filed to the petition, the court shall review the petition*
38 *and issue its decision within 10 calendar days.*

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

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

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

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

38 (5) *Individuals listed in subparagraphs (A), (B), (C), (D), (E),*
39 *(G), and (H) of paragraph (1) may also receive copies of the case*

1 *file. In these circumstances, the requirements of paragraph (4)*
2 *shall continue to apply to the information received.*

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 limited
6 exception to juvenile court record confidentiality to promote more
7 effective communication among juvenile courts, family courts,
8 law enforcement agencies, and schools to ensure the rehabilitation
9 of juvenile criminal offenders as well as to lessen the potential for
10 drug use, violence, other forms of delinquency, and child abuse.

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

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

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

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

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

21 (d) Each notice sent by the court pursuant to subdivision (b)
22 shall be stamped with the instruction: "Unlawful Dissemination
23 Of This Information Is A Misdemeanor." Any information received
24 from the court shall be kept in a separate confidential file at the
25 school of attendance and shall be transferred to the minor's
26 subsequent schools of attendance and maintained until the minor
27 graduates from high school, is released from juvenile court
28 jurisdiction, or reaches the age of 18 years, whichever occurs first.
29 After that time the confidential record shall be destroyed. At any
30 time after the date by which a record required to be destroyed by
31 this section should have been destroyed, the minor or his or her
32 parent or guardian shall have the right to make a written request
33 to the principal of the school that the minor's school records be
34 reviewed to ensure that the record has been destroyed. Upon
35 completion of any requested review and no later than 30 days after
36 the request for the review was received, the principal or his or her
37 designee shall respond in writing to the written request and either
38 shall confirm that the record has been destroyed or, if the record
39 has not been destroyed, shall explain why destruction has not yet
40 occurred.

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

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

11 ~~SEC. 3.~~

12 *SEC. 4.* Section 10850.4 is added to the Welfare and Institutions
13 Code, to read:

14 10850.4. (a) Within five business days of learning that a child
15 fatality has occurred in the county and that there is a reasonable
16 suspicion that the fatality was caused by abuse or neglect, the
17 custodian of records for the county child welfare agency, upon
18 request, shall release the following information:

19 (1) The age and gender of the child.

20 ~~(2) Whether the child was in foster care or in the home of his
21 or her parents or guardian at the time of death.~~

22 ~~(3) The date of death.~~

23 ~~(4) The dates of previous child abuse or neglect referrals for the
24 child and family, if any, the type or types of abuse or neglect
25 alleged, and the disposition of those referrals.~~

26 ~~(2) *The date of death.*~~

27 ~~(3) *Whether an investigation is being conducted by a law
28 enforcement agency or the county child welfare agency.*~~

29 (b) All cases in which abuse or neglect leads to a child’s death
30 shall be subject to the disclosures required in subdivision (c), if
31 one or more of the following conditions are met:

32 (1) A county child protective services agency determines that
33 the abuse or neglect was substantiated ~~or inconclusive.~~

34 (2) A law enforcement investigation concludes that abuse or
35 neglect occurred.

36 (3) A coroner or medical examiner concludes that the child who
37 died had suffered abuse or neglect.

38 (c) Upon completion of the child abuse or neglect investigation
39 into the child’s death, as described in subdivision (b), the following
40 documents from the juvenile case file shall be released *by the*

1 *custodian of records* upon request ~~by the custodian of records,~~
2 subject to the redactions set forth in subdivision (e):
3 (1) All of the information in subdivision (a).
4 (2) ~~For cases in which the child's death occurred while in the~~
5 ~~home of a parent or guardian, all previous referrals of abuse or~~
6 ~~neglect for the child and family within five years of the death shall~~
7 ~~be disclosed along with the following documents:~~
8 (A) ~~The emergency response referral information form and the~~
9 ~~emergency response notice of referral disposition form completed~~
10 ~~by the child welfare agency.~~
11 (B) ~~Any cross reports completed by the child welfare agency~~
12 ~~to law enforcement.~~
13 (C) ~~The child welfare worker case notes or correspondence,~~
14 ~~including logs of all contacts, services, and visits with the family.~~
15 (D) ~~All risk and safety assessments completed by the child~~
16 ~~welfare services agency.~~
17 (E) ~~In cases in which a previous referral or referrals resulted in~~
18 ~~the opening of a case where services are eventually provided to~~
19 ~~the family with the child remaining in the home, child welfare~~
20 ~~worker case notes or correspondence, including logs of all contacts,~~
21 ~~services, and visits with the family.~~
22 (F) ~~All health care records related to injuries that were the~~
23 ~~subject of previous referrals.~~
24 (G) ~~Police reports.~~
25 (H) ~~Child welfare worker notes on case consultations with~~
26 ~~supervisors.~~
27 (3) ~~For cases in which the child's death occurred while the child~~
28 ~~was in foster care, the following documents in addition to those~~
29 ~~specified in paragraphs (1) and (2):~~
30 (A) ~~The child's placement history.~~
31 (B) ~~Records pertaining to the foster parents' initial licensing~~
32 ~~and renewals and type of license or licenses held.~~
33 (C) ~~All reported licensing violations, such as notices of action.~~
34 (D) ~~Reports of concern about the quality of care provided by~~
35 ~~the foster parents from whatever source.~~
36 (E) ~~Records of the training completed by the foster parents.~~
37 (F) ~~Records describing the frequency, extent, and nature of~~
38 ~~supervision of the foster home by the county welfare agency, and~~
39 ~~logs, narratives, and other reports relating to that supervision.~~

1 ~~(G) Reports of concerns about the quality of care provided to~~
2 ~~the victim child or any other foster child who resided in the foster~~
3 ~~home during the most recent three years.~~

4 ~~(H) Police reports.~~

5 ~~(I) Child welfare worker notes on case consultations with~~
6 ~~supervisors.~~

7 ~~(4) For all cases, the referral related to the child's death, all the~~
8 ~~information described in paragraph (2), and records concerning~~
9 ~~the cause and manner of death.~~

10 ~~(d) The documents listed in subdivision (c) shall be released to~~
11 ~~the public by the custodian of records for the local child welfare~~
12 ~~agency within 10 business days of the request or the disposition~~
13 ~~of the investigation, whichever is later.~~

14 ~~(e) Prior to releasing any document pursuant to subdivision (c),~~
15 ~~the custodian of the records shall redact the following information:~~

16 ~~(1) The names, addresses, telephone numbers, ethnicity, religion,~~
17 ~~or any other identifying information of any person or institution,~~
18 ~~other than the county or the department of social services, that is~~
19 ~~mentioned in the documents listed in paragraphs (2), (3), and (4)~~
20 ~~of subdivision (c).~~

21 ~~(2) Any information that would, after consultation with the~~
22 ~~district attorney, jeopardize a criminal investigation or proceeding.~~

23 ~~(f) Upon receiving a request for the documents listed in~~
24 ~~subdivision (c), the custodian of records shall serve a copy of the~~
25 ~~request upon all interested parties. If any interested party, including~~
26 ~~the custodian of records, objects to the release of any part of the~~
27 ~~documents listed in paragraphs (2), (3), and (4) of subdivision (c),~~
28 ~~they may petition the juvenile court for relief to prevent the release~~
29 ~~of any document or part of a document requested. That petition~~
30 ~~shall be filed and served within 10 business days on all interested~~
31 ~~parties of the request for documents, and a copy of the petition~~
32 ~~shall be served upon the person seeking the documents and upon~~
33 ~~the attorney for the deceased child. Along with a copy of the~~
34 ~~petition, the custodian of records shall include a notice that a~~
35 ~~response to the petition, if any, shall be filed within 10 business~~
36 ~~days of receipt of the petition. The juvenile court shall set the~~
37 ~~matter for hearing no more than 45 business days from the date~~
38 ~~the petition is served.~~

39 ~~(g) In the absence of a showing by a preponderance of evidence~~
40 ~~that the release of a part of the documents listed in paragraphs (2),~~

1 ~~(3), and (4) of subdivision (c) will harm a child, the court shall~~
2 ~~order the requested documents with the required redactions~~
3 ~~released. This showing shall include, but not be limited to, a~~
4 ~~showing as to why redaction of personally identifiable information~~
5 ~~is not sufficient to avoid the alleged harm. If the harm to the child~~
6 ~~can be resolved by the redaction of personally identifying~~
7 ~~information, the court shall order the redacted documents released.~~

8 ~~(h) Documents from the juvenile case file, other than those listed~~
9 ~~in paragraphs (2), (3), and (4) of subdivision (c), shall only be~~
10 ~~disclosed upon an order by the juvenile court pursuant to Section~~
11 ~~827.~~

12 ~~(i) Once documents pursuant to this section have been released~~
13 ~~by the custodian of records, the State Department of Social Services~~
14 ~~or the county welfare department may comment on the case within~~
15 ~~the scope of the release.~~

16 ~~(j) Information released by a custodian of records consistent~~
17 ~~with the requirements of this section does not require prior notice~~
18 ~~to any other individual.~~

19 ~~(k) Each county welfare department agency shall notify the~~
20 ~~State Department of Social Services of every child fatality that~~
21 ~~occurred within its jurisdiction that was the result of child abuse~~
22 ~~or neglect. The State Department of Social Services, after~~
23 ~~consultation with interested stakeholders, shall provide instructions~~
24 ~~by an all county letter regarding the procedure for notification.~~

25 ~~(l) For purposes of this section, the following definitions apply:~~

26 ~~(1) “Child abuse or neglect” has the same meaning as defined~~
27 ~~in Section 11165.6 of the Penal Code.~~

28 ~~(2) “Interested party” has the same meaning as defined in~~
29 ~~subdivision (d) of Rule 5.552 of the California Rules of Court, as~~
30 ~~county counsel, district attorney, child, attorney of record for the~~
31 ~~child, the parent or guardian of the child, the parent or guardian’s~~
32 ~~counsel, and the probation department or child welfare services~~
33 ~~program, or both, if applicable.~~

34 ~~(3) “Juvenile case files” include any juvenile court records of~~
35 ~~proceedings brought pursuant to Section 300, and any county~~
36 ~~welfare department or State Department of Social Services records~~
37 ~~regardless of whether they are maintained electronically or in paper~~
38 ~~form.~~

39 ~~(4) “Substantiated or inconclusive” has the same meaning as~~
40 ~~defined in Section 11165.12 of the Penal Code.~~

1 ~~(m) A person disclosing juvenile case file information as~~
2 ~~required by this section shall not be subject to suit in civil or~~
3 ~~criminal proceedings for complying with the requirements of this~~
4 ~~section.~~

5 ~~(n) This section shall apply only to deaths that occur on or after~~
6 ~~January 1, 2008.~~

7 ~~(o) Nothing in this section shall require a custodian of records~~
8 ~~to retain documents beyond any date otherwise required by law.~~

9 *(2) For cases in which the child's death occurred while living*
10 *with a parent or guardian, all previous referrals of abuse or neglect*
11 *of the deceased child while living with that parent or guardian*
12 *shall be disclosed along with the following documents:*

13 *(A) The emergency response referral information form and the*
14 *emergency response notice of referral disposition form completed*
15 *by the county child welfare agency relating to the abuse or neglect*
16 *that caused the death of the child.*

17 *(B) Any cross reports completed by the county child welfare*
18 *agency to law enforcement relating to the deceased child.*

19 *(C) All risk and safety assessments completed by the county*
20 *child welfare services agency relating to the deceased child.*

21 *(D) All health care records of the deceased child, excluding*
22 *mental health records, related to the child's death and previous*
23 *injuries reflective of a pattern of abuse or neglect.*

24 *(E) Copies of police reports about the person against whom the*
25 *child abuse or neglect was substantiated.*

26 *(3) For cases in which the child's death occurred while the child*
27 *was in foster care, the following documents in addition to those*
28 *specified in paragraphs (1) and (2) generated while the child was*
29 *living in the foster care placement that was the placement at the*
30 *time of the child's death:*

31 *(A) Records pertaining to the foster parents' initial licensing*
32 *and renewals and type of license or licenses held, if in the case*
33 *file.*

34 *(B) All reported licensing violations, including notices of action,*
35 *if in the case file.*

36 *(C) Records of the training completed by the foster parents, if*
37 *in the case file.*

38 *(d) The documents listed in subdivision (c) shall be released to*
39 *the public by the custodian of records within 10 business days of*

1 *the request or the disposition of the investigation, whichever is*
2 *later.*

3 *(e) (1) Prior to releasing any document pursuant to subdivision*
4 *(c), the custodian of records shall redact the following information:*

5 *(A) The names, addresses, telephone numbers, ethnicity,*
6 *religion, or any other identifying information of any person or*
7 *institution, other than the county or the State Department of Social*
8 *Services, that is mentioned in the documents listed in paragraphs*
9 *(2) and (3) of subdivision (c).*

10 *(B) Any information that would, after consultation with the*
11 *district attorney, jeopardize a criminal investigation or proceeding.*

12 *(C) Any information that is privileged, confidential, or not*
13 *subject to disclosure pursuant to any other state or federal law.*

14 *(2) (A) The State Department of Social Services shall*
15 *promulgate a regulation listing the laws described in subparagraph*
16 *(C) of paragraph (1) and setting forth standards governing*
17 *redactions.*

18 *(B) Notwithstanding the rulemaking provisions of the*
19 *Administrative Procedures Act (Chapter 3.5 (commencing with*
20 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
21 *Code), until emergency regulations are filed with the Secretary of*
22 *State, the State Department of Social Services may implement the*
23 *changes made to Section 827 and this section at the 2007–08*
24 *Regular Session of the Legislature through all county letters or*
25 *similar instructions from the director. The department shall adopt*
26 *as emergency regulations, as necessary to implement those*
27 *changes, no later than January 1, 2009.*

28 *(C) The adoption of regulations pursuant to this paragraph*
29 *shall be deemed to be an emergency necessary for the immediate*
30 *preservation of the public peace, health, safety, or general welfare.*
31 *The emergency regulations authorized by this section shall be*
32 *exempt from review by the Office of Administrative Law. The*
33 *emergency regulations authorized by this section shall be submitted*
34 *for filing with the Secretary of State and shall remain in effect for*
35 *no more than 180 days, by which time the final regulations shall*
36 *be adopted.*

37 *(f) Upon receiving a request for the documents listed in*
38 *subdivision (c), the custodian of records shall notify and provide*
39 *a copy of the request upon counsel for any child who is directly*
40 *or indirectly connected to the juvenile case file. If counsel for a*

1 *child, including the deceased child or any sibling of the deceased*
2 *child, objects to the release of any part of the documents listed in*
3 *paragraphs (2) and (3) of subdivision (c), they may petition the*
4 *juvenile court for relief to prevent the release of any document or*
5 *part of a document requested pursuant to paragraph (2) of*
6 *subdivision (a) of Section 827.*

7 *(g) Documents from the juvenile case file, other than those listed*
8 *in paragraphs (2) and (3) of subdivision (c), shall only be disclosed*
9 *upon an order by the juvenile court pursuant to Section 827.*

10 *(h) Once documents pursuant to this section have been released*
11 *by the custodian of records, the State Department of Social Services*
12 *or the county welfare department or agency may comment on the*
13 *case within the scope of the release.*

14 *(i) Information released by a custodian of records consistent*
15 *with the requirements of this section does not require prior notice*
16 *to any other individual.*

17 *(j) Each county welfare department or agency shall notify the*
18 *State Department of Social Services of every child fatality that*
19 *occurred within its jurisdiction that was the result of child abuse*
20 *or neglect. The State Department of Social Services, after*
21 *consultation with interested stakeholders, shall provide instructions*
22 *by an all county letter regarding the procedure for notification.*

23 *(k) For purposes of this section, the following definitions apply:*
24 *(1) "Child abuse or neglect" has the same meaning as defined*
25 *in Section 11165.6 of the Penal Code.*

26 *(2) "Custodian of records," for the purposes of this section and*
27 *paragraph (2) of subdivision (a) of Section 827, means the county*
28 *welfare department or agency.*

29 *(3) "Juvenile case files" or "case files" include any juvenile*
30 *court files, as defined in Rule 5.552 of the California Rules of*
31 *Court, and any county child welfare department or agency or State*
32 *Department of Social Services records regardless of whether they*
33 *are maintained electronically or in paper form.*

34 *(4) "Substantiated" has the same meaning as defined in Section*
35 *11165.12 of the Penal Code.*

36 *(l) A person disclosing juvenile case file information as required*
37 *by this section shall not be subject to suit in civil or criminal*
38 *proceedings for complying with the requirements of this section.*

39 *(m) This section shall apply only to deaths that occur on or after*
40 *January 1, 2008.*

1 *(n) Nothing in this section shall require a custodian of records*
2 *to retain documents beyond any date otherwise required by law.*

3 *(o) Nothing in this section shall be construed as requiring a*
4 *custodian of records to obtain documents not in the case file.*

5 ~~SEC. 4.~~

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

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