

**Introduced by Senator Steinberg**

February 23, 2007

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An act to amend Section 11170 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1022, as introduced, Steinberg. Child abuse: central index.

Existing law requires the Department of Justice to maintain the Child Abuse Central Index as a repository for reports regarding suspected child abuse or severe neglect.

This bill would allow a person listed in the Child Abuse Central Index as a perpetrator of child abuse or neglect due to an incident that occurred when the person was younger than 18 years old to have his or her name removed from the index if the incident did not result in a delinquency adjudication or criminal conviction, as specified.

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

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

- 1 SECTION 1. Section 11170 of the Penal Code is amended to
- 2 read:
- 3 11170. (a) (1) The Department of Justice shall maintain an
- 4 index of all reports of child abuse and severe neglect submitted
- 5 pursuant to Section 11169. The index shall be continually updated
- 6 by the department and shall not contain any reports that are
- 7 determined to be unfounded. The department may adopt rules
- 8 governing recordkeeping and reporting pursuant to this article.

1 (2) The department shall act only as a repository of reports of  
2 suspected child abuse and severe neglect to be maintained in the  
3 Child Abuse Central Index pursuant to paragraph (1). The  
4 submitting agencies are responsible for the accuracy, completeness,  
5 and retention of the reports described in this section. The  
6 department shall be responsible for ensuring that the Child Abuse  
7 Central Index accurately reflects the report it receives from the  
8 submitting agency.

9 (3) Information from an inconclusive or unsubstantiated report  
10 filed pursuant to subdivision (a) of Section 11169 shall be deleted  
11 from the Child Abuse Central Index after 10 years if no subsequent  
12 report concerning the same suspected child abuser is received  
13 within that time period. If a subsequent report is received within  
14 that 10-year period, information from any prior report, as well as  
15 any subsequently filed report, shall be maintained on the Child  
16 Abuse Central Index for a period of 10 years from the time the  
17 most recent report is received by the department.

18 (b) (1) The Department of Justice shall immediately notify an  
19 agency that submits a report pursuant to Section 11169, or a  
20 prosecutor who requests notification, of any information maintained  
21 pursuant to subdivision (a) that is relevant to the known or  
22 suspected instance of child abuse or severe neglect reported by the  
23 agency. The agency shall make that information available to the  
24 reporting medical practitioner, child custodian, guardian ad litem  
25 appointed under Section 326, or counsel appointed under Section  
26 317 or 318 of the Welfare and Institutions Code, or the appropriate  
27 licensing agency, if he or she is treating or investigating a case of  
28 known or suspected child abuse or severe neglect.

29 (2) When a report is made pursuant to subdivision (a) of Section  
30 11166, or Section 11166.05, the investigating agency, upon  
31 completion of the investigation or after there has been a final  
32 disposition in the matter, shall inform the person required or  
33 authorized to report of the results of the investigation and of any  
34 action the agency is taking with regard to the child or family.

35 (3) The Department of Justice shall make available to a law  
36 enforcement agency, county welfare department, or county  
37 probation department that is conducting a child abuse investigation  
38 relevant information contained in the index.

39 (4) The department shall make available to the State Department  
40 of Social Services or to any county licensing agency that has

1 contracted with the state for the performance of licensing duties  
2 information regarding a known or suspected child abuser  
3 maintained pursuant to this section and subdivision (a) of Section  
4 11169 concerning any person who is an applicant for licensure or  
5 any adult who resides or is employed in the home of an applicant  
6 for licensure or who is an applicant for employment in a position  
7 having supervisory or disciplinary power over a child or children,  
8 or who will provide 24-hour care for a child or children in a  
9 residential home or facility, pursuant to Section 1522.1 or 1596.877  
10 of the Health and Safety Code, or Section 8714, 8802, 8912, or  
11 9000 of the Family Code.

12 (5) For purposes of child death review, the Department of Justice  
13 shall make available to the chairperson, or the chairperson's  
14 designee, for each county child death review team, or the State  
15 Child Death Review Council, information maintained in the Child  
16 Abuse Central Index pursuant to subdivision (a) of Section 11170  
17 relating to the death of one or more children and any prior child  
18 abuse or neglect investigation reports maintained involving the  
19 same victims, siblings, or suspects. Local child death review teams  
20 may share any relevant information regarding case reviews  
21 involving child death with other child death review teams.

22 (6) The department shall make available to investigative  
23 agencies or probation officers, or court investigators acting  
24 pursuant to Section 1513 of the Probate Code, responsible for  
25 placing children or assessing the possible placement of children  
26 pursuant to Article 6 (commencing with Section 300), Article 7  
27 (commencing with Section 305), Article 10 (commencing with  
28 Section 360), or Article 14 (commencing with Section 601) of  
29 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
30 Code, Article 2 (commencing with Section 1510) or Article 3  
31 (commencing with Section 1540) of Chapter 1 of Part 2 of Division  
32 4 of the Probate Code, information regarding a known or suspected  
33 child abuser contained in the index concerning any adult residing  
34 in the home where the child may be placed, when this information  
35 is requested for purposes of ensuring that the placement is in the  
36 best interests of the child. Upon receipt of relevant information  
37 concerning child abuse or neglect investigation reports contained  
38 in the index from the Department of Justice pursuant to this  
39 subdivision, the agency or court investigator shall notify, in writing,  
40 the person listed in the Child Abuse Central Index that he or she

1 is in the index. The notification shall include the name of the  
2 reporting agency and the date of the report.

3 (7) The Department of Justice shall make available to a  
4 government agency conducting a background investigation  
5 pursuant to Section 1031 of the Government Code of an applicant  
6 seeking employment as a peace officer, as defined in Section 830,  
7 information regarding a known or suspected child abuser  
8 maintained pursuant to this section concerning the applicant.

9 (8) (A) Persons or agencies, as specified in subdivision (b), if  
10 investigating a case of known or suspected child abuse or neglect,  
11 or the State Department of Social Services or any county licensing  
12 agency pursuant to paragraph (4), or an investigative agency,  
13 probation officer, or court investigator responsible for placing  
14 children or assessing the possible placement of children pursuant  
15 to paragraph (6), or a government agency conducting a background  
16 investigation of an applicant seeking employment as a peace officer  
17 pursuant to paragraph (7), to whom disclosure of any information  
18 maintained pursuant to subdivision (a) is authorized, are  
19 responsible for obtaining the original investigative report from the  
20 reporting agency, and for drawing independent conclusions  
21 regarding the quality of the evidence disclosed, and its sufficiency  
22 for making decisions regarding investigation, prosecution,  
23 licensing, placement of a child, or employment as a peace officer.

24 (B) If Child Abuse Central Index information is requested by  
25 an agency for the temporary placement of a child in an emergency  
26 situation pursuant to Article 7 (commencing with Section 305) of  
27 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
28 Code, the department is exempt from the requirements of Section  
29 1798.18 of the Civil Code if compliance would cause a delay in  
30 providing an expedited response to the agency's inquiry and if  
31 further delay in placement may be detrimental to the child.

32 (9) (A) Whenever information contained in the Department of  
33 Justice files is furnished as the result of an application for  
34 employment or licensing pursuant to paragraph (4) or (7), the  
35 Department of Justice may charge the person or entity making the  
36 request a fee. The fee shall not exceed the reasonable costs to the  
37 department of providing the information. The only increase shall  
38 be at a rate not to exceed the legislatively approved cost-of-living  
39 adjustment for the department. In no case shall the fee exceed  
40 fifteen dollars (\$15).

1 (B) All moneys received by the department pursuant to this  
2 section to process trustline applications for purposes of Chapter  
3 3.35 (commencing with Section 1596.60) of Division 2 of the  
4 Health and Safety Code shall be deposited in a special account in  
5 the General Fund that is hereby established and named the  
6 Department of Justice Child Abuse Fund. Moneys in the fund shall  
7 be available, upon appropriation by the Legislature, for expenditure  
8 by the department to offset the costs incurred to process trustline  
9 automated child abuse or neglect system checks pursuant to this  
10 section.

11 (C) All moneys, other than that described in subparagraph (B),  
12 received by the department pursuant to this paragraph shall be  
13 deposited in a special account in the General Fund which is hereby  
14 created and named the Department of Justice Sexual Habitual  
15 Offender Fund. The funds shall be available, upon appropriation  
16 by the Legislature, for expenditure by the department to offset the  
17 costs incurred pursuant to Chapter 9.5 (commencing with Section  
18 13885) and Chapter 10 (commencing with Section 13890) of Title  
19 6 of Part 4, and the DNA and Forensic Identification Data Base  
20 and Data Bank Act of 1998 (Chapter 6 (commencing with Section  
21 295) of Title 9 of Part 1), and for maintenance and improvements  
22 to the statewide Sexual Habitual Offender Program and the DNA  
23 offender identification file (CAL-DNA) authorized by Chapter 9.5  
24 (commencing with Section 13885) of Title 6 of Part 4 and the  
25 DNA and Forensic Identification Data Base and Data Bank Act  
26 of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of  
27 Part 1).

28 (c) The Department of Justice shall make available to any agency  
29 responsible for placing children pursuant to Article 7 (commencing  
30 with Section 305) of Chapter 2 of Part 1 of Division 2 of the  
31 Welfare and Institutions Code, upon request, relevant information  
32 concerning child abuse or neglect reports contained in the index,  
33 when making a placement with a responsible relative pursuant to  
34 Sections 281.5, 305, and 361.3 of the Welfare and Institutions  
35 Code. Upon receipt of relevant information concerning child abuse  
36 or neglect reports contained in the index from the Department of  
37 Justice pursuant to this subdivision, the agency shall also notify  
38 in writing the person listed in the Child Abuse Central Index that  
39 he or she is in the index. The notification shall include the location  
40 of the original investigative report and the submitting agency. The

1 notification shall be submitted to the person listed at the same time  
2 that all other parties are notified of the information, and no later  
3 than the actual judicial proceeding that determines placement.

4 If Child Abuse Central Index information is requested by an  
5 agency for the placement of a child with a responsible relative in  
6 an emergency situation pursuant to Article 7 (commencing with  
7 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare  
8 and Institutions Code, the department is exempt from the  
9 requirements of Section 1798.18 of the Civil Code if compliance  
10 would cause a delay in providing an expedited response to the  
11 child protective agency's inquiry and if further delay in placement  
12 may be detrimental to the child.

13 (d) The department shall make available any information  
14 maintained pursuant to subdivision (a) to out-of-state law  
15 enforcement agencies conducting investigations of known or  
16 suspected child abuse or neglect only when an agency makes the  
17 request for information in writing and on official letterhead,  
18 identifying the suspected abuser or victim by name. The request  
19 shall be signed by the department supervisor of the requesting law  
20 enforcement agency. The written requests shall cite the out-of-state  
21 statute or interstate compact provision that requires that the  
22 information contained within these reports shall be disclosed only  
23 to law enforcement, prosecutorial entities, or multidisciplinary  
24 investigative teams, and shall cite the criminal penalties for  
25 unlawful disclosure of any confidential information provided by  
26 the requesting state or the applicable interstate compact provision.  
27 In the absence of a specified out-of-state statute or interstate  
28 compact provision that requires that the information contained  
29 within these reports shall be disclosed only to law enforcement,  
30 prosecutorial entities, or multidisciplinary investigative teams, and  
31 criminal penalties equivalent to the penalties in California for  
32 unlawful disclosure, access shall be denied.

33 (e) (1) Any person may determine if he or she is listed in the  
34 Child Abuse Central Index by making a request in writing to the  
35 Department of Justice. The request shall be notarized and include  
36 the person's name, address, date of birth, and either a social  
37 security number or a California identification number. Upon receipt  
38 of a notarized request, the Department of Justice shall make  
39 available to the requesting person information identifying the date  
40 of the report and the submitting agency. The requesting person is

1 responsible for obtaining the investigative report from the  
2 submitting agency pursuant to paragraph (11) of subdivision (b)  
3 of Section 11167.5.

4 (2) No person or agency shall require or request another person  
5 to furnish a copy of a record concerning himself or herself, or  
6 notification that a record concerning himself or herself exists or  
7 does not exist, pursuant to paragraph (1) of this subdivision.

8 (f) If a person is listed in the Child Abuse Central Index only  
9 as a victim of child abuse or neglect, and that person is 18 years  
10 of age or older, *or if a person is listed in the Child Abuse Central*  
11 *Index as a perpetrator of child abuse or neglect due to an incident*  
12 *that occurred when the person was younger than 18 years old,*  
13 *and the incident did not result in a delinquency adjudication or*  
14 *criminal conviction,* that person may have his or her name removed  
15 from the index by making a written request to the Department of  
16 Justice. The request shall be notarized and include the person's  
17 name, address, social security number, and date of birth.