

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 1022

Introduced by Senator Steinberg

February 23, 2007

An act to amend ~~Section~~ *Sections 11169 and 11170* of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1022, as amended, 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~~ *require the department to remove all information relating to a person who's name was 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.

Existing law also requires specified persons to forward reports of suspected child abuse to the Department of Justice and requires the department to notify the person specified as the suspected abuser that he or she has been reported to the Child Abuse Central Index.

This bill would, in addition, require the department to notify the current caregiver, the parents or legal guardian, the attorney, and the guardian ad litem of a minor if the minor is the suspected abuser.

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 11169 of the Penal Code is amended to
2 read:

3 11169. (a) An agency specified in Section 11165.9 shall
4 forward to the Department of Justice a report in writing of every
5 case it investigates of known or suspected child abuse or severe
6 neglect which is determined not to be unfounded, other than cases
7 coming within subdivision (b) of Section 11165.2. An agency shall
8 not forward a report to the Department of Justice unless it has
9 conducted an active investigation and determined that the report
10 is not unfounded, as defined in Section 11165.12. If a report has
11 previously been filed which subsequently proves to be unfounded,
12 the Department of Justice shall be notified in writing of that fact
13 and shall not retain the report. The reports required by this section
14 shall be in a form approved by the Department of Justice and may
15 be sent by fax or electronic transmission. An agency specified in
16 Section 11165.9 receiving a written report from another agency
17 specified in Section 11165.9 shall not send that report to the
18 Department of Justice.

19 (b) At the time an agency specified in Section 11165.9 forwards
20 a report in writing to the Department of Justice pursuant to
21 subdivision (a), the agency shall also notify in writing the known
22 or suspected child abuser that he or she has been reported to the
23 Child Abuse Central Index. *If the known or suspected child abuser*
24 *is a minor, the agency shall notify the minor's current caregiver,*
25 *the minor's parents or legal guardian, the minor's attorney, and*
26 *the minor's guardian ad litem, if any.* The notice required by this
27 section shall be in a form approved by the Department of Justice.
28 The requirements of this subdivision shall apply with respect to
29 reports forwarded to the department on or after the date on which
30 this subdivision becomes operative.

31 (c) Agencies shall retain child abuse or neglect investigative
32 reports that result in a report filed with the Department of Justice
33 pursuant to subdivision (a) for the same period of time that the
34 information is required to be maintained on the Child Abuse
35 Central Index pursuant to this section and subdivision (a) of Section
36 11170. Nothing in this section precludes an agency from retaining
37 the reports for a longer period of time if required by law.

1 (d) The immunity provisions of Section 11172 shall not apply
2 to the submission of a report by an agency pursuant to this section.
3 However, nothing in this section shall be construed to alter or
4 diminish any other immunity provisions of state or federal law.

5 **SECTION 1.**

6 *SEC. 2.* Section 11170 of the Penal Code is amended to read:

7 11170. (a) (1) The Department of Justice shall maintain an
8 index of all reports of child abuse and severe neglect submitted
9 pursuant to Section 11169. The index shall be continually updated
10 by the department and shall not contain any reports that are
11 determined to be unfounded. The department may adopt rules
12 governing recordkeeping and reporting pursuant to this article.

13 (2) The department shall act only as a repository of reports of
14 suspected child abuse and severe neglect to be maintained in the
15 Child Abuse Central Index pursuant to paragraph (1). The
16 submitting agencies are responsible for the accuracy, completeness,
17 and retention of the reports described in this section. The
18 department shall be responsible for ensuring that the Child Abuse
19 Central Index accurately reflects the report it receives from the
20 submitting agency.

21 (3) Information from an inconclusive or unsubstantiated report
22 filed pursuant to subdivision (a) of Section 11169 shall be deleted
23 from the Child Abuse Central Index after 10 years if no subsequent
24 report concerning the same suspected child abuser is received
25 within that time period. If a subsequent report is received within
26 that 10-year period, information from any prior report, as well as
27 any subsequently filed report, shall be maintained on the Child
28 Abuse Central Index for a period of 10 years from the time the
29 most recent report is received by the department.

30 (b) (1) The Department of Justice shall immediately notify an
31 agency that submits a report pursuant to Section 11169, or a
32 prosecutor who requests notification, of any information maintained
33 pursuant to subdivision (a) that is relevant to the known or
34 suspected instance of child abuse or severe neglect reported by the
35 agency. The agency shall make that information available to the
36 reporting medical practitioner, child custodian, guardian ad litem
37 appointed under Section 326, or counsel appointed under Section
38 317 or 318 of the Welfare and Institutions Code, or the appropriate
39 licensing agency, if he or she is treating or investigating a case of
40 known or suspected child abuse or severe neglect.

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

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

11 (4) The department shall make available to the State Department
12 of Social Services or to any county licensing agency that has
13 contracted with the state for the performance of licensing duties
14 information regarding a known or suspected child abuser
15 maintained pursuant to this section and subdivision (a) of Section
16 11169 concerning any person who is an applicant for licensure or
17 any adult who resides or is employed in the home of an applicant
18 for licensure or who is an applicant for employment in a position
19 having supervisory or disciplinary power over a child or children,
20 or who will provide 24-hour care for a child or children in a
21 residential home or facility, pursuant to Section 1522.1 or 1596.877
22 of the Health and Safety Code, or Section 8714, 8802, 8912, or
23 9000 of the Family Code.

24 (5) For purposes of child death review, the Department of Justice
25 shall make available to the chairperson, or the chairperson's
26 designee, for each county child death review team, or the State
27 Child Death Review Council, information maintained in the Child
28 Abuse Central Index pursuant to subdivision (a) of Section 11170
29 relating to the death of one or more children and any prior child
30 abuse or neglect investigation reports maintained involving the
31 same victims, siblings, or suspects. Local child death review teams
32 may share any relevant information regarding case reviews
33 involving child death with other child death review teams.

34 (6) The department shall make available to investigative
35 agencies or probation officers, or court investigators acting
36 pursuant to Section 1513 of the Probate Code, responsible for
37 placing children or assessing the possible placement of children
38 pursuant to Article 6 (commencing with Section 300), Article 7
39 (commencing with Section 305), Article 10 (commencing with
40 Section 360), or Article 14 (commencing with Section 601) of

1 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
2 Code, Article 2 (commencing with Section 1510) or Article 3
3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
4 4 of the Probate Code, information regarding a known or suspected
5 child abuser contained in the index concerning any adult residing
6 in the home where the child may be placed, when this information
7 is requested for purposes of ensuring that the placement is in the
8 best interests of the child. Upon receipt of relevant information
9 concerning child abuse or neglect investigation reports contained
10 in the index from the Department of Justice pursuant to this
11 subdivision, the agency or court investigator shall notify, in writing,
12 the person listed in the Child Abuse Central Index that he or she
13 is in the index. The notification shall include the name of the
14 reporting agency and the date of the report.

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

21 (8) (A) Persons or agencies, as specified in subdivision (b), if
22 investigating a case of known or suspected child abuse or neglect,
23 or the State Department of Social Services or any county licensing
24 agency pursuant to paragraph (4), or an investigative agency,
25 probation officer, or court investigator responsible for placing
26 children or assessing the possible placement of children pursuant
27 to paragraph (6), or a government agency conducting a background
28 investigation of an applicant seeking employment as a peace officer
29 pursuant to paragraph (7), to whom disclosure of any information
30 maintained pursuant to subdivision (a) is authorized, are
31 responsible for obtaining the original investigative report from the
32 reporting agency, and for drawing independent conclusions
33 regarding the quality of the evidence disclosed, and its sufficiency
34 for making decisions regarding investigation, prosecution,
35 licensing, placement of a child, or employment as a peace officer.

36 (B) If Child Abuse Central Index information is requested by
37 an agency for the temporary placement of a child in an emergency
38 situation pursuant to Article 7 (commencing with Section 305) of
39 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
40 Code, the department is exempt from the requirements of Section

1 1798.18 of the Civil Code if compliance would cause a delay in
2 providing an expedited response to the agency's inquiry and if
3 further delay in placement may be detrimental to the child.

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

13 (B) All moneys received by the department pursuant to this
14 section to process trustline applications for purposes of Chapter
15 3.35 (commencing with Section 1596.60) of Division 2 of the
16 Health and Safety Code shall be deposited in a special account in
17 the General Fund that is hereby established and named the
18 Department of Justice Child Abuse Fund. Moneys in the fund shall
19 be available, upon appropriation by the Legislature, for expenditure
20 by the department to offset the costs incurred to process trustline
21 automated child abuse or neglect system checks pursuant to this
22 section.

23 (C) All moneys, other than that described in subparagraph (B),
24 received by the department pursuant to this paragraph shall be
25 deposited in a special account in the General Fund which is hereby
26 created and named the Department of Justice Sexual Habitual
27 Offender Fund. The funds shall be available, upon appropriation
28 by the Legislature, for expenditure by the department to offset the
29 costs incurred pursuant to Chapter 9.5 (commencing with Section
30 13885) and Chapter 10 (commencing with Section 13890) of Title
31 6 of Part 4, and the DNA and Forensic Identification Data Base
32 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
33 295) of Title 9 of Part 1), and for maintenance and improvements
34 to the statewide Sexual Habitual Offender Program and the DNA
35 offender identification file (CAL-DNA) authorized by Chapter 9.5
36 (commencing with Section 13885) of Title 6 of Part 4 and the
37 DNA and Forensic Identification Data Base and Data Bank Act
38 of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of
39 Part 1).

1 (c) The Department of Justice shall make available to any agency
2 responsible for placing children pursuant to Article 7 (commencing
3 with Section 305) of Chapter 2 of Part 1 of Division 2 of the
4 Welfare and Institutions Code, upon request, relevant information
5 concerning child abuse or neglect reports contained in the index,
6 when making a placement with a responsible relative pursuant to
7 Sections 281.5, 305, and 361.3 of the Welfare and Institutions
8 Code. Upon receipt of relevant information concerning child abuse
9 or neglect reports contained in the index from the Department of
10 Justice pursuant to this subdivision, the agency shall also notify
11 in writing the person listed in the Child Abuse Central Index that
12 he or she is in the index. The notification shall include the location
13 of the original investigative report and the submitting agency. The
14 notification shall be submitted to the person listed at the same time
15 that all other parties are notified of the information, and no later
16 than the actual judicial proceeding that determines placement.

17 If Child Abuse Central Index information is requested by an
18 agency for the placement of a child with a responsible relative in
19 an emergency situation pursuant to Article 7 (commencing with
20 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
21 and Institutions Code, the department is exempt from the
22 requirements of Section 1798.18 of the Civil Code if compliance
23 would cause a delay in providing an expedited response to the
24 child protective agency's inquiry and if further delay in placement
25 may be detrimental to the child.

26 (d) The department shall make available any information
27 maintained pursuant to subdivision (a) to out-of-state law
28 enforcement agencies conducting investigations of known or
29 suspected child abuse or neglect only when an agency makes the
30 request for information in writing and on official letterhead,
31 identifying the suspected abuser or victim by name. The request
32 shall be signed by the department supervisor of the requesting law
33 enforcement agency. The written requests shall cite the out-of-state
34 statute or interstate compact provision that requires that the
35 information contained within these reports shall be disclosed only
36 to law enforcement, prosecutorial entities, or multidisciplinary
37 investigative teams, and shall cite the criminal penalties for
38 unlawful disclosure of any confidential information provided by
39 the requesting state or the applicable interstate compact provision.
40 In the absence of a specified out-of-state statute or interstate

1 compact provision that requires that the information contained
2 within these reports shall be disclosed only to law enforcement,
3 prosecutorial entities, or multidisciplinary investigative teams, and
4 criminal penalties equivalent to the penalties in California for
5 unlawful disclosure, access shall be denied.

6 (e) (1) Any person may determine if he or she is listed in the
7 Child Abuse Central Index by making a request in writing to the
8 Department of Justice. The request shall be notarized and include
9 the person's name, address, date of birth, and either a social
10 security number or a California identification number. Upon receipt
11 of a notarized request, the Department of Justice shall make
12 available to the requesting person information identifying the date
13 of the report and the submitting agency. The requesting person is
14 responsible for obtaining the investigative report from the
15 submitting agency pursuant to paragraph (11) of subdivision (b)
16 of Section 11167.5.

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

21 (f) If a person is listed in the Child Abuse Central Index only
22 as a victim of child abuse or neglect, and that person is 18 years
23 of age or older, ~~or if a person is listed in the Child Abuse Central~~
24 ~~Index as a perpetrator of child abuse or neglect due to an incident~~
25 ~~that occurred when the person was younger than 18 years old, and~~
26 ~~the incident did not result in a delinquency adjudication or criminal~~
27 ~~conviction,~~ that person may have his or her name removed from
28 the index by making a written request to the Department of Justice.
29 The request shall be notarized and include the person's name,
30 address, social security number, and date of birth.

31 (g) *If a person is listed in the Child Abuse Central Index as a*
32 *perpetrator of child abuse due to an incident that occurred when*
33 *the person was less than 18 years of age, and the incident did not*
34 *result in a delinquency adjudication or criminal conviction, the*
35 *person's name and all other information concerning the reported*
36 *incident shall be removed from the index no later than 30 days*
37 *after the person's 18th birthday.*

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