

AMENDED IN ASSEMBLY AUGUST 18, 2008

AMENDED IN ASSEMBLY AUGUST 31, 2007

AMENDED IN SENATE MAY 22, 2007

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 1022

Introduced by Senator Steinberg

February 23, 2007

An act to amend 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 *and requires the reporting agency to notify a suspected abuser when he or she has been reported to the index.* Existing law further requires the Department of Justice to make relevant information contained in the index available to specified law enforcement agencies, county welfare departments, and other agencies that are conducting a child abuse investigation.

~~This bill would require the Department of Justice to make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program, or a volunteer position as a Court Appointed Special Advocate, information contained in the index regarding known or suspected child abuse by the applicant. This bill would also require the department to remove information relating to a person whose name is listed in the Child Abuse Central Index as a suspect in a child abuse or neglect~~

investigation due to an incident that occurred when the person was under 18 years of age if the incident did not result in a delinquency adjudication or criminal conviction, and he or she makes a notarized written request to the department to have his or her name removed as a suspect with respect to that incident, as specified. *This bill would require the reporting agency to also notify the victim and certain representatives of the victim when the suspected abuser of the victim has been reported to the Child Abuse Central Index, as specified.*

Existing law also requires the department to delete information from an inconclusive or unsubstantiated child abuse report after 10 years if no subsequent report concerning the same suspected child abuser is received within that time period.

This bill would require, in cases in which the suspected child abuser was a minor at the time of the report, the information to be deleted after 5 years if no subsequent report concerning the same suspected child abuser is received within that time period. The bill would further specify that if a subsequent report is received within the 10-year period for adult child abuse suspects or 5-year period for child abuse suspects who were themselves minors at the time of the report, information from any prior report, as well as any subsequently filed report, shall be maintained for 10 years from the time of the most recent report.

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

This bill would additionally require the department, if the known or suspected child abuser is a minor, to notify the minor's current caregiver, parents or legal guardian, attorney, and guardian ad litem.

This bill would incorporate additional changes in Section 11170 of the Penal Code proposed by AB 2618 and AB 2651 that would become operative if one or both of those bills are chaptered and become effective on or before January 1, 2009, and this bill is chaptered last.

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:

1 11169. (a) An agency specified in Section 11165.9 shall
2 forward to the Department of Justice a report in writing of every
3 case it investigates of known or suspected child abuse or severe
4 neglect which is determined not to be unfounded, other than cases
5 coming within subdivision (b) of Section 11165.2. An agency shall
6 not forward a report to the Department of Justice unless it has
7 conducted an active investigation and determined that the report
8 is not unfounded, as defined in Section 11165.12. If a report has
9 previously been filed which subsequently proves to be unfounded,
10 the Department of Justice shall be notified in writing of that fact
11 and shall not retain the report. The reports required by this section
12 shall be in a form approved by the Department of Justice and may
13 be sent by fax or electronic transmission. An agency specified in
14 Section 11165.9 receiving a written report from another agency
15 specified in Section 11165.9 shall not send that report to the
16 Department of Justice.

17 (b) At the time an agency specified in Section 11165.9 forwards
18 a report in writing to the Department of Justice pursuant to
19 subdivision (a), the agency shall also notify in writing the known
20 or suspected child abuser, *the victim, the victim's current caregiver,*
21 *the parents or legal guardian, and, if the victim is a dependent*
22 *child pursuant to Section 300 et seq. of the Welfare and Institutions*
23 *Code, the victim's attorney and guardian ad litem, if any,* that he
24 or she has been reported to the Child Abuse Central Index. If the
25 known or suspected child abuser is a minor, the agency shall notify
26 the minor's current caregiver, the minor's parents or legal guardian,
27 the minor's attorney, and the minor's guardian ad litem, if any.
28 The notice required by this section shall be in a form approved by
29 the Department of Justice. The requirements of this subdivision
30 shall apply with respect to reports forwarded to the department on
31 or after the date on which this subdivision becomes operative.

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

39 (d) The immunity provisions of Section 11172 shall not apply
40 to the submission of a report by an agency pursuant to this section.

1 However, nothing in this section shall be construed to alter or
2 diminish any other immunity provisions of state or federal law.

3 ~~SEC. 2. Section 11170 of the Penal Code is amended to read:~~

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

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

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

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

38 ~~(2) When a report is made pursuant to subdivision (a) of Section~~
39 ~~11166, or Section 11166.05, the investigating agency, upon~~
40 ~~completion of the investigation or after there has been a final~~

1 disposition in the matter, shall inform the person required or
2 authorized to report of the results of the investigation and of any
3 action the agency is taking with regard to the child or family.

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

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

21 (5) The Department of Justice shall make available to a Court
22 Appointed Special Advocate program that is conducting a
23 background investigation of an applicant seeking employment
24 with the program or a volunteer position as a Court Appointed
25 Special Advocate, as defined in Section 101 of the Welfare and
26 Institutions Code, information contained in the index regarding
27 known or suspected child abuse by the applicant.

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

38 (7) The department shall make available to investigative
39 agencies or probation officers, or court investigators acting
40 pursuant to Section 1513 of the Probate Code, responsible for

1 placing children or assessing the possible placement of children
2 pursuant to Article 6 (commencing with Section 300), Article 7
3 (commencing with Section 305), Article 10 (commencing with
4 Section 360), or Article 14 (commencing with Section 601) of
5 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
6 Code, Article 2 (commencing with Section 1510) or Article 3
7 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
8 4 of the Probate Code, information regarding a known or suspected
9 child abuser contained in the index concerning any adult residing
10 in the home where the child may be placed, when this information
11 is requested for purposes of ensuring that the placement is in the
12 best interests of the child. Upon receipt of relevant information
13 concerning child abuse or neglect investigation reports contained
14 in the index from the Department of Justice pursuant to this
15 subdivision, the agency or court investigator shall notify, in writing,
16 the person listed in the Child Abuse Central Index that he or she
17 is in the index. The notification shall include the name of the
18 reporting agency and the date of the report.

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

25 (9) (A) Persons or agencies, as specified in subdivision (b), if
26 investigating a case of known or suspected child abuse or neglect,
27 or the State Department of Social Services or any county licensing
28 agency pursuant to paragraph (4), or a Court Appointed Special
29 Advocate program conducting a background investigation for
30 employment or volunteer candidates pursuant to paragraph (5), or
31 an investigative agency, probation officer, or court investigator
32 responsible for placing children or assessing the possible placement
33 of children pursuant to paragraph (7), or a government agency
34 conducting a background investigation of an applicant seeking
35 employment as a peace officer pursuant to paragraph (8), to whom
36 disclosure of any information maintained pursuant to subdivision
37 (a) is authorized, are responsible for obtaining the original
38 investigative report from the reporting agency, and for drawing
39 independent conclusions regarding the quality of the evidence
40 disclosed, and its sufficiency for making decisions regarding

1 investigation, prosecution, licensing, placement of a child,
2 employment or volunteer positions with a Court Appointed Special
3 Advocate program, or employment as a peace officer.

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

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

21 (B) All moneys received by the department pursuant to this
22 section to process trustline applications for purposes of Chapter
23 3.35 (commencing with Section 1596.60) of Division 2 of the
24 Health and Safety Code shall be deposited in a special account in
25 the General Fund that is hereby established and named the
26 Department of Justice Child Abuse Fund. Moneys in the fund shall
27 be available, upon appropriation by the Legislature, for expenditure
28 by the department to offset the costs incurred to process trustline
29 automated child abuse or neglect system checks pursuant to this
30 section.

31 (C) All moneys, other than that described in subparagraph (B),
32 received by the department pursuant to this paragraph shall be
33 deposited in a special account in the General Fund which is hereby
34 created and named the Department of Justice Sexual Habitual
35 Offender Fund. The funds shall be available, upon appropriation
36 by the Legislature, for expenditure by the department to offset the
37 costs incurred pursuant to Chapter 9.5 (commencing with Section
38 13885) and Chapter 10 (commencing with Section 13890) of Title
39 6 of Part 4, and the DNA and Forensic Identification Data Base
40 and Data Bank Act of 1998 (Chapter 6 (commencing with Section

1 295) of Title 9 of Part 1), and for maintenance and improvements
2 to the statewide Sexual Habitual Offender Program and the
3 California DNA offender identification file (CAL-DNA) authorized
4 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
5 Part 4 and the DNA and Forensic Identification Data Base and
6 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
7 of Title 9 of Part 1):

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

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

33 (d) The department shall make available any information
34 maintained pursuant to subdivision (a) to out-of-state law
35 enforcement agencies conducting investigations of known or
36 suspected child abuse or neglect only when an agency makes the
37 request for information in writing and on official letterhead,
38 identifying the suspected abuser or victim by name. The request
39 shall be signed by the department supervisor of the requesting law
40 enforcement agency. The written requests shall cite the out-of-state

1 ~~statute or interstate compact provision that requires that the~~
2 ~~information contained within these reports shall be disclosed only~~
3 ~~to law enforcement, prosecutorial entities, or multidisciplinary~~
4 ~~investigative teams, and shall cite the criminal penalties for~~
5 ~~unlawful disclosure of any confidential information provided by~~
6 ~~the requesting state or the applicable interstate compact provision.~~
7 ~~In the absence of a specified out-of-state statute or interstate~~
8 ~~compact provision that requires that the information contained~~
9 ~~within these reports shall be disclosed only to law enforcement,~~
10 ~~prosecutorial entities, or multidisciplinary investigative teams, and~~
11 ~~criminal penalties equivalent to the penalties in California for~~
12 ~~unlawful disclosure, access shall be denied.~~

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

24 ~~(2) No person or agency shall require or request another person~~
25 ~~to furnish a copy of a record concerning himself or herself, or~~
26 ~~notification that a record concerning himself or herself exists or~~
27 ~~does not exist, pursuant to paragraph (1) of this subdivision.~~

28 ~~(f) If a person is listed in the Child Abuse Central Index only~~
29 ~~as a victim of child abuse or neglect, and that person is 18 years~~
30 ~~of age or older, that person may have his or her name removed~~
31 ~~from the index by making a written request to the Department of~~
32 ~~Justice. The request shall be notarized and include the person's~~
33 ~~name, address, social security number, and date of birth.~~

34 ~~(g) (1) If a person is listed in the Child Abuse Central Index~~
35 ~~as a suspect in a child abuse or neglect investigation due to an~~
36 ~~incident that occurred when the person was under the age of 18~~
37 ~~years, and the incident did not result in a delinquency adjudication~~
38 ~~or criminal conviction, that person may make a written request to~~
39 ~~the Department of Justice to have his or her name removed from~~
40 ~~the index as a suspect with respect to that incident. The request~~

1 shall be notarized and include the person's name, address, social
2 security number, and date of birth. Upon receipt of the request,
3 the department shall inquire of the submitting agency whether the
4 incident resulted in a delinquency adjudication or criminal
5 conviction. Unless the submitting agency responds to the
6 department in the affirmative within 30 days, the department shall
7 remove the person's name from the index as the person suspected
8 in that incident.

9 (2) If a person is listed in the index as a suspect with respect to
10 more than one reported incident, the process set forth in paragraph
11 (1) shall be followed with respect to each incident for which the
12 person wishes to have his or her name removed from the index.

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

14 11170. (a) (1) The Department of Justice shall maintain an
15 index of all reports of child abuse and severe neglect submitted
16 pursuant to Section 11169. The index shall be continually updated
17 by the department and shall not contain any reports that are
18 determined to be unfounded. The department may adopt rules
19 governing recordkeeping and reporting pursuant to this article.

20 (2) The department shall act only as a repository of reports of
21 suspected child abuse and severe neglect to be maintained in the
22 Child Abuse Central Index pursuant to paragraph (1). The
23 submitting agencies are responsible for the accuracy, completeness,
24 and retention of the reports described in this section. The
25 department shall be responsible for ensuring that the Child Abuse
26 Central Index accurately reflects the report it receives from the
27 submitting agency.

28 (3) Information from an inconclusive or unsubstantiated report
29 filed pursuant to subdivision (a) of Section 11169 shall be deleted
30 from the Child Abuse Central Index after 10 years if no subsequent
31 report concerning the same suspected child abuser is received
32 within that time period. *If the suspected child abuser was a minor*
33 *at the time of the report, the information shall be deleted after five*
34 *years if no subsequent report concerning the same suspected child*
35 *abuser is received within that time period.* If a subsequent report
36 is received within ~~that 10-year period~~ *the 10-year period for adult*
37 *child abuse suspects or the five-year period for child abuse suspects*
38 *who were themselves minors at the time of the report,* information
39 from any prior report, as well as any subsequently filed report,
40 shall be maintained on the Child Abuse Central Index for a period

1 of 10 years from the time the most recent report is received by the
2 department.

3 (b) (1) The Department of Justice shall immediately notify an
4 agency that submits a report pursuant to Section 11169, or a
5 prosecutor who requests notification, of any information maintained
6 pursuant to subdivision (a) that is relevant to the known or
7 suspected instance of child abuse or severe neglect reported by the
8 agency. The agency shall make that information available to the
9 reporting medical practitioner, child custodian, guardian ad litem
10 appointed under Section 326, or counsel appointed under Section
11 317 or 318 of the Welfare and Institutions Code, or the appropriate
12 licensing agency, if he or she is treating or investigating a case of
13 known or suspected child abuse or severe neglect.

14 (2) When a report is made pursuant to subdivision (a) of Section
15 11166, or Section 11166.05, the investigating agency, upon
16 completion of the investigation or after there has been a final
17 disposition in the matter, shall inform the person required or
18 authorized to report, of the results of the investigation and of any
19 action the agency is taking with regard to the child or family.

20 (3) The Department of Justice shall make available to a law
21 enforcement agency, county welfare department, or county
22 probation department that is conducting a child abuse investigation;
23 relevant information contained in the index.

24 (4) The department shall make available to the State Department
25 of Social Services, or to any county licensing agency that has
26 contracted with the state for the performance of licensing duties,
27 or to a tribal court or tribal child welfare agency of a tribe or
28 consortium of tribes that has entered into an agreement with the
29 state pursuant to Section 10553.1 of the Welfare and Institutions
30 Code, information regarding a known or suspected child abuser
31 maintained pursuant to this section and subdivision (a) of Section
32 11169 concerning any person who is an applicant for licensure or
33 any adult who resides or is employed in the home of an applicant
34 for licensure or who is an applicant for employment in a position
35 having supervisory or disciplinary power over a child or children,
36 or who will provide 24-hour care for a child or children in a
37 residential home or facility, pursuant to Section 1522.1 or 1596.877
38 of the Health and Safety Code, or Section 8714, 8802, 8912, or
39 9000 of the Family Code.

1 (5) The Department of Justice shall make available to a ~~Court~~
2 ~~Appointed Court-Appointed~~ Special Advocate program that is
3 conducting a background investigation of an applicant seeking
4 employment with the program or a volunteer position as a ~~Court~~
5 ~~Appointed Court-Appointed~~ Special Advocate, as defined in
6 Section 101 of the Welfare and Institutions Code, information
7 contained in the index regarding known or suspected child abuse
8 by the applicant.

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

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

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

7 (9) (A) Persons or agencies, as specified in subdivision (b), if
8 investigating a case of known or suspected child abuse or neglect,
9 or the State Department of Social Services or any county licensing
10 agency pursuant to paragraph (4), or a Court Appointed Special
11 Advocate program conducting a background investigation for
12 employment or volunteer candidates pursuant to paragraph (5), or
13 an investigative agency, probation officer, or court investigator
14 responsible for placing children or assessing the possible placement
15 of children pursuant to paragraph (7), or a government agency
16 conducting a background investigation of an applicant seeking
17 employment as a peace officer pursuant to paragraph (8), to whom
18 disclosure of any information maintained pursuant to subdivision
19 (a) is authorized, are responsible for obtaining the original
20 investigative report from the reporting agency, and for drawing
21 independent conclusions regarding the quality of the evidence
22 disclosed, and its sufficiency for making decisions regarding
23 investigation, prosecution, licensing, placement of a child,
24 employment or volunteer positions with a CASA program, or
25 employment as a peace officer.

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

34 (10) (A) Whenever information contained in the Department
35 of Justice files is furnished as the result of an application for
36 employment or licensing pursuant to paragraph (4), (5), or (8), the
37 Department of Justice may charge the person or entity making the
38 request a fee. The fee shall not exceed the reasonable costs to the
39 department of providing the information. The only increase shall
40 be at a rate not to exceed the legislatively approved cost-of-living

1 adjustment for the department. In no case shall the fee exceed
2 fifteen dollars (\$15).

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

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

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

1 he or she is in the index. The notification shall include the location
2 of the original investigative report and the submitting agency. The
3 notification shall be submitted to the person listed at the same time
4 that all other parties are notified of the information, and no later
5 than the actual judicial proceeding that determines placement.

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

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

36 (e) (1) The department shall make available to an out-of-state
37 agency, for purposes of approving a prospective foster or adoptive
38 parent or relative caregiver for placement of a child, information
39 regarding a known or suspected child abuser maintained pursuant
40 to subdivision (a) concerning the prospective foster or adoptive

1 parent or relative caregiver, and any other adult living in the home
2 of the prospective foster or adoptive parent or relative caregiver.
3 The department shall make that information available only when
4 the out-of-state agency makes the request for information in writing
5 on official letterhead, transmitted either by mail, fax, or electronic
6 transmission or as designated by the department. The request shall
7 identify the prospective foster or adoptive parent or relative
8 caregiver, and any other adult living in the home, by name and
9 date of birth or approximate age. The request shall cite the
10 out-of-state statute or interstate compact provision that requires
11 that the information received in response to the inquiry shall be
12 disclosed and used for no purpose other than conducting
13 background checks in foster or adoptive cases. The request shall
14 also cite the criminal penalties for unlawful disclosure of any
15 information provided by the requesting state or the applicable
16 interstate compact provision. In the absence of an out-of-state
17 statute or interstate compact provision that requires that the
18 information shall be used for no purpose other than conducting
19 background checks in foster or adoptive cases and criminal
20 penalties equivalent to the penalties in California for unlawful
21 disclosure, access shall be denied.

22 (2) With respect to any information provided by the department
23 in response to the out-of-state agency's request, the out-of-state
24 agency is responsible for obtaining the original investigative report
25 from the reporting agency, and for drawing independent
26 conclusions regarding the quality of the evidence disclosed and
27 its sufficiency for making decisions regarding the approval of
28 prospective foster or adoptive parents or relative caregivers.

29 (3) (A) Whenever information contained in the index is
30 furnished pursuant to this subdivision, the department shall charge
31 the out-of-state agency making the request a fee. The fee shall not
32 exceed the reasonable costs to the department of providing the
33 information. The only increase shall be at a rate not to exceed the
34 legislatively approved cost-of-living adjustment for the department.
35 In no case shall the fee exceed fifteen dollars (\$15).

36 (B) All moneys received by the department pursuant to this
37 subdivision shall be deposited in the Department of Justice Child
38 Abuse Fund, established under subparagraph (B) of paragraph ~~(9)~~
39 *(10)* of subdivision (b). Moneys in the fund shall be available,
40 upon appropriation by the Legislature, for expenditure by the

1 department to offset the costs incurred to process requests for
2 information pursuant to this subdivision.

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

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

18 (g) If a person is listed in the Child Abuse Central Index only
19 as a victim of child abuse or neglect, and that person is 18 years
20 of age or older, that person may have his or her name removed
21 from the index by making a written request to the Department of
22 Justice. The request shall be notarized and include the person's
23 name, address, social security number, and date of birth.

24 (h) (1) *If a person is listed in the Child Abuse Central Index as*
25 *a suspect in a child abuse or neglect investigation due to an*
26 *incident that occurred when the person was under 18 years of age,*
27 *and the incident did not result in a delinquency adjudication or*
28 *criminal conviction, that person may make a written request to*
29 *the Department of Justice to have his or her name removed from*
30 *the index as a suspect with respect to that incident. The request*
31 *shall be notarized and include the person's name, address, social*
32 *security number, and date of birth. Upon receipt of the request,*
33 *the department shall inquire of the submitting agency whether the*
34 *incident resulted in a delinquency adjudication or criminal*
35 *conviction. Unless the submitting agency responds to the*
36 *department in the affirmative within 30 days, the department shall*
37 *remove the person's name from the index as the person suspected*
38 *in that incident.*

39 (2) *If a person is listed in the index as a suspect with respect to*
40 *more than one reported incident, the process set forth in paragraph*

1 (1) shall be followed with respect to each incident for which the
2 person wishes to have his or her name removed from the index.

3 SEC. 2.1. Section 11170 of the Penal Code is amended to read:

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

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

18 (3) Information from an inconclusive or unsubstantiated report
19 filed pursuant to subdivision (a) of Section 11169 shall be deleted
20 from the Child Abuse Central Index after 10 years if no subsequent
21 report concerning the same suspected child abuser is received
22 within that time period. *If the suspected child abuser was a minor*
23 *at the time of the report, the information shall be deleted after five*
24 *years if no subsequent report concerning the same suspected child*
25 *abuser is received within that time period.* If a subsequent report
26 is received within ~~that 10-year period~~ *the 10-year period for adult*
27 *child abuse suspects or the five-year period for child abuse suspects*
28 *who were themselves minors at the time of the report,* information
29 from any prior report, as well as any subsequently filed report,
30 shall be maintained on the Child Abuse Central Index for a period
31 of 10 years from the time the most recent report is received by the
32 department.

33 (b) (1) The Department of Justice shall immediately notify an
34 agency that submits a report pursuant to Section 11169, or a
35 prosecutor who requests notification, of any information maintained
36 pursuant to subdivision (a) that is relevant to the known or
37 suspected instance of child abuse or severe neglect reported by the
38 agency. The agency shall make that information available to the
39 reporting medical practitioner, child custodian, guardian ad litem
40 appointed under Section 326, or counsel appointed under Section

1 317 or 318 of the Welfare and Institutions Code, or the appropriate
2 licensing agency, if he or she is treating or investigating a case of
3 known or suspected child abuse or severe neglect.

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

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

14 (4) The department shall make available to the State Department
15 of Social Services, or to any county licensing agency that has
16 contracted with the state for the performance of licensing duties,
17 or to a tribal court or tribal child welfare agency of a tribe or
18 consortium of tribes that has entered into an agreement with the
19 state pursuant to Section 10553.1 of the Welfare and Institutions
20 Code, information regarding a known or suspected child abuser
21 maintained pursuant to this section and subdivision (a) of Section
22 11169 concerning any person who is an applicant for licensure or
23 any adult who resides or is employed in the home of an applicant
24 for licensure or who is an applicant for employment in a position
25 having supervisory or disciplinary power over a child or children,
26 or who will provide 24-hour care for a child or children in a
27 residential home or facility, pursuant to Section 1522.1 or 1596.877
28 of the Health and Safety Code, or Section 8714, 8802, 8912, or
29 9000 of the Family Code.

30 (5) The Department of Justice shall make available to a ~~Court~~
31 ~~Appointed Court-Appointed~~ Special Advocate program that is
32 conducting a background investigation of an applicant seeking
33 employment with the program or a volunteer position as a ~~Court~~
34 ~~Appointed Court-Appointed~~ Special Advocate, as defined in
35 Section 101 of the Welfare and Institutions Code, information
36 contained in the index regarding known or suspected child abuse
37 by the applicant.

38 (6) For purposes of child death review, the Department of Justice
39 shall make available to the chairperson, or the chairperson's
40 designee, for each county child death review team, or the State

1 Child Death Review Council, information maintained in the Child
2 Abuse Central Index pursuant to subdivision (a) of Section 11170
3 relating to the death of one or more children and any prior child
4 abuse or neglect investigation reports maintained involving the
5 same victims, siblings, or suspects. Local child death review teams
6 may share any relevant information regarding case reviews
7 involving child death with other child death review teams.

8 (7) The department shall make available to investigative
9 agencies or probation officers, or court investigators acting
10 pursuant to Section 1513 of the Probate Code, responsible for
11 placing children or assessing the possible placement of children
12 pursuant to Article 6 (commencing with Section 300), Article 7
13 (commencing with Section 305), Article 10 (commencing with
14 Section 360), or Article 14 (commencing with Section 601) of
15 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
16 Code, Article 2 (commencing with Section 1510) or Article 3
17 (commencing with Section 1540) of Chapter 1 of Part 2 of Division
18 4 of the Probate Code, information regarding a known or suspected
19 child abuser contained in the index concerning any adult residing
20 in the home where the child may be placed, when this information
21 is requested for purposes of ensuring that the placement is in the
22 best interests of the child. Upon receipt of relevant information
23 concerning child abuse or neglect investigation reports contained
24 in the index from the Department of Justice pursuant to this
25 subdivision, the agency or court investigator shall notify, in writing,
26 the person listed in the Child Abuse Central Index that he or she
27 is in the index. The notification shall include the name of the
28 reporting agency and the date of the report.

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

35 (9) *The Department of Justice shall make available to a county*
36 *child welfare agency or delegated county adoption agency, as*
37 *defined in Section 8515 of the Family Code, conducting a*
38 *background investigation, or a government agency conducting a*
39 *background investigation on behalf of one of those agencies,*
40 *information regarding a known or suspected child abuser*

1 *maintained pursuant to this section and subdivision (a) of Section*
2 *11169 concerning any applicant seeking employment or volunteer*
3 *status with the agency who, in the course of his or her employment*
4 *or volunteer work, will have direct contact with children who are*
5 *alleged to have been, are at risk of, or have suffered, abuse or*
6 *neglect.*

7 ~~(9)~~

8 (10) (A) Persons or agencies, as specified in subdivision (b),
9 if investigating a case of known or suspected child abuse or neglect,
10 or the State Department of Social Services or any county licensing
11 agency pursuant to paragraph (4), or a Court Appointed Special
12 Advocate program conducting a background investigation for
13 employment or volunteer candidates pursuant to paragraph (5), or
14 an investigative agency, probation officer, or court investigator
15 responsible for placing children or assessing the possible placement
16 of children pursuant to paragraph (7), or a government agency
17 conducting a background investigation of an applicant seeking
18 employment as a peace officer pursuant to paragraph (8), *or a*
19 *county child welfare agency or delegated county adoption agency*
20 *conducting a background investigation of an applicant seeking*
21 *employment or volunteer status who, in the course of his or her*
22 *employment or volunteer work will have direct contact with*
23 *children who are alleged to have been, are at risk of, or have*
24 *suffered, abuse or neglect, pursuant to paragraph (9), to whom*
25 disclosure of any information maintained pursuant to subdivision
26 (a) is authorized, are responsible for obtaining the original
27 investigative report from the reporting agency, and for drawing
28 independent conclusions regarding the quality of the evidence
29 disclosed, and its sufficiency for making decisions regarding
30 investigation, prosecution, licensing, placement of a child,
31 employment or volunteer positions with a CASA program, or
32 employment as a peace officer.

33 (B) If Child Abuse Central Index information is requested by
34 an agency for the temporary placement of a child in an emergency
35 situation pursuant to Article 7 (commencing with Section 305) of
36 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
37 Code, the department is exempt from the requirements of Section
38 1798.18 of the Civil Code if compliance would cause a delay in
39 providing an expedited response to the agency's inquiry and if
40 further delay in placement may be detrimental to the child.

1 ~~(10)~~

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

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

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

38 (c) The Department of Justice shall make available to any agency
39 responsible for placing children pursuant to Article 7 (commencing
40 with Section 305) of Chapter 2 of Part 1 of Division 2 of the

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

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

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

1 prosecutorial entities, or multidisciplinary investigative teams, and
2 criminal penalties equivalent to the penalties in California for
3 unlawful disclosure, access shall be denied.

4 (e) (1) The department shall make available to an out-of-state
5 agency, for purposes of approving a prospective foster or adoptive
6 parent or relative caregiver for placement of a child, information
7 regarding a known or suspected child abuser maintained pursuant
8 to subdivision (a) concerning the prospective foster or adoptive
9 parent or relative caregiver, and any other adult living in the home
10 of the prospective foster or adoptive parent or relative caregiver.
11 The department shall make that information available only when
12 the out-of-state agency makes the request for information in writing
13 on official letterhead, transmitted either by mail, ~~fax~~ *facsimile*, or
14 electronic transmission or as designated by the department. The
15 request shall identify the prospective foster or adoptive parent or
16 relative caregiver, and any other adult living in the home, by name
17 and date of birth or approximate age. The request shall cite the
18 out-of-state statute or interstate compact provision that requires
19 that the information received in response to the inquiry shall be
20 disclosed and used for no purpose other than conducting
21 background checks in foster or adoptive cases. The request shall
22 also cite the criminal penalties for unlawful disclosure of any
23 information provided by the requesting state or the applicable
24 interstate compact provision. In the absence of an out-of-state
25 statute or interstate compact provision that requires that the
26 information shall be used for no purpose other than conducting
27 background checks in foster or adoptive cases and criminal
28 penalties equivalent to the penalties in California for unlawful
29 disclosure, access shall be denied.

30 (2) With respect to any information provided by the department
31 in response to the out-of-state agency's request, the out-of-state
32 agency is responsible for obtaining the original investigative report
33 from the reporting agency, and for drawing independent
34 conclusions regarding the quality of the evidence disclosed and
35 its sufficiency for making decisions regarding the approval of
36 prospective foster or adoptive parents or relative caregivers.

37 (3) (A) Whenever information contained in the index is
38 furnished pursuant to this subdivision, the department shall charge
39 the out-of-state agency making the request a fee. The fee shall not
40 exceed the reasonable costs to the department of providing the

1 information. The only increase shall be at a rate not to exceed the
2 legislatively approved cost-of-living adjustment for the department.
3 In no case shall the fee exceed fifteen dollars (\$15).

4 (B) All moneys received by the department pursuant to this
5 subdivision shall be deposited in the Department of Justice Child
6 Abuse Fund, established under subparagraph (B) of paragraph~~(9)~~
7 *(11)* of subdivision (b). Moneys in the fund shall be available,
8 upon appropriation by the Legislature, for expenditure by the
9 department to offset the costs incurred to process requests for
10 information pursuant to this subdivision.

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

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

26 (g) If a person is listed in the Child Abuse Central Index only
27 as a victim of child abuse or neglect, and that person is 18 years
28 of age or older, that person may have his or her name removed
29 from the index by making a written request to the Department of
30 Justice. The request shall be notarized and include the person's
31 name, address, social security number, and date of birth.

32 (h) (1) *If a person is listed in the Child Abuse Central Index as*
33 *a suspect in a child abuse or neglect investigation due to an*
34 *incident that occurred when the person was under 18 years of age,*
35 *and the incident did not result in a delinquency adjudication or*
36 *criminal conviction, that person may make a written request to*
37 *the Department of Justice to have his or her name removed from*
38 *the index as a suspect with respect to that incident. The request*
39 *shall be notarized and include the person's name, address, social*
40 *security number, and date of birth. Upon receipt of the request,*

1 *the department shall inquire of the submitting agency whether the*
2 *incident resulted in a delinquency adjudication or criminal*
3 *conviction. Unless the submitting agency responds to the*
4 *department in the affirmative within 30 days, the department shall*
5 *remove the person's name from the index as the person suspected*
6 *in that incident.*

7 (2) *If a person is listed in the index as a suspect with respect to*
8 *more than one reported incident, the process set forth in paragraph*
9 *(1) shall be followed with respect to each incident for which the*
10 *person wishes to have his or her name removed from the index.*

11 SEC. 2.2. *Section 11170 of the Penal Code is amended to read:*

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

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

26 (3) Information from an inconclusive or unsubstantiated report
27 filed pursuant to subdivision (a) of Section 11169 shall be deleted
28 from the Child Abuse Central Index after 10 years if no subsequent
29 report concerning the same suspected child abuser is received
30 within that time period. *If the suspected child abuser was a minor*
31 *at the time of the report, the information shall be deleted after five*
32 *years if no subsequent report concerning the same suspected child*
33 *abuser is received within that time period. If a subsequent report*
34 *is received within that 10-year period the 10-year period for adult*
35 *child abuse suspects or the five-year period for child abuse suspects*
36 *who were themselves minors at the time of the report, information*
37 *from any prior report, as well as any subsequently filed report,*
38 *shall be maintained on the Child Abuse Central Index for a period*
39 *of 10 years from the time the most recent report is received by the*
40 *department.*

1 (b) (1) The Department of Justice shall immediately notify an
2 agency that submits a report pursuant to Section 11169, or a
3 prosecutor who requests notification, of any information maintained
4 pursuant to subdivision (a) that is relevant to the known or
5 suspected instance of child abuse or severe neglect reported by the
6 agency. The agency shall make that information available to the
7 reporting medical practitioner, child custodian, guardian ad litem
8 appointed under Section 326, or counsel appointed under Section
9 317 or 318 of the Welfare and Institutions Code, or the appropriate
10 licensing agency, if he or she is treating or investigating a case of
11 known or suspected child abuse or severe neglect.

12 (2) When a report is made pursuant to subdivision (a) of Section
13 11166, or Section 11166.05, the investigating agency, upon
14 completion of the investigation or after there has been a final
15 disposition in the matter, shall inform the person required or
16 authorized to report, of the results of the investigation and of any
17 action the agency is taking with regard to the child or family.

18 (3) The Department of Justice shall make available to a law
19 enforcement agency, county welfare department, or county
20 probation department that is conducting a child abuse investigation;
21 relevant information contained in the index.

22 (4) The department shall make available to the State Department
23 of Social Services, or to any county licensing agency that has
24 contracted with the state for the performance of licensing duties,
25 or to a tribal court or tribal child welfare agency of a tribe or
26 consortium of tribes that has entered into an agreement with the
27 state pursuant to Section 10553.1 of the Welfare and Institutions
28 Code, information regarding a known or suspected child abuser
29 maintained pursuant to this section and subdivision (a) of Section
30 11169 concerning any person who is an applicant for licensure or
31 any adult who resides or is employed in the home of an applicant
32 for licensure or who is an applicant for employment in a position
33 having supervisory or disciplinary power over a child or children,
34 or who will provide 24-hour care for a child or children in a
35 residential home or facility, pursuant to Section 1522.1 or 1596.877
36 of the Health and Safety Code, or Section 8714, 8802, 8912, or
37 9000 of the Family Code.

38 (5) The Department of Justice shall make available to a ~~Court~~
39 ~~Appointed~~ *Court-Appointed* Special Advocate program that is
40 conducting a background investigation of an applicant seeking

1 employment with the program or a volunteer position as a ~~Court~~
2 ~~Appointed~~ *Court-Appointed* Special Advocate, as defined in
3 Section 101 of the Welfare and Institutions Code, information
4 contained in the index regarding known or suspected child abuse
5 by the applicant.

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

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

37 (8) The Department of Justice shall make available to a
38 government agency conducting a background investigation
39 pursuant to Section 1031 of the Government Code of an applicant
40 seeking employment as a peace officer, as defined in Section 830,

1 information regarding a known or suspected child abuser
2 maintained pursuant to this section concerning the applicant.

3 (9) (A) Persons or agencies, as specified in subdivision (b), if
4 investigating a case of known or suspected child abuse or neglect,
5 or the State Department of Social Services or any county licensing
6 agency pursuant to paragraph (4), or a Court Appointed Special
7 Advocate program conducting a background investigation for
8 employment or volunteer candidates pursuant to paragraph (5), or
9 an investigative agency, probation officer, or court investigator
10 responsible for placing children or assessing the possible placement
11 of children pursuant to paragraph (7), or a government agency
12 conducting a background investigation of an applicant seeking
13 employment as a peace officer pursuant to paragraph (8), to whom
14 disclosure of any information maintained pursuant to subdivision
15 (a) is authorized, are responsible for obtaining the original
16 investigative report from the reporting agency, and for drawing
17 independent conclusions regarding the quality of the evidence
18 disclosed, and its sufficiency for making decisions regarding
19 investigation, prosecution, licensing, placement of a child,
20 employment or volunteer positions with a CASA program, or
21 employment as a peace officer.

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

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

39 (B) All moneys received by the department pursuant to this
40 section to process trustline applications for purposes of Chapter

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

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

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

1 that all other parties are notified of the information, and no later
2 than the actual judicial proceeding that determines placement.

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

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

34 (e) (1) The department shall make available to an out-of-state
35 agency, for purposes of approving a prospective foster or adoptive
36 ~~parent or relative caregiver for placement of a child, in compliance~~
37 ~~with the Adam Walsh Child Protection and Safety Act of 2006~~
38 ~~(Public Law 109-248),~~ information regarding a known or suspected
39 child abuser maintained pursuant to subdivision (a) concerning
40 the prospective foster or adoptive parent ~~or relative caregiver, and~~

1 any other adult living in the home of the prospective foster or
2 adoptive parent or relative caregiver. The department shall make
3 that information available only when the out-of-state agency makes
4 the request for information in writing on official letterhead,
5 transmitted either by mail, fax, or electronic transmission or as
6 designated by the department. The request shall identify the
7 prospective foster or adoptive parent or relative caregiver, and any
8 other adult living in the home, by name and date of birth or
9 approximate age. The request shall cite the out-of-state statute or
10 interstate compact provision that requires that the information
11 received in response to the inquiry shall be disclosed and used for
12 no purpose other than conducting background checks in foster or
13 adoptive cases. The request shall also cite the criminal penalties
14 for unlawful disclosure of any information provided by the
15 requesting state or the applicable interstate compact provision. In
16 the absence of an out-of-state statute or interstate compact
17 provision that requires that the information shall be used for no
18 purpose other than conducting background checks in foster or
19 adoptive cases and criminal penalties equivalent to the penalties
20 in California for unlawful disclosure, access shall be denied
21 *indicating that continual compliance will be maintained with the*
22 *requirement in paragraph (20) of subdivision (a) of Section 671*
23 *of Title 42 of the United States Code that requires the state to have*
24 *in place safeguards to prevent the unauthorized disclosure of*
25 *information in any child abuse and neglect registry maintained by*
26 *the state and prevent the information from being used for a purpose*
27 *other than the conducting of background checks in foster or*
28 *adoption placement cases.*

29 (2) With respect to any information provided by the department
30 in response to the out-of-state agency's request, the out-of-state
31 agency is responsible for obtaining the original investigative report
32 from the reporting agency, and for drawing independent
33 conclusions regarding the quality of the evidence disclosed and
34 its sufficiency for making decisions regarding the approval of
35 prospective foster or adoptive parents or relative caregivers.

36 (3) (A) Whenever information contained in the index is
37 furnished pursuant to this subdivision, the department shall charge
38 the out-of-state agency making the request a fee. The fee shall not
39 exceed the reasonable costs to the department of providing the
40 information. The only increase shall be at a rate not to exceed the

1 legislatively approved cost-of-living adjustment for the department.
2 In no case shall the fee exceed fifteen dollars (\$15).

3 (B) All moneys received by the department pursuant to this
4 subdivision shall be deposited in the Department of Justice Child
5 Abuse Fund, established under subparagraph (B) of paragraph ~~(9)~~
6 *(10)* of subdivision (b). Moneys in the fund shall be available,
7 upon appropriation by the Legislature, for expenditure by the
8 department to offset the costs incurred to process requests for
9 information pursuant to this subdivision.

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

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

25 (g) If a person is listed in the Child Abuse Central Index only
26 as a victim of child abuse or neglect, and that person is 18 years
27 of age or older, that person may have his or her name removed
28 from the index by making a written request to the Department of
29 Justice. The request shall be notarized and include the person's
30 name, address, social security number, and date of birth.

31 *(h) (1) If a person is listed in the Child Abuse Central Index as*
32 *a suspect in a child abuse or neglect investigation due to an*
33 *incident that occurred when the person was under 18 years of age,*
34 *and the incident did not result in a delinquency adjudication or*
35 *criminal conviction, that person may make a written request to*
36 *the Department of Justice to have his or her name removed from*
37 *the index as a suspect with respect to that incident. The request*
38 *shall be notarized and include the person's name, address, social*
39 *security number, and date of birth. Upon receipt of the request,*
40 *the department shall inquire of the submitting agency whether the*

1 *incident resulted in a delinquency adjudication or criminal*
2 *conviction. Unless the submitting agency responds to the*
3 *department in the affirmative within 30 days, the department shall*
4 *remove the person's name from the index as the person suspected*
5 *in that incident.*

6 (2) *If a person is listed in the index as a suspect with respect to*
7 *more than one reported incident, the process set forth in paragraph*
8 *(1) shall be followed with respect to each incident for which the*
9 *person wishes to have his or her name removed from the index.*

10 SEC. 2.3. *Section 11170 of the Penal Code is amended to read:*

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

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

25 (3) Information from an inconclusive or unsubstantiated report
26 filed pursuant to subdivision (a) of Section 11169 shall be deleted
27 from the Child Abuse Central Index after 10 years if no subsequent
28 report concerning the same suspected child abuser is received
29 within that time period. *If the suspected child abuser was a minor*
30 *at the time of the report, the information shall be deleted after five*
31 *years if no subsequent report concerning the same suspected child*
32 *abuser is received within that time period. If a subsequent report*
33 *is received within that 10-year period the 10-year period for adult*
34 *child abuse suspects or the five-year period for child abuse suspects*
35 *who were themselves minors at the time of the report, information*
36 *from any prior report, as well as any subsequently filed report,*
37 *shall be maintained on the Child Abuse Central Index for a period*
38 *of 10 years from the time the most recent report is received by the*
39 *department.*

1 (b) (1) The Department of Justice shall immediately notify an
2 agency that submits a report pursuant to Section 11169, or a
3 prosecutor who requests notification, of any information maintained
4 pursuant to subdivision (a) that is relevant to the known or
5 suspected instance of child abuse or severe neglect reported by the
6 agency. The agency shall make that information available to the
7 reporting medical practitioner, child custodian, guardian ad litem
8 appointed under Section 326, or counsel appointed under Section
9 317 or 318 of the Welfare and Institutions Code, or the appropriate
10 licensing agency, if he or she is treating or investigating a case of
11 known or suspected child abuse or severe neglect.

12 (2) When a report is made pursuant to subdivision (a) of Section
13 11166, or Section 11166.05, the investigating agency, upon
14 completion of the investigation or after there has been a final
15 disposition in the matter, shall inform the person required or
16 authorized to report, of the results of the investigation and of any
17 action the agency is taking with regard to the child or family.

18 (3) The Department of Justice shall make available to a law
19 enforcement agency, county welfare department, or county
20 probation department that is conducting a child abuse investigation;
21 relevant information contained in the index.

22 (4) The department shall make available to the State Department
23 of Social Services, or to any county licensing agency that has
24 contracted with the state for the performance of licensing duties,
25 or to a tribal court or tribal child welfare agency of a tribe or
26 consortium of tribes that has entered into an agreement with the
27 state pursuant to Section 10553.1 of the Welfare and Institutions
28 Code, information regarding a known or suspected child abuser
29 maintained pursuant to this section and subdivision (a) of Section
30 11169 concerning any person who is an applicant for licensure or
31 any adult who resides or is employed in the home of an applicant
32 for licensure or who is an applicant for employment in a position
33 having supervisory or disciplinary power over a child or children,
34 or who will provide 24-hour care for a child or children in a
35 residential home or facility, pursuant to Section 1522.1 or 1596.877
36 of the Health and Safety Code, or Section 8714, 8802, 8912, or
37 9000 of the Family Code.

38 (5) The Department of Justice shall make available to a ~~Court~~
39 ~~Appointed~~ *Court-Appointed* Special Advocate program that is
40 conducting a background investigation of an applicant seeking

1 employment with the program or a volunteer position as a ~~Court~~
2 ~~Appointed~~ *Court-Appointed* Special Advocate, as defined in
3 Section 101 of the Welfare and Institutions Code, information
4 contained in the index regarding known or suspected child abuse
5 by the applicant.

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

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

37 (8) The Department of Justice shall make available to a
38 government agency conducting a background investigation
39 pursuant to Section 1031 of the Government Code of an applicant
40 seeking employment as a peace officer, as defined in Section 830,

1 information regarding a known or suspected child abuser
2 maintained pursuant to this section concerning the applicant.

3 *(9) The Department of Justice shall make available to a county*
4 *child welfare agency or delegated county adoption agency, as*
5 *defined in Section 8515 of the Family Code, conducting a*
6 *background investigation, or a government agency conducting a*
7 *background investigation on behalf of one of those agencies,*
8 *information regarding a known or suspected child abuser*
9 *maintained pursuant to this section and subdivision (a) of Section*
10 *11169 concerning any applicant seeking employment or volunteer*
11 *status with the agency who, in the course of his or her employment*
12 *or volunteer work, will have direct contact with children who are*
13 *alleged to have been, are at risk of, or have suffered, abuse or*
14 *neglect.*

15 ~~(9)~~

16 (10) (A) Persons or agencies, as specified in subdivision (b),
17 if investigating a case of known or suspected child abuse or neglect,
18 or the State Department of Social Services or any county licensing
19 agency pursuant to paragraph (4), or a Court Appointed Special
20 Advocate program conducting a background investigation for
21 employment or volunteer candidates pursuant to paragraph (5), or
22 an investigative agency, probation officer, or court investigator
23 responsible for placing children or assessing the possible placement
24 of children pursuant to paragraph (7), or a government agency
25 conducting a background investigation of an applicant seeking
26 employment as a peace officer pursuant to paragraph (8), *or a*
27 *county child welfare agency or delegated county adoption agency*
28 *conducting a background investigation of an applicant seeking*
29 *employment or volunteer status who, in the course of his or her*
30 *employment or volunteer work will have direct contact with*
31 *children who are alleged to have been, are at risk of, or have*
32 *suffered, abuse or neglect, pursuant to paragraph (9), to whom*
33 *disclosure of any information maintained pursuant to subdivision*
34 *(a) is authorized, are responsible for obtaining the original*
35 *investigative report from the reporting agency, and for drawing*
36 *independent conclusions regarding the quality of the evidence*
37 *disclosed, and its sufficiency for making decisions regarding*
38 *investigation, prosecution, licensing, placement of a child,*
39 *employment or volunteer positions with a CASA program, or*
40 *employment as a peace officer.*

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

9 ~~(10)~~

10 (11) (A) Whenever information contained in the Department
11 of Justice files is furnished as the result of an application for
12 employment or licensing *or volunteer status* pursuant to paragraph
13 (4), (5), (8), or ~~(8)~~ (9), the Department of Justice may charge the
14 person or entity making the request a fee. The fee shall not exceed
15 the reasonable costs to the department of providing the information.
16 The only increase shall be at a rate not to exceed the legislatively
17 approved cost-of-living adjustment for the department. In no case
18 shall the fee exceed fifteen dollars (\$15).

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

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

1 California DNA offender identification file (CAL-DNA) authorized
2 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
3 Part 4 and the DNA and Forensic Identification Data Base and
4 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
5 of Title 9 of Part 1).

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

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

31 (d) The department shall make available any information
32 maintained pursuant to subdivision (a) to out-of-state law
33 enforcement agencies conducting investigations of known or
34 suspected child abuse or neglect only when an agency makes the
35 request for information in writing and on official letterhead, or as
36 designated by the department, identifying the suspected abuser or
37 victim by name and date of birth or approximate age. The request
38 shall be signed by the department supervisor of the requesting law
39 enforcement agency. The written requests shall cite the out-of-state
40 statute or interstate compact provision that requires that the

1 information contained within these reports shall be disclosed only
2 to law enforcement, prosecutorial entities, or multidisciplinary
3 investigative teams, and shall cite the ~~criminal penalties for~~
4 *safeguards in place to prevent the* unlawful disclosure of any
5 confidential information provided by the requesting state or the
6 applicable interstate compact provision. ~~In the absence of a~~
7 ~~specified out-of-state statute or interstate compact provision that~~
8 ~~requires that the information contained within these reports shall~~
9 ~~be disclosed only to law enforcement, prosecutorial entities, or~~
10 ~~multidisciplinary investigative teams, and criminal penalties~~
11 ~~equivalent to the penalties in California for unlawful disclosure,~~
12 ~~access shall be denied.~~

13 (e) (1) The department shall make available to an out-of-state
14 agency, for purposes of approving a prospective foster or adoptive
15 parent ~~or relative caregiver for placement of a child, in compliance~~
16 ~~with the Adam Walsh Child Protection and Safety Act of 2006~~
17 ~~(Public Law 109-248), information regarding a known or suspected~~
18 ~~child abuser maintained pursuant to subdivision (a) concerning~~
19 ~~the prospective foster or adoptive parent or relative caregiver, and~~
20 ~~any other adult living in the home of the prospective foster or~~
21 ~~adoptive parent or relative caregiver. The department shall make~~
22 ~~that information available only when the out-of-state agency makes~~
23 ~~the request for information in writing on official letterhead,~~
24 ~~transmitted either by mail, fax, or electronic transmission or as~~
25 ~~designated by the department. The request shall identify the~~
26 ~~prospective foster or adoptive parent or relative caregiver, and any~~
27 ~~other adult living in the home, by name and date of birth or~~
28 ~~approximate age. The request shall cite the out-of-state statute or~~
29 ~~interstate compact provision that requires that the information~~
30 ~~received in response to the inquiry shall be disclosed and used for~~
31 ~~no purpose other than conducting background checks in foster or~~
32 ~~adoptive cases. The request shall also cite the criminal penalties~~
33 ~~for unlawful disclosure of any information provided by the~~
34 ~~requesting state or the applicable interstate compact provision. In~~
35 ~~the absence of an out-of-state statute or interstate compact~~
36 ~~provision that requires that the information shall be used for no~~
37 ~~purpose other than conducting background checks in foster or~~
38 ~~adoptive cases and criminal penalties equivalent to the penalties~~
39 ~~in California for unlawful disclosure, access shall be denied~~
40 *indicating that continual compliance will be maintained with the*

1 *requirement in paragraph (20) of subdivision (a) of Section 671*
2 *of Title 42 of the United States Code that requires the state to have*
3 *in place safeguards to prevent the unauthorized disclosure of*
4 *information in any child abuse and neglect registry maintained by*
5 *the state and prevent the information from being used for a purpose*
6 *other than the conducting of background checks in foster or*
7 *adoption placement cases.*

8 (2) With respect to any information provided by the department
9 in response to the out-of-state agency's request, the out-of-state
10 agency is responsible for obtaining the original investigative report
11 from the reporting agency, and for drawing independent
12 conclusions regarding the quality of the evidence disclosed and
13 its sufficiency for making decisions regarding the approval of
14 prospective foster or adoptive parents ~~or relative caregivers.~~

15 (3) (A) Whenever information contained in the index is
16 furnished pursuant to this subdivision, the department shall charge
17 the out-of-state agency making the request a fee. The fee shall not
18 exceed the reasonable costs to the department of providing the
19 information. The only increase shall be at a rate not to exceed the
20 legislatively approved cost-of-living adjustment for the department.
21 In no case shall the fee exceed fifteen dollars (\$15).

22 (B) All moneys received by the department pursuant to this
23 subdivision shall be deposited in the Department of Justice Child
24 Abuse Fund, established under subparagraph (B) of paragraph ~~(9)~~
25 *(11)* of subdivision (b). Moneys in the fund shall be available,
26 upon appropriation by the Legislature, for expenditure by the
27 department to offset the costs incurred to process requests for
28 information pursuant to this subdivision.

29 (f) (1) Any person may determine if he or she is listed in the
30 Child Abuse Central Index by making a request in writing to the
31 Department of Justice. The request shall be notarized and include
32 the person's name, address, date of birth, and either a social
33 security number or a California identification number. Upon receipt
34 of a notarized request, the Department of Justice shall make
35 available to the requesting person information identifying the date
36 of the report and the submitting agency. The requesting person is
37 responsible for obtaining the investigative report from the
38 submitting agency pursuant to paragraph (11) of subdivision (b)
39 of Section 11167.5.

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

5 (g) If a person is listed in the Child Abuse Central Index only
6 as a victim of child abuse or neglect, and that person is 18 years
7 of age or older, that person may have his or her name removed
8 from the index by making a written request to the Department of
9 Justice. The request shall be notarized and include the person's
10 name, address, social security number, and date of birth.

11 (h) (1) *If a person is listed in the Child Abuse Central Index as*
12 *a suspect in a child abuse or neglect investigation due to an*
13 *incident that occurred when the person was under 18 years of age,*
14 *and the incident did not result in a delinquency adjudication or*
15 *criminal conviction, that person may make a written request to*
16 *the Department of Justice to have his or her name removed from*
17 *the index as a suspect with respect to that incident. The request*
18 *shall be notarized and include the person's name, address, social*
19 *security number, and date of birth. Upon receipt of the request,*
20 *the department shall inquire of the submitting agency whether the*
21 *incident resulted in a delinquency adjudication or criminal*
22 *conviction. Unless the submitting agency responds to the*
23 *department in the affirmative within 30 days, the department shall*
24 *remove the person's name from the index as the person suspected*
25 *in that incident.*

26 (2) *If a person is listed in the index as a suspect with respect to*
27 *more than one reported incident, the process set forth in paragraph*
28 *(1) shall be followed with respect to each incident for which the*
29 *person wishes to have his or her name removed from the index.*

30 SEC. 3. (a) *Section 2.1 of this bill incorporates amendments*
31 *to Section 11170 of the Penal Code proposed by both this bill and*
32 *AB 2618. It shall only become operative if (1) both bills are enacted*
33 *and become effective on or before January 1, 2009, (2) each bill*
34 *amends Section 11170 of the Penal Code, and (3) AB 2651 is not*
35 *enacted or as enacted does not amend that section, and (4) this*
36 *bill is enacted after AB 2618, in which case Sections 2, 2.2, and*
37 *2.3 of this bill shall not become operative.*

38 (b) *Section 2.2 of this bill incorporates amendments to Section*
39 *11170 of the Penal Code proposed by both this bill and AB 2651.*
40 *It shall only become operative if (1) both bills are enacted and*

1 *become effective on or before January 1, 2009, (2) each bill*
2 *amends Section 11170 of the Penal Code, (3) AB 2618 is not*
3 *enacted or as enacted does not amend that section, and (4) this*
4 *bill is enacted after AB 2651 in which case Sections 2, 2.1, and*
5 *2.3 of this bill shall not become operative.*

6 *(c) Section 2.3 of this bill incorporates amendments to Section*
7 *11170 of the Penal Code proposed by this bill, AB 2618, and AB*
8 *2651. It shall only become operative if (1) all three bills are*
9 *enacted and become effective on or before January 1, 2009, (2)*
10 *all three bills amend Section 11170 of the Penal Code, and (3)*
11 *this bill is enacted after AB 2618 and AB 2651, in which case*
12 *Sections 2, 2.1, and 2.2 of this bill shall not become operative.*

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