

AMENDED IN ASSEMBLY AUGUST 22, 2008

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 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:
3 11169. (a) An agency specified in Section 11165.9 shall
4 forward to the Department of Justice a report in writing of every
5 case it investigates of known or suspected child abuse or severe
6 neglect which is determined not to be unfounded, other than cases

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (6) For purposes of child death review, the Department of Justice
35 shall make available to the chairperson, or the chairperson's
36 designee, for each county child death review team, or the State
37 Child Death Review Council, information maintained in the Child
38 Abuse Central Index pursuant to subdivision (a) of Section 11170
39 relating to the death of one or more children and any prior child
40 abuse or neglect investigation reports maintained involving the

1 same victims, siblings, or suspects. Local child death review teams
2 may share any relevant information regarding case reviews
3 involving child death with other child death review teams.

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

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

31 (9) (A) Persons or agencies, as specified in subdivision (b), if
32 investigating a case of known or suspected child abuse or neglect,
33 or the State Department of Social Services or any county licensing
34 agency pursuant to paragraph (4), or a Court Appointed Special
35 Advocate program conducting a background investigation for
36 employment or volunteer candidates pursuant to paragraph (5), or
37 an investigative agency, probation officer, or court investigator
38 responsible for placing children or assessing the possible placement
39 of children pursuant to paragraph (7), or a government agency
40 conducting a background investigation of an applicant seeking

1 employment as a peace officer pursuant to paragraph (8), to whom
2 disclosure of any information maintained pursuant to subdivision
3 (a) is authorized, are responsible for obtaining the original
4 investigative report from the reporting agency, and for drawing
5 independent conclusions regarding the quality of the evidence
6 disclosed, and its sufficiency for making decisions regarding
7 investigation, prosecution, licensing, placement of a child,
8 employment or volunteer positions with a CASA program, or
9 employment as a peace officer.

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

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

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

37 (C) All moneys, other than that described in subparagraph (B),
38 received by the department pursuant to this paragraph shall be
39 deposited in a special account in the General Fund which is hereby
40 created and named the Department of Justice Sexual Habitual

1 Offender Fund. The funds shall be available, upon appropriation
2 by the Legislature, for expenditure by the department to offset the
3 costs incurred pursuant to Chapter 9.5 (commencing with Section
4 13885) and Chapter 10 (commencing with Section 13890) of Title
5 6 of Part 4, and the DNA and Forensic Identification Data Base
6 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
7 295) of Title 9 of Part 1), and for maintenance and improvements
8 to the statewide Sexual Habitual Offender Program and the
9 California DNA offender identification file (CAL-DNA) authorized
10 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
11 Part 4 and the DNA and Forensic Identification Data Base and
12 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
13 of Title 9 of Part 1).

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

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

39 (d) The department shall make available any information
40 maintained pursuant to subdivision (a) to out-of-state law

1 enforcement agencies conducting investigations of known or
2 suspected child abuse or neglect only when an agency makes the
3 request for information in writing and on official letterhead, or as
4 designated by the department, identifying the suspected abuser or
5 victim by name and date of birth or approximate age. The request
6 shall be signed by the department supervisor of the requesting law
7 enforcement agency. The written requests shall cite the out-of-state
8 statute or interstate compact provision that requires that the
9 information contained within these reports shall be disclosed only
10 to law enforcement, prosecutorial entities, or multidisciplinary
11 investigative teams, and shall cite the criminal penalties for
12 unlawful disclosure of any confidential information provided by
13 the requesting state or the applicable interstate compact provision.
14 In the absence of a specified out-of-state statute or interstate
15 compact provision that requires that the information contained
16 within these reports shall be disclosed only to law enforcement,
17 prosecutorial entities, or multidisciplinary investigative teams, and
18 criminal penalties equivalent to the penalties in California for
19 unlawful disclosure, access shall be denied.

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

1 statute or interstate compact provision that requires that the
2 information shall be used for no purpose other than conducting
3 background checks in foster or adoptive cases and criminal
4 penalties equivalent to the penalties in California for unlawful
5 disclosure, access shall be denied.

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

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

20 (B) All moneys received by the department pursuant to this
21 subdivision shall be deposited in the Department of Justice Child
22 Abuse Fund, established under subparagraph (B) of paragraph (10)
23 of subdivision (b). Moneys in the fund shall be available, upon
24 appropriation by the Legislature, for expenditure by the department
25 to offset the costs incurred to process requests for information
26 pursuant to this subdivision.

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

38 (2) No person or agency shall require or request another person
39 to furnish a copy of a record concerning himself or herself, or

1 notification that a record concerning himself or herself exists or
2 does not exist, pursuant to paragraph (1) of this subdivision.

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

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

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

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

29 11170. (a) (1) The Department of Justice shall maintain an
30 index of all reports of child abuse and severe neglect submitted
31 pursuant to Section 11169. The index shall be continually updated
32 by the department and shall not contain any reports that are
33 determined to be unfounded. The department may adopt rules
34 governing recordkeeping and reporting pursuant to this article.

35 (2) The department shall act only as a repository of reports of
36 suspected child abuse and severe neglect to be maintained in the
37 Child Abuse Central Index pursuant to paragraph (1). The
38 submitting agencies are responsible for the accuracy, completeness,
39 and retention of the reports described in this section. The
40 department shall be responsible for ensuring that the Child Abuse

1 Central Index accurately reflects the report it receives from the
2 submitting agency.

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

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

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

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

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

1 contracted with the state for the performance of licensing duties,
2 or to a tribal court or tribal child welfare agency of a tribe or
3 consortium of tribes that has entered into an agreement with the
4 state pursuant to Section 10553.1 of the Welfare and Institutions
5 Code, information regarding a known or suspected child abuser
6 maintained pursuant to this section and subdivision (a) of Section
7 11169 concerning any person who is an applicant for licensure or
8 any adult who resides or is employed in the home of an applicant
9 for licensure or who is an applicant for employment in a position
10 having supervisory or disciplinary power over a child or children,
11 or who will provide 24-hour care for a child or children in a
12 residential home or facility, pursuant to Section 1522.1 or 1596.877
13 of the Health and Safety Code, or Section 8714, 8802, 8912, or
14 9000 of the Family Code.

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

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

32 (7) The department shall make available to investigative
33 agencies or probation officers, or court investigators acting
34 pursuant to Section 1513 of the Probate Code, responsible for
35 placing children or assessing the possible placement of children
36 pursuant to Article 6 (commencing with Section 300), Article 7
37 (commencing with Section 305), Article 10 (commencing with
38 Section 360), or Article 14 (commencing with Section 601) of
39 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
40 Code, Article 2 (commencing with Section 1510) or Article 3

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

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

19 (9) The Department of Justice shall make available to a county
20 child welfare agency or delegated county adoption agency, as
21 defined in Section 8515 of the Family Code, conducting a
22 background investigation, or a government agency conducting a
23 background investigation on behalf of one of those agencies,
24 information regarding a known or suspected child abuser
25 maintained pursuant to this section and subdivision (a) of Section
26 11169 concerning any applicant seeking employment or volunteer
27 status with the agency who, in the course of his or her employment
28 or volunteer work, will have direct contact with children who are
29 alleged to have been, are at risk of, or have suffered, abuse or
30 neglect.

31 (10) (A) Persons or agencies, as specified in subdivision (b),
32 if investigating a case of known or suspected child abuse or neglect,
33 or the State Department of Social Services or any county licensing
34 agency pursuant to paragraph (4), or a Court Appointed Special
35 Advocate program conducting a background investigation for
36 employment or volunteer candidates pursuant to paragraph (5), or
37 an investigative agency, probation officer, or court investigator
38 responsible for placing children or assessing the possible placement
39 of children pursuant to paragraph (7), or a government agency
40 conducting a background investigation of an applicant seeking

1 employment as a peace officer pursuant to paragraph (8), or a
2 county child welfare agency or delegated county adoption agency
3 conducting a background investigation of an applicant seeking
4 employment or volunteer status who, in the course of his or her
5 employment or volunteer work will have direct contact with
6 children who are alleged to have been, are at risk of, or have
7 suffered, abuse or neglect, pursuant to paragraph (9), to whom
8 disclosure of any information maintained pursuant to subdivision
9 (a) is authorized, are responsible for obtaining the original
10 investigative report from the reporting agency, and for drawing
11 independent conclusions regarding the quality of the evidence
12 disclosed, and its sufficiency for making decisions regarding
13 investigation, prosecution, licensing, placement of a child,
14 employment or volunteer positions with a CASA program, or
15 employment as a peace officer.

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

24 (11) (A) Whenever information contained in the Department
25 of Justice files is furnished as the result of an application for
26 employment or licensing or volunteer status pursuant to paragraph
27 (4), (5), or (9), the Department of Justice may charge the person
28 or entity making the request a fee. The fee shall not exceed the
29 reasonable costs to the department of providing the information.
30 The only increase shall be at a rate not to exceed the legislatively
31 approved cost-of-living adjustment for the department. In no case
32 shall the fee exceed fifteen dollars (\$15).

33 (B) All moneys received by the department pursuant to this
34 section to process trustline applications for purposes of Chapter
35 3.35 (commencing with Section 1596.60) of Division 2 of the
36 Health and Safety Code shall be deposited in a special account in
37 the General Fund that is hereby established and named the
38 Department of Justice Child Abuse Fund. Moneys in the fund shall
39 be available, upon appropriation by the Legislature, for expenditure
40 by the department to offset the costs incurred to process trustline

1 automated child abuse or neglect system checks pursuant to this
2 section.

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

20 (c) The Department of Justice shall make available to any agency
21 responsible for placing children pursuant to Article 7 (commencing
22 with Section 305) of Chapter 2 of Part 1 of Division 2 of the
23 Welfare and Institutions Code, upon request, relevant information
24 concerning child abuse or neglect reports contained in the index,
25 when making a placement with a responsible relative pursuant to
26 Sections 281.5, 305, and 361.3 of the Welfare and Institutions
27 Code. Upon receipt of relevant information concerning child abuse
28 or neglect reports contained in the index from the Department of
29 Justice pursuant to this subdivision, the agency shall also notify
30 in writing the person listed in the Child Abuse Central Index that
31 he or she is in the index. The notification shall include the location
32 of the original investigative report and the submitting agency. The
33 notification shall be submitted to the person listed at the same time
34 that all other parties are notified of the information, and no later
35 than the actual judicial proceeding that determines placement.

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

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

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

26 (e) (1) The department shall make available to an out-of-state
27 agency, for purposes of approving a prospective foster or adoptive
28 parent or relative caregiver for placement of a child, information
29 regarding a known or suspected child abuser maintained pursuant
30 to subdivision (a) concerning the prospective foster or adoptive
31 parent or relative caregiver, and any other adult living in the home
32 of the prospective foster or adoptive parent or relative caregiver.
33 The department shall make that information available only when
34 the out-of-state agency makes the request for information in writing
35 on official letterhead, transmitted either by mail, facsimile, or
36 electronic transmission or as designated by the department. The
37 request shall identify the prospective foster or adoptive parent or
38 relative caregiver, and any other adult living in the home, by name
39 and date of birth or approximate age. The request shall cite the
40 out-of-state statute or interstate compact provision that requires

1 that the information received in response to the inquiry shall be
2 disclosed and used for no purpose other than conducting
3 background checks in foster or adoptive cases. The request shall
4 also cite the criminal penalties for unlawful disclosure of any
5 information provided by the requesting state or the applicable
6 interstate compact provision. In the absence of an out-of-state
7 statute or interstate compact provision that requires that the
8 information shall be used for no purpose other than conducting
9 background checks in foster or adoptive cases and criminal
10 penalties equivalent to the penalties in California for unlawful
11 disclosure, access shall be denied.

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

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

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

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

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

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

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

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

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

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

34 11170. (a) (1) The Department of Justice shall maintain an
35 index of all reports of child abuse and severe neglect submitted
36 pursuant to Section 11169. The index shall be continually updated
37 by the department and shall not contain any reports that are
38 determined to be unfounded. The department may adopt rules
39 governing recordkeeping and reporting pursuant to this article.

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

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

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

35 (2) When a report is made pursuant to subdivision (a) of Section
36 11166, or Section 11166.05, the investigating agency, upon
37 completion of the investigation or after there has been a final
38 disposition in the matter, shall inform the person required or
39 authorized to report of the results of the investigation and of any
40 action the agency is taking with regard to the child or family.

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

5 (4) The department shall make available to the State Department
6 of Social Services, or to any county licensing agency that has
7 contracted with the state for the performance of licensing duties,
8 or to a tribal court or tribal child welfare agency of a tribe or
9 consortium of tribes that has entered into an agreement with the
10 state pursuant to Section 10553.1 of the Welfare and Institutions
11 Code, 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
22 Court-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 interest 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 CASA program, or
3 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 (c) 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, or as
38 designated by the department, identifying the suspected abuser or
39 victim by name and date of birth or approximate age. The request
40 shall be signed by the department supervisor of the requesting law

1 enforcement agency. The written requests shall cite the out-of-state
2 statute or interstate compact provision that requires that the
3 information contained within these reports shall be disclosed only
4 to law enforcement, prosecutorial entities, or multidisciplinary
5 investigative teams, and shall cite the safeguards in place to prevent
6 the unlawful disclosure of any confidential information provided
7 by the requesting state or the applicable interstate compact
8 provision.

9 (e) (1) The department shall make available to an out-of-state
10 agency, for purposes of approving a prospective foster or adoptive
11 parent in compliance with the Adam Walsh Child Protection and
12 Safety Act of 2006 (Public Law 109-248), information regarding
13 a known or suspected child abuser maintained pursuant to
14 subdivision (a) concerning the prospective foster or adoptive
15 parent, and any other adult living in the home of the prospective
16 foster or adoptive parent. The department shall make that
17 information available only when the out-of-state agency makes
18 the request indicating that continual compliance will be maintained
19 with the requirement in paragraph (20) of subdivision (a) of Section
20 671 of Title 42 of the United States Code that requires the state to
21 have in place safeguards to prevent the unauthorized disclosure of
22 information in any child abuse and neglect registry maintained by
23 the state and prevent the information from being used for a purpose
24 other than the conducting of background checks in foster or
25 adoption placement cases.

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

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

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

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

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

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

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

1 department in the affirmative within 30 days, the department shall
2 remove the person's name from the index as the person suspected
3 in that incident.

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

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

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

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

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

38 (b) (1) The Department of Justice shall immediately notify an
39 agency that submits a report pursuant to Section 11169, or a
40 prosecutor who requests notification, of any information maintained

1 pursuant to subdivision (a) that is relevant to the known or
2 suspected instance of child abuse or severe neglect reported by the
3 agency. The agency shall make that information available to the
4 reporting medical practitioner, child custodian, guardian ad litem
5 appointed under Section 326, or counsel appointed under Section
6 317 or 318 of the Welfare and Institutions Code, or the appropriate
7 licensing agency, if he or she is treating or investigating a case of
8 known or suspected child abuse or severe neglect.

9 (2) When a report is made pursuant to subdivision (a) of Section
10 11166, or Section 11166.05, the investigating agency, upon
11 completion of the investigation or after there has been a final
12 disposition in the matter, shall inform the person required or
13 authorized to report of the results of the investigation and of any
14 action the agency is taking with regard to the child or family.

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

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

35 (5) The Department of Justice shall make available to a
36 Court-Appointed Special Advocate program that is conducting a
37 background investigation of an applicant seeking employment
38 with the program or a volunteer position as a Court-Appointed
39 Special Advocate, as defined in Section 101 of the Welfare and

1 Institutions Code, information contained in the index regarding
2 known or suspected child abuse by the applicant.

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

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

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

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

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

38 (B) If Child Abuse Central Index information is requested by
39 an agency for the temporary placement of a child in an emergency
40 situation pursuant to Article 7 (commencing with Section 305) of

1 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
2 Code, the department is exempt from the requirements of Section
3 1798.18 of the Civil Code if compliance would cause a delay in
4 providing an expedited response to the agency's inquiry and if
5 further delay in placement may be detrimental to the child.

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

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

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

1 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
2 of Title 9 of Part 1).

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

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

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

1 the unlawful disclosure of any confidential information provided
2 by the requesting state or the applicable interstate compact
3 provision.

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 in compliance with the Adam Walsh Child Protection and
7 Safety Act of 2006 (Public Law 109-248), information regarding
8 a known or suspected child abuser maintained pursuant to
9 subdivision (a) concerning the prospective foster or adoptive
10 parent, and any other adult living in the home of the prospective
11 foster or adoptive parent. The department shall make that
12 information available only when the out-of-state agency makes
13 the request indicating that continual compliance will be maintained
14 with the requirement in paragraph (20) of subdivision (a) of Section
15 671 of Title 42 of the United States Code that requires the state to
16 have in place safeguards to prevent the unauthorized disclosure of
17 information in any child abuse and neglect registry maintained by
18 the state and prevent the information from being used for a purpose
19 other than the conducting of background checks in foster or
20 adoption placement cases.

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

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

35 (B) All moneys received by the department pursuant to this
36 subdivision shall be deposited in the Department of Justice Child
37 Abuse Fund, established under subparagraph (B) of paragraph (11)
38 of subdivision (b). Moneys in the fund shall be available, upon
39 appropriation by the Legislature, for expenditure by the department

1 to offset the costs incurred to process requests for information
2 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 incident
26 that occurred when the person was under 18 years of age, and the
27 incident did not result in a delinquency adjudication or criminal
28 conviction, that person may make a written request to the
29 Department of Justice to have his or her name removed from the
30 index as a suspect with respect to that incident. The request shall
31 be notarized and include the person's name, address, social security
32 number, and date of birth. Upon receipt of the request, the
33 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. 3. (a) Section 2.1 of this bill incorporates amendments
4 to Section 11170 of the Penal Code proposed by both this bill and
5 AB 2618. It shall only become operative if (1) both bills are
6 enacted and become effective on or before January 1, 2009, (2)
7 each bill amends Section 11170 of the Penal Code, and (3) AB
8 2651 is not enacted or as enacted does not amend that section, and
9 (4) this bill is enacted after AB 2618, in which case Sections 2,
10 2.2, and 2.3 of this bill shall not become operative.

11 (b) Section 2.2 of this bill incorporates amendments to Section
12 11170 of the Penal Code proposed by both this bill and AB 2651.
13 It shall only become operative if (1) both bills are enacted and
14 become effective on or before January 1, 2009, (2) each bill amends
15 Section 11170 of the Penal Code, (3) AB 2618 is not enacted or
16 as enacted does not amend that section, and (4) this bill is enacted
17 after AB 2651 in which case Sections 2, 2.1, and 2.3 of this bill
18 shall not become operative.

19 (c) Section 2.3 of this bill incorporates amendments to Section
20 11170 of the Penal Code proposed by this bill, AB 2618, and AB
21 2651. It shall only become operative if (1) all three bills are enacted
22 and become effective on or before January 1, 2009, (2) all three
23 bills amend Section 11170 of the Penal Code, and (3) this bill is
24 enacted after AB 2618 and AB 2651, in which case Sections 2,
25 2.1, and 2.2 of this bill shall not become operative.

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