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AMENDED IN SENATE AUGUST 2, 2010

AMENDED IN SENATE JULY 15, 2010

AMENDED IN ASSEMBLY APRIL 29, 2010

AMENDED IN ASSEMBLY APRIL 15, 2010

AMENDED IN ASSEMBLY APRIL 7, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2229

Introduced by Assembly Member Brownley

February 18, 2010

An act to amend Section 18961.5 of, and to add and repeal Section 18961.7 of, the Welfare and Institutions Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 2229, as amended, Brownley. Mandated child abuse reporting.

Existing law authorizes members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be a part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or treatment of child abuse. Under existing law, all discussions relative to the disclosure or exchange of this information during team meetings are confidential and testimony concerning those

discussions is not admissible in any criminal, civil, or juvenile court proceeding. A multidisciplinary personnel team is defined for purposes of this provision to mean any team of 3 or more persons who are trained in the prevention, identification, and treatment of child abuse, as specified.

This bill would, until January 1, 2014, additionally authorize the disclosure and exchange of information to occur telephonically and electronically, for 30 days, or longer if documented good cause exists, following a report of suspected child abuse or neglect, if there is adequate verification of the identity of the multidisciplinary personnel who are involved in that disclosure or exchange of information. The bill would revise the definition of a multidisciplinary personnel team for purposes of this provision to mean any team of 2 or more persons created to investigate a report of suspected child abuse, as specified, who are trained in the prevention, identification, and treatment of child abuse, as specified. The bill would require that the sharing of information permitted in the period following a report of suspected child abuse or neglect be governed by protocols developed in each county describing how and what information may be shared to ensure that confidential information is not disclosed in violation of state or federal law.

Existing law provides that a county may establish a computerized data base system within that county to allow provider agencies to share identifying information regarding families at risk for child abuse or neglect, for the purpose of forming multidisciplinary personnel teams for the prevention, identification, management, or treatment of child abuse. A multidisciplinary personnel team is defined for purposes of this provision to mean any team of 3 or more persons who are trained in the prevention, identification, and treatment of child abuse, as specified.

This bill would revise the definition of multidisciplinary personnel teams for purposes of this provision to additionally include any team of 2 or more persons who are trained in the prevention, identification, management, or treatment of child abuse, as specified.

This bill would incorporate additional changes to Section 18961.5 of the Welfare and Institutions Code proposed by this bill and AB 2322, to become operative only if this bill and AB 2322 are enacted and become effective on or before January 1, 2011, 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 18961.5 of the Welfare and Institutions
2 Code is amended to read:
3 18961.5. (a) Notwithstanding any other provision of law, any
4 county may establish a computerized database system within that
5 county to allow provider agencies, as defined in subdivision (h),
6 to share identifying information, as specified in subdivision (c),
7 regarding families at risk for child abuse or neglect, for the purpose
8 of forming multidisciplinary personnel teams, as defined in either
9 subdivision (d) of Section 18951 or paragraph (2) of subdivision
10 (b) of Section 18961.7, for the prevention, identification,
11 management, or treatment of child abuse.
12 (b) Each county shall develop its own standards for defining
13 “at risk” before joining this system. Only information about
14 children or the families of children at risk for child abuse or neglect
15 may be entered into a computerized database system established
16 pursuant to this section.
17 (c) With regard to a case in which a child or family has been
18 identified as at risk for child abuse or neglect under this section,
19 only the following information shall be entered into the system:
20 (1) The name, address, telephone number, and date and place
21 of birth of family members.
22 (2) The number assigned to the case by each provider agency.
23 (3) The name and telephone number of each employee assigned
24 to the case from each provider agency.
25 (4) The date or dates of contact between each provider agency
26 and a family member or family members.
27 (d) The information may only be entered into the system by, or
28 disclosed to, provider agency employees designated by the director
29 of each participating provider agency. Members of the
30 multidisciplinary personnel teams shall be drawn from these
31 designated employees, or other persons, as specified in Section
32 18961. The heads of provider agencies shall establish a system by
33 which unauthorized personnel cannot access the data contained in
34 the system.

1 (e) The information obtained pursuant to this section shall be
 2 kept confidential and shall be used solely for the prevention,
 3 identification, management, or treatment of child abuse, child
 4 neglect, or both.

5 (f) This section shall not supplant any duties required by the
 6 Child Abuse and Neglect Reporting Act (Article 2.5 (commencing
 7 with Section 11164) of Chapter 2 of Title 1 of Part 3 of the Penal
 8 Code).

9 (g) No employee of a provider agency which serves children
 10 and their families shall be civilly or criminally liable for furnishing
 11 or sharing information as authorized by this section.

12 (h) For the purposes of this section, “provider agency” means
 13 any governmental or other agency which has as one of its purposes
 14 the prevention, identification, management, or treatment of child
 15 abuse or neglect. The provider agencies serving children and their
 16 families which may share information under this section shall
 17 include, but not be limited to, the following entities or service
 18 agencies:

- 19 (1) Social services.
- 20 (2) Children’s services.
- 21 (3) Health services.
- 22 (4) Mental health services.
- 23 (5) Probation.
- 24 (6) Law enforcement.
- 25 (7) Schools.

26 *SEC. 1.5. Section 18961.5 of the Welfare and Institutions Code*
 27 *is amended to read:*

28 18961.5. (a) Notwithstanding any other provision of law, any
 29 county may establish a computerized ~~data base~~ *database* system
 30 within that county to allow provider agencies, as defined in
 31 subdivision (h), to share identifying information, as specified in
 32 subdivision (c), regarding families at risk for child abuse or neglect;
 33 ~~for the purpose~~ *purposes* of forming a multidisciplinary personnel
 34 ~~teams~~ *team*, as defined in *either* subdivision (d) of Section 18951
 35 *or paragraph (2) of subdivision (b) of Section 18961.7*, for the
 36 prevention, identification, management, or treatment of child abuse
 37 *or neglect, or for the provision of child welfare services to a child*
 38 *or child’s family.*

39 (b) Each county shall develop its own standards for defining
 40 “at risk” before ~~joining~~ *establishing* this system. Only information

1 about ~~children or~~ *children*, the families of children, *and persons*
2 *living in the child's home*, at risk for child abuse or neglect may
3 be entered into a computerized ~~data base~~ *database* system
4 established pursuant to this section.

5 (c) With regard to a case in which a child or family has been
6 identified as at risk for child abuse or neglect under this section,
7 only the following information shall be entered into the system:

8 (1) The name, address, telephone number, and date and place
9 of birth of family members *and persons living in the child's home*.

10 (2) The number assigned to the case by each provider agency.

11 (3) The name and telephone number of each employee assigned
12 to the case, *or a contact person*, from each provider agency.

13 (4) The date or dates of contact between each provider agency
14 and a family member or ~~family members~~ *a person living in the*
15 *child's home*.

16 (d) The information may only be entered into the system by, or
17 disclosed to, provider agency employees designated by the director
18 of each participating provider agency. Members of the
19 multidisciplinary personnel teams shall be drawn from these
20 designated employees, or other persons, as specified in Section
21 18961. The heads of provider agencies shall establish a system by
22 which unauthorized personnel cannot access the data contained in
23 the system.

24 (e) The information obtained pursuant to this section shall be
25 kept confidential and shall be used solely for the prevention,
26 identification, management, or treatment of child abuse, child
27 neglect, or both, *or for the provision of child welfare services*. *Any*
28 *person knowingly and intentionally violating this subdivision shall*
29 *be subject to any administrative or civil penalties set forth in the*
30 *respective statutes governing the confidentiality of the records*
31 *maintained by the provider agencies*.

32 (f) This section shall not supplant any duties required by the
33 Child Abuse and Neglect Reporting Act (Article 2.5 (commencing
34 with Section 11164) of Chapter 2 of Title 1 of Part 3 of the Penal
35 Code).

36 (g) No employee of a provider agency which serves children
37 and their families shall be civilly or criminally liable for furnishing
38 or sharing information as authorized by this section.

39 (h) For the purposes of this section, "provider agency" means
40 any governmental or other agency which has as one of its purposes

1 the prevention, identification, management, or treatment of child
2 abuse or neglect. The provider agencies serving children and their
3 families which may share information under this section shall
4 include, but not be limited to, the following entities or service
5 agencies:

- 6 (1) Social services.
- 7 (2) Children's services.
- 8 (3) Health services.
- 9 (4) Mental health services.
- 10 (5) Probation.
- 11 (6) Law enforcement.
- 12 (7) Schools.

13 (i) *A county that establishes a computerized database system*
14 *pursuant to this section shall install system controls to monitor*
15 *system use and to detect any violations of the system controls.*

16 SEC. 2. Section 18961.7 is added to the Welfare and
17 Institutions Code, to read:

18 18961.7. (a) Notwithstanding any other provision of law, a
19 county may establish a child abuse multidisciplinary personnel
20 team within that county to allow provider agencies to share
21 confidential information in order for provider agencies to
22 investigate reports of suspected child abuse or neglect made
23 pursuant to Section 11160, 11166, or 11166.05 of the Penal Code,
24 or for the purpose of child welfare agencies making a detention
25 determination.

26 (b) For the purposes of this section, the following terms shall
27 have the following meanings:

28 (1) "Child abuse multidisciplinary personnel team" means any
29 team of two or more persons who are trained in the prevention,
30 identification, or treatment of child abuse and neglect cases and
31 who are qualified to provide a broad range of services related to
32 child abuse. The team may include, but shall not be limited to:

33 (A) Psychiatrists, psychologists, marriage and family therapists,
34 or other trained counseling personnel.

35 (B) Police officers or other law enforcement agents.

36 (C) Medical personnel with sufficient training to provide health
37 services.

38 (D) Social services workers with experience or training in child
39 abuse prevention.

1 (E) Any public or private school teacher, administrative officer,
2 supervisor of child welfare attendance, or certified pupil personnel
3 employee.

4 (2) “Provider agency” means any governmental or other agency
5 that has as one of its purposes the prevention, identification,
6 management, or treatment of child abuse or neglect. The provider
7 agencies serving children and their families that may share
8 information under this section shall include, but not be limited to,
9 the following entities or service agencies:

- 10 (A) Social services.
- 11 (B) Children’s services.
- 12 (C) Health services.
- 13 (D) Mental health services.
- 14 (E) Probation.
- 15 (F) Law enforcement.
- 16 (G) Schools.

17 (c) (1) Notwithstanding Section 827 of the Welfare and
18 Institutions Code or any other provision of law, during a 30-day
19 period, or longer if documented good cause exists, following a
20 report of suspected child abuse or neglect, members of a child
21 abuse multidisciplinary personnel team engaged in the prevention,
22 identification, and treatment of child abuse may disclose to and
23 exchange with one another information and writings that relate to
24 any incident of child abuse that may also be designated as
25 confidential under state law if the member of the team having that
26 information or writing reasonably believes it is generally relevant
27 to the prevention, identification, or treatment of child abuse. Any
28 discussion relative to the disclosure or exchange of the information
29 or writings during a team meeting is confidential and,
30 notwithstanding any other provision of law, testimony concerning
31 that discussion is not admissible in any criminal, civil, or juvenile
32 court proceeding.

33 (2) Disclosure and exchange of information pursuant to this
34 section may occur telephonically and electronically if there is
35 adequate verification of the identity of the child abuse
36 multidisciplinary personnel who are involved in that disclosure or
37 exchange of information.

38 (3) Disclosure and exchange of information pursuant to this
39 section shall not be made to anyone other than members of the

1 child abuse multidisciplinary personnel team, and those qualified
2 to receive information as set forth in subdivision (d).

3 (d) The child abuse multidisciplinary personnel team may
4 designate persons qualified pursuant to paragraph (1) of subdivision
5 (b) to be a member of the team for a particular case. A person
6 designated as a team member pursuant to this subdivision may
7 receive and disclose relevant information and records, subject to
8 the confidentiality provisions of subdivision (f).

9 (e) The sharing of information permitted under subdivision (c)
10 shall be governed by protocols developed in each county describing
11 how and what information may be shared by the child abuse
12 multidisciplinary team to ensure that confidential information
13 gathered by the team is not disclosed in violation of state or federal
14 law. A copy of the protocols shall be distributed to each
15 participating agency and to persons in those agencies who
16 participate in the child abuse multidisciplinary team.

17 (f) Every member of the child abuse multidisciplinary personnel
18 team who receives information or records regarding children and
19 families in his or her capacity as a member of the team shall be
20 under the same privacy and confidentiality obligations and subject
21 to the same confidentiality penalties as the person disclosing or
22 providing the information or records. The information or records
23 obtained shall be maintained in a manner that ensures the maximum
24 protection of privacy and confidentiality rights.

25 (g) This section shall not be construed to restrict guarantees of
26 confidentiality provided under state or federal law.

27 (h) Information and records communicated or provided to the
28 team members by all providers and agencies, as well as information
29 and records created in the course of a child abuse or neglect
30 investigation, shall be deemed private and confidential and shall
31 be protected from discovery and disclosure by all applicable
32 statutory and common law protections. Existing civil and criminal
33 penalties shall apply to the inappropriate disclosure of information
34 held by the team members.

35 (i) This section shall remain in effect only until January 1, 2014,
36 and as of that date is repealed.

37 *SEC. 3. Section 1.5 of this bill incorporates amendments to*
38 *Section 18961.5 of the Welfare and Institutions Code proposed by*
39 *this bill and AB 2322. It shall only become operative if (1) both*
40 *bills are enacted and become effective on or before January 1,*

1 2011, (2) each bill amends Section 18961.5 of the Welfare and
2 Institutions Code, and (3) this bill is enacted after AB 2322, in
3 which case Section 18961.5 of the Welfare and Institutions Code,
4 as amended by AB 2322, shall remain operative only until the
5 operative date of this bill, at which time Section 1.5 of this bill
6 shall become operative, and Section 1 of this bill shall not become
7 operative.

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