

**ASSEMBLY BILL**

**No. 2380**

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**Introduced by Assembly Member Bonnie Lowenthal  
(Coauthor: Assembly Member Portantino)**

February 19, 2010

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An act to amend Sections 11166, 11167.5, and 11170 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2380, as introduced, Bonnie Lowenthal. Child abuse prevention.

Existing law identifies specified persons as mandated reporters who must submit a report to law enforcement whenever in their professional capacity or within the scope of their employment, they have knowledge of or observe a child who is known or reasonably suspected to have been the victim of child abuse or neglect. Existing law defines the term “reasonable suspicion” for purposes of these child abuse reporting provisions.

This bill would provide that “reasonable suspicion” does not require certain knowledge that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. The bill would also provide that “reasonable suspicion” may be based on any information considered credible by the reporter, including hearsay.

Existing law requires the Department of Justice to maintain an index of all reports of child abuse and severe neglect submitted by agencies mandated to make those reports.

This bill would require the department to make available to certain health care practitioners who have delivered or treated a newborn infant information regarding any known or suspected child abuser maintained on the index concerning any parent or primary care provider of the

newborn infant. The bill would provide that the health care practitioner is responsible for obtaining the original investigative report from the reporting agency and for drawing independent conclusions on the evidence for purposes of evaluating the necessity for a child welfare risk assessment. The bill would require the health care practitioner to notify the local child protective services agency if it is determined that a child welfare risk assessment is appropriate.

Existing law requires a person convicted of any specified sex offenses to register as a sex offender and provide specified information to law enforcement agencies. That information is kept at the location where the offender registered and transmitted to the Department of Justice where it is electronically stored in the Violent Crime Information Network (VCIN), as specified.

This bill would require the Department of Justice to study the feasibility and value of requiring every person who must register as a sex offender to include in the information provided by the person all e-mail addresses and instant message addresses, all screen names and online pseudonyms, and all Internet protocol addresses he or she uses, or intends to use, to communicate over the Internet. The bill would require the department’s study to include a determination of the value and feasibility of incorporating this information in the VCIN, and would require the department to complete and publish its report by December 31, 2011.

This bill would make technical and conforming changes.

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 11166 of the Penal Code is amended to  
 2 read:  
 3 11166. (a) Except as provided in subdivision (d), and in  
 4 Section 11166.05, a mandated reporter shall make a report to an  
 5 agency specified in Section 11165.9 whenever the mandated  
 6 reporter, in his or her professional capacity or within the scope of  
 7 his or her employment, has knowledge of or observes a child whom  
 8 the mandated reporter knows or reasonably suspects has been the  
 9 victim of child abuse or neglect. The mandated reporter shall make  
 10 an initial report to the agency immediately or as soon as is  
 11 practicably possible by telephone and the mandated reporter shall

1 prepare and send, fax, or electronically transmit a written followup  
2 report thereof within 36 hours of receiving the information  
3 concerning the incident. The mandated reporter may include with  
4 the report any nonprivileged documentary evidence the mandated  
5 reporter possesses relating to the incident.

6 (1) For the purposes of this article, “reasonable suspicion” means  
7 that it is objectively reasonable for a person to entertain a suspicion,  
8 based upon facts that could cause a reasonable person in a like  
9 position, drawing, when appropriate, on his or her training and  
10 experience, to suspect child abuse or neglect. “Reasonable  
11 suspicion” does not require certain knowledge that child abuse  
12 or neglect has occurred nor does it require a specific medical  
13 indication of child abuse or neglect; any “reasonable suspicion”  
14 is sufficient. “Reasonable suspicion” may be based on any  
15 information considered credible by the reporter, including hearsay.  
16 For the purpose of this article, the pregnancy of a minor does not,  
17 in and of itself, constitute a basis for a reasonable suspicion of  
18 sexual abuse.

19 (2) The agency shall be notified and a report shall be prepared  
20 and sent, faxed, or electronically transmitted even if the child has  
21 expired, regardless of whether or not the possible abuse was a  
22 factor contributing to the death, and even if suspected child abuse  
23 was discovered during an autopsy.

24 (3) Any report made by a mandated reporter pursuant to this  
25 section shall be known as a mandated report.

26 (b) If after reasonable efforts a mandated reporter is unable to  
27 submit an initial report by telephone, he or she shall immediately  
28 or as soon as is practicably possible, by fax or electronic  
29 transmission, make a one-time automated written report on the  
30 form prescribed by the Department of Justice, and shall also be  
31 available to respond to a telephone followup call by the agency  
32 with which he or she filed the report. A mandated reporter who  
33 files a one-time automated written report because he or she was  
34 unable to submit an initial report by telephone is not required to  
35 submit a written followup report.

36 (1) The one-time automated written report form prescribed by  
37 the Department of Justice shall be clearly identifiable so that it is  
38 not mistaken for a standard written followup report. In addition,  
39 the automated one-time report shall contain a section that allows  
40 the mandated reporter to state the reason the initial telephone call

1 was not able to be completed. The reason for the submission of  
2 the one-time automated written report in lieu of the procedure  
3 prescribed in subdivision (a) shall be captured in the Child Welfare  
4 Services/Case Management System (CWS/CMS). The department  
5 shall work with stakeholders to modify reporting forms and the  
6 CWS/CMS as is necessary to accommodate the changes enacted  
7 by these provisions.

8 (2) This subdivision shall not become operative until the  
9 CWS/CMS is updated to capture the information prescribed in this  
10 subdivision.

11 (3) This subdivision shall become inoperative three years after  
12 this subdivision becomes operative or on January 1, 2009,  
13 whichever occurs first.

14 (4) On the inoperative date of these provisions, a report shall  
15 be submitted to the counties and the Legislature by the Department  
16 of Social Services that reflects the data collected from automated  
17 one-time reports indicating the reasons stated as to why the  
18 automated one-time report was filed in lieu of the initial telephone  
19 report.

20 (5) Nothing in this section shall supersede the requirement that  
21 a mandated reporter first attempt to make a report via telephone,  
22 or that agencies specified in Section 11165.9 accept reports from  
23 mandated reporters and other persons as required.

24 (c) Any mandated reporter who fails to report an incident of  
25 known or reasonably suspected child abuse or neglect as required  
26 by this section is guilty of a misdemeanor punishable by up to six  
27 months confinement in a county jail or by a fine of one thousand  
28 dollars (\$1,000) or by both that imprisonment and fine. If a  
29 mandated reporter intentionally conceals his or her failure to report  
30 an incident known by the mandated reporter to be abuse or severe  
31 neglect under this section, the failure to report is a continuing  
32 offense until an agency specified in Section 11165.9 discovers the  
33 offense.

34 (d) (1) A clergy member who acquires knowledge or a  
35 reasonable suspicion of child abuse or neglect during a penitential  
36 communication is not subject to subdivision (a). For the purposes  
37 of this subdivision, "penitential communication" means a  
38 communication, intended to be in confidence, including, but not  
39 limited to, a sacramental confession, made to a clergy member  
40 who, in the course of the discipline or practice of his or her church,

1 denomination, or organization, is authorized or accustomed to hear  
2 those communications, and under the discipline, tenets, customs,  
3 or practices of his or her church, denomination, or organization,  
4 has a duty to keep those communications secret.

5 (2) Nothing in this subdivision shall be construed to modify or  
6 limit a clergy member's duty to report known or suspected child  
7 abuse or neglect when the clergy member is acting in some other  
8 capacity that would otherwise make the clergy member a mandated  
9 reporter.

10 (3) (A) On or before January 1, 2004, a clergy member or any  
11 custodian of records for the clergy member may report to an agency  
12 specified in Section 11165.9 that the clergy member or any  
13 custodian of records for the clergy member, prior to January 1,  
14 1997, in his or her professional capacity or within the scope of his  
15 or her employment, other than during a penitential communication,  
16 acquired knowledge or had a reasonable suspicion that a child had  
17 been the victim of sexual abuse that the clergy member or any  
18 custodian of records for the clergy member did not previously  
19 report the abuse to an agency specified in Section 11165.9. The  
20 provisions of Section 11172 shall apply to all reports made pursuant  
21 to this paragraph.

22 (B) This paragraph shall apply even if the victim of the known  
23 or suspected abuse has reached the age of majority by the time the  
24 required report is made.

25 (C) The local law enforcement agency shall have jurisdiction  
26 to investigate any report of child abuse made pursuant to this  
27 paragraph even if the report is made after the victim has reached  
28 the age of majority.

29 (e) Any commercial film and photographic print processor who  
30 has knowledge of or observes, within the scope of his or her  
31 professional capacity or employment, any film, photograph,  
32 videotape, negative, or slide depicting a child under the age of 16  
33 years engaged in an act of sexual conduct, shall report the instance  
34 of suspected child abuse to the law enforcement agency having  
35 jurisdiction over the case immediately, or as soon as practicably  
36 possible, by telephone and shall prepare and send, fax, or  
37 electronically transmit a written report of it with a copy of the film,  
38 photograph, videotape, negative, or slide attached within 36 hours  
39 of receiving the information concerning the incident. As used in  
40 this subdivision, "sexual conduct" means any of the following:

1 (1) Sexual intercourse, including genital-genital, oral-genital,  
2 anal-genital, or oral-anal, whether between persons of the same or  
3 opposite sex or between humans and animals.

4 (2) Penetration of the vagina or rectum by any object.

5 (3) Masturbation for the purpose of sexual stimulation of the  
6 viewer.

7 (4) Sadomasochistic abuse for the purpose of sexual stimulation  
8 of the viewer.

9 (5) Exhibition of the genitals, pubic, or rectal areas of any person  
10 for the purpose of sexual stimulation of the viewer.

11 (f) Any mandated reporter who knows or reasonably suspects  
12 that the home or institution in which a child resides is unsuitable  
13 for the child because of abuse or neglect of the child shall bring  
14 the condition to the attention of the agency to which, and at the  
15 same time as, he or she makes a report of the abuse or neglect  
16 pursuant to subdivision (a).

17 (g) Any other person who has knowledge of or observes a child  
18 whom he or she knows or reasonably suspects has been a victim  
19 of child abuse or neglect may report the known or suspected  
20 instance of child abuse or neglect to an agency specified in Section  
21 11165.9. For purposes of this section, “any other person” includes  
22 a mandated reporter who acts in his or her private capacity and  
23 not in his or her professional capacity or within the scope of his  
24 or her employment.

25 (h) When two or more persons, who are required to report,  
26 jointly have knowledge of a known or suspected instance of child  
27 abuse or neglect, and when there is agreement among them, the  
28 telephone report may be made by a member of the team selected  
29 by mutual agreement and a single report may be made and signed  
30 by the selected member of the reporting team. Any member who  
31 has knowledge that the member designated to report has failed to  
32 do so shall thereafter make the report.

33 (i) (1) The reporting duties under this section are individual,  
34 and no supervisor or administrator may impede or inhibit the  
35 reporting duties, and no person making a report shall be subject  
36 to any sanction for making the report. However, internal procedures  
37 to facilitate reporting and apprise supervisors and administrators  
38 of reports may be established provided that they are not inconsistent  
39 with this article.

1 (2) The internal procedures shall not require any employee  
2 required to make reports pursuant to this article to disclose his or  
3 her identity to the employer.

4 (3) Reporting the information regarding a case of possible child  
5 abuse or neglect to an employer, supervisor, school principal,  
6 school counselor, coworker, or other person shall not be a substitute  
7 for making a mandated report to an agency specified in Section  
8 11165.9.

9 (j) A county probation or welfare department shall immediately,  
10 or as soon as practicably possible, report by telephone, fax, or  
11 electronic transmission to the law enforcement agency having  
12 jurisdiction over the case, to the agency given the responsibility  
13 for investigation of cases under Section 300 of the Welfare and  
14 Institutions Code, and to the district attorney's office every known  
15 or suspected instance of child abuse or neglect, as defined in  
16 Section 11165.6, except acts or omissions coming within  
17 subdivision (b) of Section 11165.2, or reports made pursuant to  
18 Section 11165.13 based on risk to a child which relates solely to  
19 the inability of the parent to provide the child with regular care  
20 due to the parent's substance abuse, which shall be reported only  
21 to the county welfare or probation department. A county probation  
22 or welfare department also shall send, fax, or electronically transmit  
23 a written report thereof within 36 hours of receiving the information  
24 concerning the incident to any agency to which it makes a  
25 telephone report under this subdivision.

26 (k) A law enforcement agency shall immediately, or as soon as  
27 practicably possible, report by telephone, fax, or electronic  
28 transmission to the agency given responsibility for investigation  
29 of cases under Section 300 of the Welfare and Institutions Code  
30 and to the district attorney's office every known or suspected  
31 instance of child abuse or neglect reported to it, except acts or  
32 omissions coming within subdivision (b) of Section 11165.2, which  
33 shall be reported only to the county welfare or probation  
34 department. A law enforcement agency shall report to the county  
35 welfare or probation department every known or suspected instance  
36 of child abuse or neglect reported to it which is alleged to have  
37 occurred as a result of the action of a person responsible for the  
38 child's welfare, or as the result of the failure of a person responsible  
39 for the child's welfare to adequately protect the minor from abuse  
40 when the person responsible for the child's welfare knew or

1 reasonably should have known that the minor was in danger of  
2 abuse. A law enforcement agency also shall send, fax, or  
3 electronically transmit a written report thereof within 36 hours of  
4 receiving the information concerning the incident to any agency  
5 to which it makes a telephone report under this subdivision.

6 SEC. 2. Section 11167.5 of the Penal Code is amended to read:

7 11167.5. (a) The reports required by Sections 11166 and  
8 11166.2, or authorized by Section 11166.05, and child abuse or  
9 neglect investigative reports that result in a summary report being  
10 filed with the Department of Justice pursuant to subdivision (a) of  
11 Section 11169 shall be confidential and may be disclosed only as  
12 provided in subdivision (b). Any violation of the confidentiality  
13 provided by this article is a misdemeanor punishable by  
14 imprisonment in a county jail not to exceed six months, by a fine  
15 of five hundred dollars (\$500), or by both that imprisonment and  
16 fine.

17 (b) Reports of suspected child abuse or neglect and information  
18 contained therein may be disclosed only to the following:

19 (1) Persons or agencies to whom disclosure of the identity of  
20 the reporting party is permitted under Section 11167.

21 (2) Persons or agencies to whom disclosure of information is  
22 permitted under subdivision (b) of Section 11170 or subdivision  
23 (a) of Section 11170.5.

24 (3) Persons or agencies with whom investigations of child abuse  
25 or neglect are coordinated under the regulations promulgated under  
26 Section 11174.

27 (4) Multidisciplinary personnel teams as defined in subdivision  
28 (d) of Section 18951 of the Welfare and Institutions Code.

29 (5) Persons or agencies responsible for the licensing of facilities  
30 which care for children, as specified in Section 11165.7.

31 (6) The State Department of Social Services or any county  
32 licensing agency which has contracted with the state, as specified  
33 in paragraph (4) of subdivision (b) of Section 11170, when an  
34 individual has applied for a community care license or child day  
35 care license, or for employment in an out-of-home care facility,  
36 or when a complaint alleges child abuse or neglect by an operator  
37 or employee of an out-of-home care facility.

38 (7) Hospital scan teams. As used in this paragraph, "hospital  
39 scan team" means a team of three or more persons established by  
40 a hospital, or two or more hospitals in the same county, consisting



1 of health care professionals and representatives of law enforcement  
2 and child protective services, the members of which are engaged  
3 in the identification of child abuse or neglect. The disclosure  
4 authorized by this section includes disclosure among all hospital  
5 scan teams.

6 (8) Coroners and medical examiners when conducting a post  
7 mortem examination of a child.

8 (9) The Board of Parole Hearings, which may subpoena an  
9 employee of a county welfare department who can provide relevant  
10 evidence and reports that both (A) are not unfounded, pursuant to  
11 Section 11165.12, and (B) concern only the current incidents upon  
12 which parole revocation proceedings are pending against a parolee  
13 charged with child abuse or neglect. The reports and information  
14 shall be confidential pursuant to subdivision (d) of Section 11167.

15 (10) Personnel from an agency responsible for making a  
16 placement of a child pursuant to Section 361.3 of, and Article 7  
17 (commencing with Section 305) of Chapter 2 of Part 1 of Division  
18 2 of, the Welfare and Institutions Code.

19 (11) Persons who have been identified by the Department of  
20 Justice as listed in the Child Abuse Central Index pursuant to  
21 paragraph (7) of subdivision (b) of Section 11170 or subdivision  
22 (c) of Section 11170, or persons who have verified with the  
23 Department of Justice that they are listed in the Child Abuse  
24 Central Index as provided in subdivision ~~(f)~~ (g) of Section 11170.  
25 Disclosure under this paragraph is required notwithstanding the  
26 California Public Records Act, Chapter 3.5 (commencing with  
27 Section 6250) of Division 7 of Title 1 of the Government Code.  
28 Nothing in this paragraph shall preclude a submitting agency prior  
29 to disclosure from redacting any information necessary to maintain  
30 confidentiality as required by law.

31 (12) Out-of-state law enforcement agencies conducting an  
32 investigation of child abuse or neglect only when an agency makes  
33 the request for reports of suspected child abuse or neglect in writing  
34 and on official letterhead, or as designated by the Department of  
35 Justice, identifying the suspected abuser or victim by name and  
36 date of birth or approximate age. The request shall be signed by  
37 the department supervisor of the requesting law enforcement  
38 agency. The written request shall cite the out-of-state statute or  
39 interstate compact provision that requires that the information  
40 contained within these reports is to be disclosed only to law

1 enforcement, prosecutorial entities, or multidisciplinary  
2 investigative teams, and shall cite the safeguards in place to prevent  
3 unlawful disclosure provided by the requesting state or the  
4 applicable interstate compact provision.

5 (13) Out-of-state agencies responsible for approving prospective  
6 foster or adoptive parents for placement of a child only when the  
7 agency makes the request in compliance with the Adam Walsh  
8 Child Protection and Safety Act of 2006 (Public Law 109-248).  
9 The request shall also cite the safeguards in place to prevent  
10 unlawful disclosure provided by the requesting state or the  
11 applicable interstate compact provision and indicate that the  
12 requesting state shall maintain continual compliance with the  
13 requirement in paragraph (20) of subdivision (a) of Section 671  
14 of Title 42 of the United States Code that requires the state have  
15 in place safeguards to prevent the unauthorized disclosure of  
16 information in any child abuse and neglect registry maintained by  
17 the state and prevent the information from being used for a purpose  
18 other than the conducting of background checks in foster or  
19 adoptive placement cases.

20 (14) Each chairperson of a county child death review team, or  
21 his or her designee, to whom disclosure of information is permitted  
22 under this article, relating to the death of one or more children and  
23 any prior child abuse or neglect investigation reports maintained  
24 involving the same victim, siblings, or suspects. Local child death  
25 review teams may share any relevant information regarding case  
26 reviews involving child death with other child death review teams.

27 (c) Authorized persons within county health departments shall  
28 be permitted to receive copies of any reports made by health  
29 practitioners, as defined in paragraphs (21) to (28), inclusive, of  
30 subdivision (a) of Section 11165.7, and pursuant to Section  
31 11165.13, and copies of assessments completed pursuant to  
32 Sections 123600 and 123605 of the Health and Safety Code, to  
33 the extent permitted by federal law. Any information received  
34 pursuant to this subdivision is protected by subdivision (e).

35 (d) Nothing in this section requires the Department of Justice  
36 to disclose information contained in records maintained under  
37 Section 11170 or under the regulations promulgated pursuant to  
38 Section 11174, except as otherwise provided in this article.

39 (e) This section shall not be interpreted to allow disclosure of  
40 any reports or records relevant to the reports of child abuse or

1 neglect if the disclosure would be prohibited by any other  
2 provisions of state or federal law applicable to the reports or records  
3 relevant to the reports of child abuse or neglect.

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

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

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

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

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

1 or the licensing agency is handling or investigating a case of known  
2 or suspected child abuse or severe neglect.

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

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

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

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

36 (6) For purposes of child death review, the Department of Justice  
37 shall make available to the chairperson, or the chairperson's  
38 designee, for each county child death review team, or the State  
39 Child Death Review Council, information maintained in the Child  
40 Abuse Central Index pursuant to subdivision (a) of Section 11170

1 relating to the death of one or more children and any prior child  
2 abuse or neglect investigation reports maintained involving the  
3 same victims, siblings, or suspects. Local child death review teams  
4 may share any relevant information regarding case reviews  
5 involving child death with other child death review teams.

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

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

33 (9) The Department of Justice shall make available to a county  
34 child welfare agency or delegated county adoption agency, as  
35 defined in Section 8515 of the Family Code, conducting a  
36 background investigation, or a government agency conducting a  
37 background investigation on behalf of one of those agencies,  
38 information regarding a known or suspected child abuser  
39 maintained pursuant to this section and subdivision (a) of Section  
40 11169 concerning any applicant seeking employment or volunteer

1 status with the agency who, in the course of his or her employment  
2 or volunteer work, will have direct contact with children who are  
3 alleged to have been, are at risk of, or have suffered, abuse or  
4 neglect.

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

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

38 (11) (A) Whenever information contained in the Department  
39 of Justice files is furnished as the result of an application for  
40 employment or licensing or volunteer status pursuant to paragraph

1 (4), (5), (8), or (9), the Department of Justice may charge the person  
2 or entity making the request a fee. The fee shall not exceed the  
3 reasonable costs to the department of providing the information.  
4 The only increase shall be at a rate not to exceed the legislatively  
5 approved cost-of-living adjustment for the department. In no case  
6 shall the fee exceed fifteen dollars (\$15).

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

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

34 (c) The Department of Justice shall make available to any agency  
35 responsible for placing children pursuant to Article 7 (commencing  
36 with Section 305) of Chapter 2 of Part 1 of Division 2 of the  
37 Welfare and Institutions Code, upon request, relevant information  
38 concerning child abuse or neglect reports contained in the index,  
39 when making a placement with a responsible relative pursuant to  
40 Sections 281.5, 305, and 361.3 of the Welfare and Institutions

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

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

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

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



1 foster or adoptive parent. The department shall make that  
2 information available only when the out-of-state agency makes  
3 the request indicating that continual compliance will be maintained  
4 with the requirement in paragraph (20) of subdivision (a) of Section  
5 671 of Title 42 of the United States Code that requires the state to  
6 have in place safeguards to prevent the unauthorized disclosure of  
7 information in any child abuse and neglect registry maintained by  
8 the state and prevent the information from being used for a purpose  
9 other than the conducting of background checks in foster or  
10 adoption placement cases.

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

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

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

32 *(f) The department shall make available to any public health*  
33 *nurse, treating physician or agent thereof, or other health care*  
34 *practitioner who has delivered or treated a newborn infant,*  
35 *information regarding any known or suspected child abuser*  
36 *maintained pursuant to subdivision (a) concerning any parent or*  
37 *primary care provider of the newborn infant. The public health*  
38 *nurse, treating physician or agent thereof, or other health care*  
39 *practitioner is responsible for obtaining the original investigative*  
40 *report from the reporting agency, and for drawing independent*

1 *conclusions regarding the quality of the evidence disclosed and*  
 2 *the sufficiency of the evidence for the purpose of making decisions*  
 3 *when evaluating the necessity for a child welfare risk assessment.*  
 4 *If it is determined that a child welfare risk assessment is*  
 5 *appropriate, the public health nurse, treating physician or agent*  
 6 *thereof, or other health care practitioner shall notify the local*  
 7 *child protective services agency so that a child welfare risk*  
 8 *assessment can be conducted.*

9 ~~(f)~~

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

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

25 ~~(g)~~

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

32 SEC. 4. The Department of Justice shall study the feasibility  
 33 and value of requiring every person who must register pursuant to  
 34 the Sex Offender Registration Act (Chapter 5.5 (commencing with  
 35 Section 290) of Title 9 of Part 1 of the Penal Code) to include in  
 36 the information provided by the person all e-mail addresses and  
 37 instant message addresses, all screen names and online  
 38 pseudonyms, and all Internet protocol addresses he or she uses, or  
 39 intends to use, to communicate over the Internet. The Department  
 40 of Justice study shall include a determination of the value and

- 1 feasibility of incorporating this information in the Violent Crime
- 2 Information Network (VCIN). The Department of Justice shall
- 3 complete and publish its report by December 31, 2011.

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