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

February 19, 2010

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

LEGISLATIVE COUNSEL’S DIGEST

AB 2380, as amended, Bonnie Lowenthal. Child abuse—prevention:
reporting.
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 certainty 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 statements from other individuals.

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.


The people of the State of California do enact as follows:

SECTION 1. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom
the mandated reporter knows or reasonably suspects has been the
victim of child abuse or neglect. The mandated reporter shall make
an initial report to the agency immediately or as soon as is
practically possible by telephone and the mandated reporter shall
prepare and send, fax, or electronically transmit a written followup
report thereof within 36 hours of receiving the information
concerning the incident. The mandated reporter may include with
the report any nonprivileged documentary evidence the mandated
reporter possesses relating to the incident.

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

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

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

(b) If after reasonable efforts a mandated reporter is unable to
submit an initial report by telephone, he or she shall immediately
or as soon as is practically possible, by fax or electronic
transmission, make a one-time automated written report on the
form prescribed by the Department of Justice, and shall also be
available to respond to a telephone followup call by the agency
with which he or she filed the report. A mandated reporter who
files a one-time automated written report because he or she was
unable to submit an initial report by telephone is not required to
submit a written followup report.
(1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.

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

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

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

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

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

(d) (1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential
communication is not subject to subdivision (a). For the purposes
of this subdivision, “penitential communication” means a
communication, intended to be in confidence, including, but not
limited to, a sacramental confession, made to a clergy member
who, in the course of the discipline or practice of his or her church,
denomination, or organization, is authorized or accustomed to hear
those communications, and under the discipline, tenets, customs,
or practices of his or her church, denomination, or organization,
has a duty to keep those communications secret.

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

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

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

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

(e) Any commercial film and photographic print processor who
has knowledge of or observes, within the scope of his or her
professional capacity or employment, any film, photograph,
videotape, negative, or slide depicting a child under the age of 16
years engaged in an act of sexual conduct, shall report the instance
of suspected child abuse to the law enforcement agency having
jurisdiction over the case immediately, or as soon as practicably
possible, by telephone and shall prepare and send, fax, or
electronically transmit a written report of it with a copy of the film,
photograph, videotape, negative, or slide attached within 36 hours
of receiving the information concerning the incident. As used in
this subdivision, “sexual conduct” means any of the following:
(1) Sexual intercourse, including genital-genital, oral-genital,
apal-genital, or oral-anal, whether between persons of the same or
opposite sex or between humans and animals.
(2) Penetration of the vagina or rectum by any object.
(3) Masturbation for the purpose of sexual stimulation of the
viewer.
(4) Sadomasochistic abuse for the purpose of sexual stimulation
of the viewer.
(5) Exhibition of the genitals, pubic, or rectal areas of any person
for the purpose of sexual stimulation of the viewer.
(f) Any mandated reporter who knows or reasonably suspects
that the home or institution in which a child resides is unsuitable
for the child because of abuse or neglect of the child shall bring
the condition to the attention of the agency to which, and at the
same time as, he or she makes a report of the abuse or neglect
pursuant to subdivision (a).
(g) Any other person who has knowledge of or observes a child
whom he or she knows or reasonably suspects has been a victim
of child abuse or neglect may report the known or suspected
instance of child abuse or neglect to an agency specified in Section
11165.9. For purposes of this section, “any other person” includes
a mandated reporter who acts in his or her private capacity and
not in his or her professional capacity or within the scope of his
or her employment.
(h) When two or more persons, who are required to report,
jointly have knowledge of a known or suspected instance of child
abuse or neglect, and when there is agreement among them, the
telephone report may be made by a member of the team selected
by mutual agreement and a single report may be made and signed
by the selected member of the reporting team. Any member who
has knowledge that the member designated to report has failed to
do so shall thereafter make the report.
(i) (1) The reporting duties under this section are individual,
and no supervisor or administrator may impede or inhibit the
reporting duties, and no person making a report shall be subject
to any sanction for making the report. However, internal procedures
to facilitate reporting and apprise supervisors and administrators
of reports may be established provided that they are not inconsistent
with this article.

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

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

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

(k) A law enforcement agency shall immediately, or as soon as
practicably possible, report by telephone, fax, or electronic
transmission to the agency given responsibility for investigation
of cases under Section 300 of the Welfare and Institutions Code
and to the district attorney’s office every known or suspected
instance of child abuse or neglect reported to it, except acts or
omissions coming within subdivision (b) of Section 11165.2, which
shall be reported only to the county welfare or probation
department. A law enforcement agency shall report to the county
welfare or probation department every known or suspected instance
of child abuse or neglect reported to it which is alleged to have
occurred as a result of the action of a person responsible for the child’s welfare, or as the result of the failure of a person responsible for the child’s welfare to adequately protect the minor from abuse when the person responsible for the child’s welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

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

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

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

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

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

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

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

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

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

(7) Hospital scan teams. As used in this paragraph, “hospital
scan team” means a team of three or more persons established by
a hospital, or two or more hospitals in the same county, consisting
of health care professionals and representatives of law enforcement
and child protective services, the members of which are engaged
in the identification of child abuse or neglect. The disclosure
authorized by this section includes disclosure among all hospital
scan teams.

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

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

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

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

(12) Out-of-state law enforcement agencies conducting an
investigation of child abuse or neglect only when an agency makes
the request for reports of suspected child abuse or neglect in writing
and on official letterhead, or as designated by the Department of
Justice, identifying the suspected abuser or victim by name and
(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents for placement of a child only when the agency makes the request in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). The request shall also cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases.

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

(e) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).
Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

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

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

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

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

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

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

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

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

(5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.
(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson’s designee, for each county child death review team, or the State Child Death Review Council, information maintained in the Child Abuse Central Index pursuant to subdivision (a) of Section 11170 relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) The department shall make available to any public health
nurse, treating physician or agent thereof, or other health care
practitioner who has delivered or treated a newborn infant,
information regarding any known or suspected child abuser
maintained pursuant to subdivision (a) concerning any parent or
primary care provider of the newborn infant. The public health
nurse, treating physician or agent thereof, or other health care
practitioner is responsible for obtaining the original investigative
report from the reporting agency, and for drawing independent
conclusions regarding the quality of the evidence disclosed and
the sufficiency of the evidence for the purpose of making decisions
when evaluating the necessity for a child welfare risk assessment.
If it is determined that a child welfare risk assessment is
appropriate, the public health nurse, treating physician or agent
thereof, or other health care practitioner shall notify the local child
protective services agency so that a child welfare risk assessment
can be conducted.

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

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

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

SEC. 4. The Department of Justice shall study the feasibility
and value of requiring every person who must register pursuant to
the Sex Offender Registration Act (Chapter 5.5 (commencing with
Section 290) of Title 9 of Part 1 of the Penal Code) 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 Department of Justice study shall include a determination of the value and feasibility of incorporating this information in the Violent Crime Information Network (VCIN). The Department of Justice shall complete and publish its report by December 31, 2011.