

AMENDED IN ASSEMBLY FEBRUARY 11, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1432

Introduced by Assembly Member Gatto
(Principal coauthor: Assembly Member Bonilla)
(Coauthors: Assembly Members Dababneh and Dickinson)

January 6, 2014

~~An act to add Section 44692 to the Education Code, relating to school employees. An act to repeal and add Section 44691 of the Education Code, and to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1432, as amended, Gatto. ~~School employees: child abuse: reporting.~~ *Mandated child abuse reporting: school employees: training.*

The Child Abuse and Neglect Reporting Act requires a mandated reporter, which includes teachers and other school employees, to report whenever he or she, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law requires the State Department of Education to develop staff development seminars and any other appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect. Existing law requires school districts that do not train their employees in the duties of mandated reporters under the child abuse reporting laws to report to the State Department of Education the reasons why this training is not provided.

This bill would require the State Department of Education, in consultation with the Office of Child Abuse Prevention in the State Department of Social Services, to develop and disseminate information to all school districts, county offices of education, and charter schools, and their school personnel in California, regarding the detection and reporting of child abuse, to provide statewide guidelines on the reporting requirements for child abuse and the responsibilities of mandated reporters, and to develop appropriate means of instructing school personnel in the detection of child abuse and neglect and the proper action that school personnel should take in suspected cases of child abuse and neglect.

The bill would further require school districts, county offices of education, and charter schools to annually train school personnel on the mandated reporting of child abuse and neglect, as specified, and would require these employees to submit proof of completing this training to the applicable governing board or body of the school district, county office of education, or charter school within the first 6 weeks of each school year. By imposing these additional duties on local educational agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law requires the Office of Child Abuse Prevention to develop and disseminate information to all school districts and district school personnel regarding the detection of child abuse. Existing law, the Child Abuse and Neglect Reporting Act, requires mandated reporters, which includes teachers, to make a report if the person has knowledge of or observes a child whom the person knows or reasonably suspects has been the victim of child abuse or neglect.~~

~~This bill would require the Department of Education, in conjunction with the Department of Justice and the Office of Child Abuse Prevention in the State Department of Social Services, to adopt a policy on the reporting requirements for child abuse and the responsibilities of mandated reporters in accordance with the Child Abuse and Neglect~~

Reporting Act. The bill would require school personnel to annually review these mandated reporting requirements using an online format, as specified. The bill would require school personnel to submit proof of completing the review to the applicable governing board or body of this school district, county office of education, or charters school within the first 6 weeks of each school year. By expanding the duties of school districts, county offices of education, and charter schools, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 44691 of the Education Code is repealed.
- 2 44691. The State Office of Child Abuse Prevention shall
- 3 develop and disseminate information to all school districts and
- 4 district school personnel in California regarding the detection of
- 5 child abuse. The information may be disseminated by the use of
- 6 literature, as deemed suitable by the Department of Education.
- 7 Staff development seminars and any other appropriate means of
- 8 instructing school personnel in the detection of child abuse and
- 9 neglect and the proper action that school personnel should take in
- 10 suspected cases of child abuse and neglect, shall be developed by
- 11 the Department of Education.
- 12 SEC. 2. Section 44691 is added to the Education Code, to read:
- 13 44691. (a) The department, in consultation with the Office of
- 14 Child Abuse Prevention in the State Department of Social Services,
- 15 shall do all of the following:
- 16 (1) Develop and disseminate information to all school districts,
- 17 county offices of education, and charter schools, and their school
- 18 personnel in California, regarding the detection and reporting of
- 19 child abuse.

1 (2) Provide statewide guidelines on the reporting requirements
 2 for child abuse and the responsibilities of mandated reporters in
 3 accordance with the Child Abuse and Neglect Reporting Act
 4 (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title
 5 1 of Part 4 of the Penal Code).

6 (3) Develop appropriate means of instructing school personnel
 7 in the detection of child abuse and neglect and the proper action
 8 that school personnel should take in suspected cases of child abuse
 9 and neglect, including, but not limited to, an online training
 10 module.

11 (b) All school personnel of school districts, county offices of
 12 education, and charter schools shall annually receive training
 13 pursuant to this section and subdivision (d) of Section 11165.7 of
 14 the Penal Code on the mandated reporting requirements. Mandated
 15 reporter training shall be provided to school personnel hired
 16 during the course of the school year. This training shall include
 17 information that failure to report an incident of known or
 18 reasonably suspected child abuse or neglect, as required by Section
 19 11166 of the Penal Code, is guilty of a misdemeanor punishable
 20 by up to six months confinement in a county jail, or by a fine of
 21 one thousand dollars (\$1,000), or by both that imprisonment and
 22 fine.

23 (c) All school personnel of school districts, county offices of
 24 education, and charter schools shall submit proof of completing
 25 the mandated reporter training required pursuant to subdivision
 26 (b) to the applicable governing board or body of the school district,
 27 county office of education, or charter school within the first six
 28 weeks of each school year or within six weeks of employment.

29 SEC. 3. Section 11165.7 of the Penal Code is amended to read:

30 11165.7. (a) As used in this article, “mandated reporter” is
 31 defined as any of the following:

- 32 (1) A teacher.
- 33 (2) An instructional aide.
- 34 (3) A teacher’s aide or teacher’s assistant employed by a public
 35 or private school.
- 36 (4) A classified employee of a public school.
- 37 (5) An administrative officer or supervisor of child welfare and
 38 attendance, or a certificated pupil personnel employee of a public
 39 or private school.
- 40 (6) An administrator of a public or private day camp.

- 1 (7) An administrator or employee of a public or private youth
2 center, youth recreation program, or youth organization.
- 3 (8) An administrator or employee of a public or private
4 organization whose duties require direct contact and supervision
5 of children.
- 6 (9) An employee of a county office of education or the State
7 Department of Education whose duties bring the employee into
8 contact with children on a regular basis.
- 9 (10) A licensee, an administrator, or an employee of a licensed
10 community care or child day care facility.
- 11 (11) A Head Start program teacher.
- 12 (12) A licensing worker or licensing evaluator employed by a
13 licensing agency, as defined in Section 11165.11.
- 14 (13) A public assistance worker.
- 15 (14) An employee of a child care institution, including, but not
16 limited to, foster parents, group home personnel, and personnel of
17 residential care facilities.
- 18 (15) A social worker, probation officer, or parole officer.
- 19 (16) An employee of a school district police or security
20 department.
- 21 (17) A person who is an administrator or presenter of, or a
22 counselor in, a child abuse prevention program in a public or
23 private school.
- 24 (18) A district attorney investigator, inspector, or local child
25 support agency caseworker, unless the investigator, inspector, or
26 caseworker is working with an attorney appointed pursuant to
27 Section 317 of the Welfare and Institutions Code to represent a
28 minor.
- 29 (19) A peace officer, as defined in Chapter 4.5 (commencing
30 with Section 830) of Title 3 of Part 2, who is not otherwise
31 described in this section.
- 32 (20) A firefighter, except for volunteer firefighters.
- 33 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
34 resident, intern, podiatrist, chiropractor, licensed nurse, dental
35 hygienist, optometrist, marriage and family therapist, clinical social
36 worker, professional clinical counselor, or any other person who
37 is currently licensed under Division 2 (commencing with Section
38 500) of the Business and Professions Code.

- 1 (22) An emergency medical technician I or II, paramedic, or
2 other person certified pursuant to Division 2.5 (commencing with
3 Section 1797) of the Health and Safety Code.
- 4 (23) A psychological assistant registered pursuant to Section
5 2913 of the Business and Professions Code.
- 6 (24) A marriage and family therapist trainee, as defined in
7 subdivision (c) of Section 4980.03 of the Business and Professions
8 Code.
- 9 (25) An unlicensed marriage and family therapist intern
10 registered under Section 4980.44 of the Business and Professions
11 Code.
- 12 (26) A state or county public health employee who treats a minor
13 for venereal disease or any other condition.
- 14 (27) A coroner.
- 15 (28) A medical examiner or other person who performs
16 autopsies.
- 17 (29) A commercial film and photographic print or image
18 processor as specified in subdivision (e) of Section 11166. As used
19 in this article, “commercial film and photographic print or image
20 processor” means a person who develops exposed photographic
21 film into negatives, slides, or prints, or who makes prints from
22 negatives or slides, or who prepares, publishes, produces, develops,
23 duplicates, or prints any representation of information, data, or an
24 image, including, but not limited to, any film, filmstrip, photograph,
25 negative, slide, photocopy, videotape, video laser disc, computer
26 hardware, computer software, computer floppy disk, data storage
27 medium, CD-ROM, computer-generated equipment, or
28 computer-generated image, for compensation. The term includes
29 any employee of that person; it does not include a person who
30 develops film or makes prints or images for a public agency.
- 31 (30) A child visitation monitor. As used in this article, “child
32 visitation monitor” means a person who, for financial
33 compensation, acts as a monitor of a visit between a child and
34 another person when the monitoring of that visit has been ordered
35 by a court of law.
- 36 (31) An animal control officer or humane society officer. For
37 the purposes of this article, the following terms have the following
38 meanings:

1 (A) “Animal control officer” means a person employed by a
2 city, county, or city and county for the purpose of enforcing animal
3 control laws or regulations.

4 (B) “Humane society officer” means a person appointed or
5 employed by a public or private entity as a humane officer who is
6 qualified pursuant to Section 14502 or 14503 of the Corporations
7 Code.

8 (32) A clergy member, as specified in subdivision (d) of Section
9 11166. As used in this article, “clergy member” means a priest,
10 minister, rabbi, religious practitioner, or similar functionary of a
11 church, temple, or recognized denomination or organization.

12 (33) Any custodian of records of a clergy member, as specified
13 in this section and subdivision (d) of Section 11166.

14 (34) An employee of any police department, county sheriff’s
15 department, county probation department, or county welfare
16 department.

17 (35) An employee or volunteer of a Court Appointed Special
18 Advocate program, as defined in Rule 5.655 of the California Rules
19 of Court.

20 (36) A custodial officer, as defined in Section 831.5.

21 (37) A person providing services to a minor child under Section
22 12300 or 12300.1 of the Welfare and Institutions Code.

23 (38) An alcohol and drug counselor. As used in this article, an
24 “alcohol and drug counselor” is a person providing counseling,
25 therapy, or other clinical services for a state licensed or certified
26 drug, alcohol, or drug and alcohol treatment program. However,
27 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
28 and of itself, a sufficient basis for reporting child abuse or neglect.

29 (39) A clinical counselor trainee, as defined in subdivision (g)
30 of Section 4999.12 of the Business and Professions Code.

31 (40) A clinical counselor intern registered under Section 4999.42
32 of the Business and Professions Code.

33 (41) An employee or administrator of a public or private
34 postsecondary *educational* institution, whose duties bring the
35 administrator or employee into contact with children on a regular
36 basis, or who supervises those whose duties bring the administrator
37 or employee into contact with children on a regular basis, as to
38 child abuse or neglect occurring on that institution’s premises or
39 at an official activity of, or program conducted by, the institution.
40 Nothing in this paragraph shall be construed as altering the

1 lawyer-client privilege as set forth in Article 3 (commencing with
2 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

3 (42) An athletic coach, athletic administrator, or athletic director
4 employed by any public or private school that provides any
5 combination of instruction for kindergarten, or grades 1 to 12,
6 inclusive.

7 (43) (A) A commercial computer technician as specified in
8 subdivision (e) of Section 11166. As used in this article,
9 “commercial computer technician” means a person who works for
10 a company that is in the business of repairing, installing, or
11 otherwise servicing a computer or computer component, including,
12 but not limited to, a computer part, device, memory storage or
13 recording mechanism, auxiliary storage recording or memory
14 capacity, or any other material relating to the operation and
15 maintenance of a computer or computer network system, for a fee.
16 An employer who provides an electronic communications service
17 or a remote computing service to the public shall be deemed to
18 comply with this article if that employer complies with Section
19 2258A of Title 18 of the United States Code.

20 (B) An employer of a commercial computer technician may
21 implement internal procedures for facilitating reporting consistent
22 with this article. These procedures may direct employees who are
23 mandated reporters under this paragraph to report materials
24 described in subdivision (e) of Section 11166 to an employee who
25 is designated by the employer to receive the reports. An employee
26 who is designated to receive reports under this subparagraph shall
27 be a commercial computer technician for purposes of this article.
28 A commercial computer technician who makes a report to the
29 designated employee pursuant to this subparagraph shall be deemed
30 to have complied with the requirements of this article and shall be
31 subject to the protections afforded to mandated reporters, including,
32 but not limited to, those protections afforded by Section 11172.

33 (44) Any athletic coach, including, but not limited to, an
34 assistant coach or a graduate assistant involved in coaching, at
35 public or private postsecondary *educational* institutions.

36 (b) Except as provided in paragraph (35) of subdivision (a),
37 volunteers of public or private organizations whose duties require
38 direct contact with and supervision of children are not mandated
39 reporters but are encouraged to obtain training in the identification
40 and reporting of child abuse and neglect and are further encouraged

1 to report known or suspected instances of child abuse or neglect
2 to an agency specified in Section 11165.9.

3 (c) Employers are strongly encouraged to provide their
4 employees who are mandated reporters with training in the duties
5 imposed by this article. This training shall include training in child
6 abuse and neglect identification and training in child abuse and
7 neglect reporting. Whether or not employers provide their
8 employees with training in child abuse and neglect identification
9 and reporting, the employers shall provide their employees who
10 are mandated reporters with the statement required pursuant to
11 subdivision (a) of Section 11166.5.

12 (d) ~~School districts that do not~~ *districts, county offices of*
13 *education, and charter schools shall annually train their employees*
14 *specified in subdivision (a) in the duties of mandated reporters*
15 *under the child abuse reporting laws shall report to the State*
16 *Department of Education the reasons why this training is not*
17 *provided. The training shall include, but not necessarily be limited*
18 *to, training in child abuse and neglect identification and child*
19 *abuse and neglect reporting pursuant to Section 44691 of the*
20 *Education Code.*

21 (e) *School districts, county offices of education, and charter*
22 *schools that do not train their employees specified in subdivision*
23 *(a) in the duties of mandated reporters under the child abuse*
24 *reporting laws shall report to the State Department of Education*
25 *the reasons why this training is not provided.*

26 (e)

27 (f) Unless otherwise specifically provided, the absence of
28 training shall not excuse a mandated reporter from the duties
29 imposed by this article.

30 (f)

31 (g) Public and private organizations are encouraged to provide
32 their volunteers whose duties require direct contact with and
33 supervision of children with training in the identification and
34 reporting of child abuse and neglect.

35 *SEC. 4. If the Commission on State Mandates determines that*
36 *this act contains costs mandated by the state, reimbursement to*
37 *local agencies and school districts for those costs shall be made*
38 *pursuant to Part 7 (commencing with Section 17500) of Division*
39 *4 of Title 2 of the Government Code.*

1 SECTION 1. ~~Section 44692 is added to the Education Code, to~~
2 ~~read:~~
3 ~~44692. (a) The Department of Education shall, in consultation~~
4 ~~with the Department of Justice and the Office of Child Abuse~~
5 ~~Prevention in the State Department of Social Services, adopt a~~
6 ~~policy on the reporting requirements for child abuse and the~~
7 ~~responsibilities of mandated reporters in accordance with the Child~~
8 ~~Abuse and Neglect Reporting Act (Article 2.5 (commencing with~~
9 ~~Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code).~~
10 ~~(b) All school personnel shall annually review the mandated~~
11 ~~reporting requirements described in subdivision (a) by using an~~
12 ~~online format established by the Department of Education.~~
13 ~~(c) All school personnel shall submit proof of completing the~~
14 ~~review required pursuant to subdivision (b) to the applicable~~
15 ~~governing board or body of the school district, county office of~~
16 ~~education, or charter school within the first six weeks of each~~
17 ~~school year.~~
18 ~~SEC. 2. If the Commission on State Mandates determines that~~
19 ~~this act contains costs mandated by the state, reimbursement to~~
20 ~~local agencies and school districts for those costs shall be made~~
21 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
22 ~~4 of Title 2 of the Government Code.~~