

AMENDED IN ASSEMBLY MAY 7, 2014
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 *repeal Section 44690 of, and 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. 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, *state special schools and diagnostic centers operated by the State Department 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, *state special schools and diagnostic centers operated by the State Department of Education*, and charter schools to annually train ~~school personnel, as appropriate, employees and persons working on their behalf who are mandated reporters on the mandated reporting of child abuse and neglect,~~ requirements, 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, *state special school and diagnostic center*, or charter school within the first 6 weeks of each school year *or within 6 weeks of employment*. 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.

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 44690 of the Education Code is repealed.*

1 44690. “School personnel” means all persons who work directly
2 and on a regular basis with pupils, including teachers,
3 administrators, pupil service employees defined in subdivision (e)
4 of Section 33150, paraprofessionals and volunteers.

5 SECTION 1.

6 SEC. 2. Section 44691 of the Education Code is repealed.

7 ~~SEC. 2.~~

8 SEC. 3. Section 44691 is added to the Education Code, to read:

9 44691. (a) The department, in consultation with the Office of
10 Child Abuse Prevention in the State Department of Social Services,
11 shall do all of the following:

12 (1) Develop and disseminate information to all school districts,
13 county offices of education, *state special schools and diagnostic*
14 *centers operated by the department*, and charter schools, and their
15 school personnel in California, regarding the detection and
16 reporting of child abuse.

17 (2) Provide statewide guidelines on the ~~reporting requirements~~
18 ~~for child abuse and the~~ responsibilities of mandated reporters in
19 accordance with the Child Abuse and Neglect Reporting Act
20 (Article 2.5 (commencing with Section 11164) of Chapter 2 of
21 Title 1 of Part 4 of the Penal Code). *These guidelines shall include,*
22 *but not necessarily be limited to, both of the following:*

23 (A) *Identification of child abuse and neglect.*

24 (B) *Reporting requirements for child abuse and neglect.*

25 (3) Develop appropriate means of instructing school personnel
26 in the detection of child abuse and neglect and the proper action
27 that school personnel should take in suspected cases of child abuse
28 and neglect, including, but not limited to, an online training
29 module.

30 (b) ~~All school personnel of school~~ School districts, county
31 offices of education, *state special schools and diagnostic centers*
32 *operated by the department*, and charter schools shall annually
33 ~~receive provide~~ training, *as appropriate, to their employees and*
34 *persons working on their behalf who are mandated reporters as*
35 *defined in Section 11165.7 of the Penal Code*, pursuant to this
36 section and subdivision (d) of Section 11165.7 of the Penal Code
37 on the mandated reporting requirements. Mandated reporter training
38 shall be provided to school personnel hired during the course of
39 the school year. This training shall include information that failure
40 to report an incident of known or reasonably suspected child abuse

1 or neglect, as required by Section 11166 of the Penal Code, is
2 guilty of a misdemeanor punishable by up to six months
3 confinement in a county jail, or by a fine of one thousand dollars
4 (\$1,000), or by both that imprisonment and fine.

5 ~~(c) All school personnel of school districts, county offices of~~
6 ~~education, and charter schools~~ *persons required to receive training*
7 *pursuant to subdivision (b)* shall submit proof of completing the
8 mandated reporter training required pursuant to subdivision (b) to
9 the applicable governing board or body of the school district,
10 county office of education, *state special school and diagnostic*
11 *center*, or charter school within the first six weeks of each school
12 year or within six weeks of employment.

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 11165.7 of the Penal Code is amended to read:

15 11165.7. (a) As used in this article, “mandated reporter” is
16 defined as any of the following:

- 17 (1) A teacher.
- 18 (2) An instructional aide.
- 19 (3) A teacher’s aide or teacher’s assistant employed by a public
20 or private school.
- 21 (4) A classified employee of a public school.
- 22 (5) An administrative officer or supervisor of child welfare and
23 attendance, or a certificated pupil personnel employee of a public
24 or private school.
- 25 (6) An administrator of a public or private day camp.
- 26 (7) An administrator or employee of a public or private youth
27 center, youth recreation program, or youth organization.
- 28 (8) An administrator or employee of a public or private
29 organization whose duties require direct contact and supervision
30 of children.
- 31 (9) An employee of a county office of education or the State
32 Department of Education whose duties bring the employee into
33 contact with children on a regular basis.
- 34 (10) A licensee, an administrator, or an employee of a licensed
35 community care or child day care facility.
- 36 (11) A Head Start program teacher.
- 37 (12) A licensing worker or licensing evaluator employed by a
38 licensing agency, as defined in Section 11165.11.
- 39 (13) A public assistance worker.

- 1 (14) An employee of a child care institution, including, but not
2 limited to, foster parents, group home personnel, and personnel of
3 residential care facilities.
- 4 (15) A social worker, probation officer, or parole officer.
- 5 (16) An employee of a school district police or security
6 department.
- 7 (17) A person who is an administrator or presenter of, or a
8 counselor in, a child abuse prevention program in a public or
9 private school.
- 10 (18) A district attorney investigator, inspector, or local child
11 support agency caseworker, unless the investigator, inspector, or
12 caseworker is working with an attorney appointed pursuant to
13 Section 317 of the Welfare and Institutions Code to represent a
14 minor.
- 15 (19) A peace officer, as defined in Chapter 4.5 (commencing
16 with Section 830) of Title 3 of Part 2, who is not otherwise
17 described in this section.
- 18 (20) A firefighter, except for volunteer firefighters.
- 19 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
20 resident, intern, podiatrist, chiropractor, licensed nurse, dental
21 hygienist, optometrist, marriage and family therapist, clinical social
22 worker, professional clinical counselor, or any other person who
23 is currently licensed under Division 2 (commencing with Section
24 500) of the Business and Professions Code.
- 25 (22) An emergency medical technician I or II, paramedic, or
26 other person certified pursuant to Division 2.5 (commencing with
27 Section 1797) of the Health and Safety Code.
- 28 (23) A psychological assistant registered pursuant to Section
29 2913 of the Business and Professions Code.
- 30 (24) A marriage and family therapist trainee, as defined in
31 subdivision (c) of Section 4980.03 of the Business and Professions
32 Code.
- 33 (25) An unlicensed marriage and family therapist intern
34 registered under Section 4980.44 of the Business and Professions
35 Code.
- 36 (26) A state or county public health employee who treats a minor
37 for venereal disease or any other condition.
- 38 (27) A coroner.
- 39 (28) A medical examiner or other person who performs
40 autopsies.

1 (29) A commercial film and photographic print or image
2 processor as specified in subdivision (e) of Section 11166. As used
3 in this article, “commercial film and photographic print or image
4 processor” means a person who develops exposed photographic
5 film into negatives, slides, or prints, or who makes prints from
6 negatives or slides, or who prepares, publishes, produces, develops,
7 duplicates, or prints any representation of information, data, or an
8 image, including, but not limited to, any film, filmstrip, photograph,
9 negative, slide, photocopy, videotape, video laser disc, computer
10 hardware, computer software, computer floppy disk, data storage
11 medium, CD-ROM, computer-generated equipment, or
12 computer-generated image, for compensation. The term includes
13 any employee of that person; it does not include a person who
14 develops film or makes prints or images for a public agency.

15 (30) A child visitation monitor. As used in this article, “child
16 visitation monitor” means a person who, for financial
17 compensation, acts as a monitor of a visit between a child and
18 another person when the monitoring of that visit has been ordered
19 by a court of law.

20 (31) An animal control officer or humane society officer. For
21 the purposes of this article, the following terms have the following
22 meanings:

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

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

30 (32) A clergy member, as specified in subdivision (d) of Section
31 11166. As used in this article, “clergy member” means a priest,
32 minister, rabbi, religious practitioner, or similar functionary of a
33 church, temple, or recognized denomination or organization.

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

36 (34) An employee of any police department, county sheriff’s
37 department, county probation department, or county welfare
38 department.

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

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

5 (37) A person providing services to a minor child under Section
6 12300 or 12300.1 of the Welfare and Institutions Code.

7 (38) An alcohol and drug counselor. As used in this article, an
8 “alcohol and drug counselor” is a person providing counseling,
9 therapy, or other clinical services for a state licensed or certified
10 drug, alcohol, or drug and alcohol treatment program. However,
11 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
12 and of itself, a sufficient basis for reporting child abuse or neglect.

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

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

17 (41) An employee or administrator of a public or private
18 postsecondary educational institution, whose duties bring the
19 administrator or employee into contact with children on a regular
20 basis, or who supervises those whose duties bring the administrator
21 or employee into contact with children on a regular basis, as to
22 child abuse or neglect occurring on that institution’s premises or
23 at an official activity of, or program conducted by, the institution.
24 Nothing in this paragraph shall be construed as altering the
25 lawyer-client privilege as set forth in Article 3 (commencing with
26 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

27 (42) An athletic coach, athletic administrator, or athletic director
28 employed by any public or private school that provides any
29 combination of instruction for kindergarten, or grades 1 to 12,
30 inclusive.

31 (43) (A) A commercial computer technician as specified in
32 subdivision (e) of Section 11166. As used in this article,
33 “commercial computer technician” means a person who works for
34 a company that is in the business of repairing, installing, or
35 otherwise servicing a computer or computer component, including,
36 but not limited to, a computer part, device, memory storage or
37 recording mechanism, auxiliary storage recording or memory
38 capacity, or any other material relating to the operation and
39 maintenance of a computer or computer network system, for a fee.
40 An employer who provides an electronic communications service

1 or a remote computing service to the public shall be deemed to
2 comply with this article if that employer complies with Section
3 2258A of Title 18 of the United States Code.

4 (B) An employer of a commercial computer technician may
5 implement internal procedures for facilitating reporting consistent
6 with this article. These procedures may direct employees who are
7 mandated reporters under this paragraph to report materials
8 described in subdivision (e) of Section 11166 to an employee who
9 is designated by the employer to receive the reports. An employee
10 who is designated to receive reports under this subparagraph shall
11 be a commercial computer technician for purposes of this article.
12 A commercial computer technician who makes a report to the
13 designated employee pursuant to this subparagraph shall be deemed
14 to have complied with the requirements of this article and shall be
15 subject to the protections afforded to mandated reporters, including,
16 but not limited to, those protections afforded by Section 11172.

17 (44) Any athletic coach, including, but not limited to, an
18 assistant coach or a graduate assistant involved in coaching, at
19 public or private postsecondary educational institutions.

20 (b) Except as provided in paragraph (35) of subdivision (a),
21 volunteers of public or private organizations whose duties require
22 direct contact with and supervision of children are not mandated
23 reporters but are encouraged to obtain training in the identification
24 and reporting of child abuse and neglect and are further encouraged
25 to report known or suspected instances of child abuse or neglect
26 to an agency specified in Section 11165.9.

27 (c) ~~Employers~~ *Except as provided in subdivision (d), employers*
28 are strongly encouraged to provide their employees who are
29 mandated reporters with training in the duties imposed by this
30 article. This training shall include training in child abuse and
31 neglect identification and training in child abuse and neglect
32 reporting. Whether or not employers provide their employees with
33 training in child abuse and neglect identification and reporting,
34 the employers shall provide their employees who are mandated
35 reporters with the statement required pursuant to subdivision (a)
36 of Section 11166.5.

37 (d) ~~School~~ *Pursuant to Section 44691 of the Education Code,*
38 *school districts, county offices of education, state special schools*
39 *and diagnostic centers operated by the State Department of*
40 *Education, and charter schools shall annually train their employees*

1 *and persons working on their behalf* specified in subdivision (a)
2 in the duties of mandated reporters under the child abuse reporting
3 laws. The training shall include, but not necessarily be limited to,
4 training in child abuse and neglect identification and child abuse
5 and neglect reporting pursuant to Section 44691 of the Education
6 Code. *reporting.*

7 ~~(e) School districts, county offices of education, and charter~~
8 ~~schools that do not train their employees specified in subdivision~~
9 ~~(a) in the duties of mandated reporters under the child abuse~~
10 ~~reporting laws shall report to the State Department of Education~~
11 ~~the reasons why this training is not provided.~~

12 ~~(f)~~
13 (e) Unless otherwise specifically provided, the absence of
14 training shall not excuse a mandated reporter from the duties
15 imposed by this article.

16 ~~(g)~~
17 (f) Public and private organizations are encouraged to provide
18 their volunteers whose duties require direct contact with and
19 supervision of children with training in the identification and
20 reporting of child abuse and neglect.

21 ~~SEC. 4.~~
22 SEC. 5. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.