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AMENDED IN ASSEMBLY MAY 23, 2014
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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1432

Introduced by Assembly Member Gatto
(Principal coauthor: Assembly Member Bonilla)
(Coauthors: Assembly Members Campos, Dababneh, and
Dickinson)
(Coauthor: Senator Cannella)

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~~ *guidance* on 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, including, but not limited to, an online training module *to be provided by the State Department of Social Services*.

The bill would require school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools to do both of the following: (1) annually train, using the online training module provided by the ~~department, State Department of Social Services, or providing different~~ *other* training, as specified, employees and persons working on their behalf who are mandated reporters on the mandated reporting requirements, as specified; and (2) develop a process for all persons required to receive training under the bill to provide proof of completing this training within the first 6 weeks of each school year or within 6 weeks of that person's 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.
- 2 SEC. 2. Section 44691 of the Education Code is repealed.
- 3 SEC. 3. Section 44691 is added to the Education Code, to read:
- 4 44691. (a) ~~The department,~~ *State Department of Education,*
- 5 *in consultation with the Office of Child Abuse Prevention in the*
- 6 *State Department of Social Services, shall do all of the following:*
- 7 (1) Develop and disseminate information to all school districts,
- 8 county offices of education, state special schools and diagnostic
- 9 centers operated by the ~~department,~~ *State Department of Education,*
- 10 *and charter schools, and their school personnel in California,*
- 11 *regarding the detection and reporting of child abuse.*
- 12 (2) Provide statewide ~~guidelines~~ *guidance* on the responsibilities
- 13 of mandated reporters *who are school personnel* in accordance
- 14 with the Child Abuse and Neglect Reporting Act (Article 2.5
- 15 (commencing with Section 11164) of Chapter 2 of Title 1 of Part
- 16 4 of the Penal Code). ~~These guidelines~~ *This guidance* shall include,
- 17 but not necessarily be limited to, both of the following:
- 18 (A) ~~Identification—~~ *Information on the identification* of child
- 19 abuse and neglect.
- 20 (B) Reporting requirements for child abuse and neglect.
- 21 (3) Develop appropriate means of instructing school personnel
- 22 in the detection of child abuse and neglect and the proper action
- 23 that school personnel should take in suspected cases of child abuse
- 24 and neglect, including, but not limited to, an online training module
- 25 *to be provided by the State Department of Social Services.*
- 26 (b) School districts, county offices of education, state special
- 27 schools and diagnostic centers operated by the ~~department,~~ *State*
- 28 *Department of Education,* and charter schools shall do both of the
- 29 following:
- 30 (1) Except as provided in subdivision (c), provide annual
- 31 training, using the online training module provided by the
- 32 ~~department,~~ *State Department of Social Services,* to their employees
- 33 and persons working on their behalf who are mandated reporters,
- 34 as defined in Section 11165.7 of the Penal Code, pursuant to this
- 35 section and subdivision (d) of Section 11165.7 of the Penal Code

1 on the mandated reporting requirements. Mandated reporter training
 2 shall be provided to school personnel hired during the course of
 3 the school year. This training shall include information that failure
 4 to report an incident of known or reasonably suspected child abuse
 5 or neglect, as required by Section 11166 of the Penal Code, is
 6 ~~guilty~~ of a misdemeanor punishable by up to six months
 7 confinement in a county jail, or by a fine of one thousand dollars
 8 (\$1,000), or by both that imprisonment and fine.

9 (2) Develop a process for all persons required to receive training
 10 pursuant to this section to provide proof of completing the training
 11 within the first six weeks of each school year or within the first
 12 six weeks of that person’s employment. The process developed
 13 under this paragraph may include, but not necessarily be limited
 14 to, the use of a sign-in sheet or the submission of a certificate of
 15 completion to the applicable governing board or body of the school
 16 district, county office of education, state special school and
 17 diagnostic center, or charter school.

18 (c) School districts, county offices of education, state special
 19 schools and diagnostic centers operated by the ~~department~~, *State*
 20 *Department of Education*, and charter schools that do not use the
 21 online training module provided by the ~~department~~ *State*
 22 *Department of Social Services* shall report to the ~~department~~ *State*
 23 *Department of Education* the training being used in its place.

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

25 11165.7. (a) As used in this article, “mandated reporter” is
 26 defined as any of the following:

- 27 (1) A teacher.
- 28 (2) An instructional aide.
- 29 (3) A teacher’s aide or teacher’s assistant employed by a public
 30 or private school.
- 31 (4) A classified employee of a public school.
- 32 (5) An administrative officer or supervisor of child welfare and
 33 attendance, or a certificated pupil personnel employee of a public
 34 or private school.
- 35 (6) An administrator of a public or private day camp.
- 36 (7) An administrator or employee of a public or private youth
 37 center, youth recreation program, or youth organization.
- 38 (8) An administrator or employee of a public or private
 39 organization whose duties require direct contact and supervision
 40 of children.

- 1 (9) An employee of a county office of education or the State
2 Department of Education whose duties bring the employee into
3 contact with children on a regular basis.
- 4 (10) A licensee, an administrator, or an employee of a licensed
5 community care or child day care facility.
- 6 (11) A Head Start program teacher.
- 7 (12) A licensing worker or licensing evaluator employed by a
8 licensing agency, as defined in Section 11165.11.
- 9 (13) A public assistance worker.
- 10 (14) An employee of a child care institution, including, but not
11 limited to, foster parents, group home personnel, and personnel of
12 residential care facilities.
- 13 (15) A social worker, probation officer, or parole officer.
- 14 (16) An employee of a school district police or security
15 department.
- 16 (17) A person who is an administrator or presenter of, or a
17 counselor in, a child abuse prevention program in a public or
18 private school.
- 19 (18) A district attorney investigator, inspector, or local child
20 support agency caseworker, unless the investigator, inspector, or
21 caseworker is working with an attorney appointed pursuant to
22 Section 317 of the Welfare and Institutions Code to represent a
23 minor.
- 24 (19) A peace officer, as defined in Chapter 4.5 (commencing
25 with Section 830) of Title 3 of Part 2, who is not otherwise
26 described in this section.
- 27 (20) A firefighter, except for volunteer firefighters.
- 28 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
29 resident, intern, podiatrist, chiropractor, licensed nurse, dental
30 hygienist, optometrist, marriage and family therapist, clinical social
31 worker, professional clinical counselor, or any other person who
32 is currently licensed under Division 2 (commencing with Section
33 500) of the Business and Professions Code.
- 34 (22) An emergency medical technician I or II, paramedic, or
35 other person certified pursuant to Division 2.5 (commencing with
36 Section 1797) of the Health and Safety Code.
- 37 (23) A psychological assistant registered pursuant to Section
38 2913 of the Business and Professions Code.

1 (24) A marriage and family therapist trainee, as defined in
2 subdivision (c) of Section 4980.03 of the Business and Professions
3 Code.

4 (25) An unlicensed marriage and family therapist intern
5 registered under Section 4980.44 of the Business and Professions
6 Code.

7 (26) A state or county public health employee who treats a minor
8 for venereal disease or any other condition.

9 (27) A coroner.

10 (28) A medical examiner or other person who performs
11 autopsies.

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

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

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

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

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

- 1 (32) A clergy member, as specified in subdivision (d) of Section
2 11166. As used in this article, “clergy member” means a priest,
3 minister, rabbi, religious practitioner, or similar functionary of a
4 church, temple, or recognized denomination or organization.
- 5 (33) Any custodian of records of a clergy member, as specified
6 in this section and subdivision (d) of Section 11166.
- 7 (34) An employee of any police department, county sheriff’s
8 department, county probation department, or county welfare
9 department.
- 10 (35) An employee or volunteer of a Court Appointed Special
11 Advocate program, as defined in Rule 5.655 of the California Rules
12 of Court.
- 13 (36) A custodial officer, as defined in Section 831.5.
- 14 (37) A person providing services to a minor child under Section
15 12300 or 12300.1 of the Welfare and Institutions Code.
- 16 (38) An alcohol and drug counselor. As used in this article, an
17 “alcohol and drug counselor” is a person providing counseling,
18 therapy, or other clinical services for a state licensed or certified
19 drug, alcohol, or drug and alcohol treatment program. However,
20 alcohol or drug abuse, or both alcohol and drug abuse, is not, in
21 and of itself, a sufficient basis for reporting child abuse or neglect.
- 22 (39) A clinical counselor trainee, as defined in subdivision (g)
23 of Section 4999.12 of the Business and Professions Code.
- 24 (40) A clinical counselor intern registered under Section 4999.42
25 of the Business and Professions Code.
- 26 (41) An employee or administrator of a public or private
27 postsecondary educational institution, whose duties bring the
28 administrator or employee into contact with children on a regular
29 basis, or who supervises those whose duties bring the administrator
30 or employee into contact with children on a regular basis, as to
31 child abuse or neglect occurring on that institution’s premises or
32 at an official activity of, or program conducted by, the institution.
33 Nothing in this paragraph shall be construed as altering the
34 lawyer-client privilege as set forth in Article 3 (commencing with
35 Section 950) of Chapter 4 of Division 8 of the Evidence Code.
- 36 (42) An athletic coach, athletic administrator, or athletic director
37 employed by any public or private school that provides any
38 combination of instruction for kindergarten, or grades 1 to 12,
39 inclusive.

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

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

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

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

37 (c) Except as provided in subdivision (d), employers are strongly
 38 encouraged to provide their employees who are mandated reporters
 39 with training in the duties imposed by this article. This training
 40 shall include training in child abuse and neglect identification and

1 training in child abuse and neglect reporting. Whether or not
2 employers provide their employees with training in child abuse
3 and neglect identification and reporting, the employers shall
4 provide their employees who are mandated reporters with the
5 statement required pursuant to subdivision (a) of Section 11166.5.

6 (d) Pursuant to Section 44691 of the Education Code, school
7 districts, county offices of education, state special schools and
8 diagnostic centers operated by the State Department of Education,
9 and charter schools shall annually train their employees and persons
10 working on their behalf specified in subdivision (a) in the duties
11 of mandated reporters under the child abuse reporting laws. The
12 training shall include, but not necessarily be limited to, training in
13 child abuse and neglect identification and child abuse and neglect
14 reporting.

15 (e) Unless otherwise specifically provided, the absence of
16 training shall not excuse a mandated reporter from the duties
17 imposed by this article.

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

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.