

AMENDED IN ASSEMBLY MARCH 20, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1505

Introduced by Assembly Member Garcia

January 14, 2014

An act to amend Section 11165.1 of the Penal Code, relating to mandated reporters.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, Garcia. Child abuse: mandated reporters.

Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, 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 observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect, *including sexual abuse*.

Under existing law, sexual abuse is reportable if it involves unlawful sexual intercourse between a person 21 years of age or older with a minor who is under 16 years of age. Existing law makes sexual abuse reportable if any person participates in an act of sodomy or oral copulation with a person who is under 18 years of age.

This bill would instead make instances of sodomy or oral copulation reportable as sexual abuse only if any person over 21 years of age participates in an act of sodomy or oral copulation with a person who is under 16 years of age.

~~This bill would state that it is the intent of the Legislature to enact legislation to provide greater consistency among the kinds of abuse and neglect that must be reported pursuant to the Child Abuse and Neglect Reporting Act.~~

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

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

1 SECTION 1. Section 11165.1 of the Penal Code is amended
2 to read:

3 11165.1. As used in this article, “sexual abuse” means sexual
4 assault or sexual exploitation as defined by the following:

5 ~~(a) “Sexual~~

6 (a) (1) Except as specified in paragraph (2), “sexual assault”
7 means conduct in violation of one or more of the following
8 sections: Section 261 (rape), subdivision (d) of Section 261.5
9 (statutory rape), 264.1 (rape in concert), 285 (incest), 286
10 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision
11 (c) of Section 288 (lewd or lascivious acts upon a child), 288a
12 (oral copulation), 289 (sexual penetration), or 647.6 (child
13 molestation).

14 (2) For purposes of this article, “sexual assault” does not
15 include conduct in violation of the following:

16 (A) Paragraph (1) of subdivision (b) of Section 286 unless it
17 meets the criteria specified in paragraph (2) of subdivision (b) of
18 Section 286.

19 (B) Paragraph (1) of subdivision (b) of Section 288a unless it
20 satisfies the criteria specified in paragraph (2) of subdivision (b)
21 of Section 288a.

22 (b) Conduct described as “sexual assault” includes, but is not
23 limited to, all of the following:

24 (1) ~~Any penetration,~~ Penetration, however slight, of the vagina
25 or anal opening of one person by the penis of another person,
26 whether or not there is the emission of semen.

27 (2) ~~Any sexual~~ Sexual contact between the genitals or anal
28 opening of one person and the mouth or tongue of another person.

29 (3) ~~Any intrusion~~ Intrusion by one person into the genitals or
30 anal opening of another person, including the use of ~~any~~ an object
31 for this purpose, except that, it does not include acts performed
32 for a valid medical purpose.

33 (4) The intentional touching of the genitals or intimate parts
34 ~~(including,~~ including the breasts, genital area, groin, inner thighs,
35 ~~and buttocks)~~ buttocks, or the clothing covering them, of a child,

1 or of the perpetrator by a child, for purposes of sexual arousal or
2 gratification, except that, it does not include acts which may
3 reasonably be construed to be normal caretaker responsibilities;
4 interactions with, or demonstrations of affection for, the child; or
5 acts performed for a valid medical purpose.

6 (5) The intentional masturbation of the perpetrator’s genitals in
7 the presence of a child.

8 (c) “Sexual exploitation” refers to any of the following:

9 (1) Conduct involving matter depicting a minor engaged in
10 obscene acts in violation of Section 311.2 (preparing, selling, or
11 distributing obscene matter) or subdivision (a) of Section 311.4
12 (employment of minor to perform obscene acts).

13 (2) ~~Any~~A person who knowingly promotes, aids, or assists,
14 employs, uses, persuades, induces, or coerces a child, or ~~any a~~
15 person responsible for a child’s welfare, who knowingly permits
16 or encourages a child to engage in, or assist others to engage in,
17 prostitution or a live performance involving obscene sexual
18 conduct, or to either pose or model alone or with others for
19 purposes of preparing a film, photograph, negative, slide, drawing,
20 painting, or other pictorial depiction, involving obscene sexual
21 conduct. For the purpose of this section, “person responsible for
22 a child’s welfare” means a parent, guardian, foster parent, or a
23 licensed administrator or employee of a public or private residential
24 home, residential school, or other residential institution.

25 (3) ~~Any~~A person who depicts a child in, or who knowingly
26 develops, duplicates, prints, or exchanges, ~~any a~~ film, photograph,
27 video tape, negative, or slide in which a child is engaged in an act
28 of obscene sexual conduct, except for those activities by law
29 enforcement and prosecution agencies and other persons described
30 in subdivisions (c) and (e) of Section 311.3.

31 ~~SECTION 1. It is the intent of the Legislature to enact~~
32 ~~legislation to provide greater consistency among the kinds of abuse~~
33 ~~and neglect that must be reported pursuant to the Child Abuse and~~
34 ~~Neglect Reporting Act.~~

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