

AMENDED IN ASSEMBLY APRIL 24, 2014

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 *with a minor* 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~~ *the conduct involves either a person over 21 years of age or a minor under 16 years of age.*

Vote: majority. Appropriation: no. Fiscal committee: 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) (1) Except as specified in paragraph (2), “sexual assault”
6 means conduct in violation of one or more of the following
7 sections: Section 261 (rape), subdivision (d) of Section 261.5
8 (statutory rape), 264.1 (rape in concert), 285 (incest), 286
9 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision
10 (c) of Section 288 (lewd or lascivious acts upon a child), 288a
11 (oral copulation), 289 (sexual penetration), or 647.6 (child
12 molestation).
13 (2) For purposes of this article, “sexual assault” does not include
14 conduct in violation of the following:
15 (A) Paragraph (1) of subdivision (b) of Section 286 unless it
16 ~~meets the criteria specified in paragraph (2) of subdivision (b) of~~
17 ~~Section 286 involves either a person over 21 years of age or a~~
18 ~~minor under 16 years of age.~~
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 involves either a person over 21 years of age or~~
22 ~~a minor under 16 years of age.~~
23 (b) Conduct described as “sexual assault” includes, but is not
24 limited to, all of the following:
25 (1) Penetration, however slight, of the vagina or anal opening
26 of one person by the penis of another person, whether or not there
27 is the emission of semen.
28 (2) Sexual contact between the genitals or anal opening of one
29 person and the mouth or tongue of another person.
30 (3) Intrusion by one person into the genitals or anal opening of
31 another person, including the use of an object for this purpose,
32 except that, it does not include acts performed for a valid medical
33 purpose.
34 (4) The intentional touching of the genitals or intimate parts,
35 including the breasts, genital area, groin, inner thighs, and buttocks,

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

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

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

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

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

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