

AMENDED IN ASSEMBLY MAY 7, 2014  
AMENDED IN ASSEMBLY MARCH 28, 2014  
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1978**

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**Introduced by Assembly Member Jones-Sawyer**

February 19, 2014

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An act to amend Sections 10601.2 and 10850.4 of, and to add Section 10605.5 to, the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1978, as amended, Jones-Sawyer. Child welfare services.

Under existing law, the State Department of Social Services oversees the administration of county public social services, including child welfare services. Existing law requires the department to establish the California Child and Family Service Review System, in order to review all county child welfare systems.

This bill, in relation to these reviews, would require each county to consult with specified stakeholders in developing the county self-assessments and county improvement plans, or any subsequent county self-assessments, as specified. The bill would also require the county improvement plans to include a separately titled provision that lists and provides the rationale for proposed operational improvements that may be implemented at a cost savings to the county or within existing resources. By increasing duties of county officials, the bill would impose a state-mandated local program.

Existing law authorizes the department to conduct or have conducted audits and reviews in order to meet its obligations for child welfare programs and to ensure the protection of children and families.

This bill would prohibit a county child welfare agency that is an employer of social workers engaged in providing child welfare services from retaliating against a social worker if the social worker has reasonable cause to believe that a policy, procedure, or practice related to the provision of child welfare services endangers the health or well-being of a child or children, and the social worker discloses this information to a government or law enforcement agency, an appointed or elected official, or the public.

Existing law authorizes the department and the county welfare department or agency to comment on a child fatality once certain documents from the child’s case file have been released by the custodian of records, within the scope of the release.

This bill would additionally authorize a county child welfare social worker to comment for purposes of these provisions.

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. (a) This act shall be known as the Child Welfare
- 2 Social Worker Empowerment and Foster Child Protection Act.
- 3 (b) The Legislature finds and declares that, while California
- 4 foster children are in foster care, they are uniquely dependent upon
- 5 the lawful, efficient, and competent delivery of state and local
- 6 government services and implementation of state and federal law.
- 7 (c) The Legislature further finds and declares that the special
- 8 and uniquely vulnerable status of foster children warrants extending
- 9 whistleblower protections for state employees to county child
- 10 welfare social workers to ensure that each worker, without fear of

1 retaliation, can advocate for policies that benefit every child and  
2 publicly participate in discussions about each child’s well-being.

3 (d) The Legislature further finds and declares that county child  
4 welfare social workers who implement state and federal policy  
5 related to the delivery of services and implementation of programs  
6 benefitting foster children should have an avenue to suggest  
7 cost-saving efficiencies in the delivery of services to foster  
8 children, in a fashion that is transparent and accountable to the  
9 public.

10 SEC. 2. Section 10601.2 of the Welfare and Institutions Code  
11 is amended to read:

12 10601.2. (a) The State Department of Social Services shall  
13 establish, by April 1, 2003, the California Child and Family Service  
14 Review System, in order to review all county child welfare systems.  
15 These reviews shall cover child protective services, foster care,  
16 adoption, family preservation, family support, and independent  
17 living.

18 (b) Child and family service reviews shall maximize compliance  
19 with the federal regulations for the receipt of money from Subtitle  
20 E (commencing with Section 470) of Title IV of the federal Social  
21 Security Act (42 U.S.C. Sec. 670 and following) and ensure  
22 compliance with state plan requirements set forth in Subtitle B  
23 (commencing with Section 421) of Title IV of the federal Social  
24 Security Act (42 U.S.C. Sec. 621 and following).

25 (c) (1) (A) The California Health and Human Services Agency  
26 shall convene a workgroup comprised of representatives of the  
27 Judicial Council, the State Department of Social Services, the State  
28 Department of Health Care Services, the State Department of  
29 Education, the State Department of Justice, any other state  
30 departments or agencies the California Health and Human Services  
31 Agency deems necessary, the County Welfare Directors  
32 Association, the California State Association of Counties, the Chief  
33 Probation Officers of California, the California Youth Connection,  
34 and representatives of California tribes, interested child advocacy  
35 organizations, researchers, and foster parent organizations. The  
36 workgroup shall establish a workplan by which child and family  
37 service reviews shall be conducted pursuant to this section,  
38 including a process for qualitative peer reviews of case information.

39 (B) At a minimum, in establishing the workplan, the workgroup  
40 shall consider any existing federal program improvement plans

1 entered into by the state pursuant to federal regulations, the  
2 outcome indicators to be measured, compliance thresholds for each  
3 indicator, timelines for implementation, county review cycles,  
4 uniform processes, procedures and review instruments to be used,  
5 a corrective action process, and any funding or staffing increases  
6 needed to implement the requirements of this section. The agency  
7 shall broadly consider collaboration with all entities to allow the  
8 adequate exchange of information and coordination of efforts to  
9 improve outcomes for foster youth and families.

10 (2) In developing county self-assessments and county  
11 improvement plans pursuant to this section, or any subsequent  
12 county self-assessments pursuant to this section, each county shall  
13 consult with stakeholders, including, but not limited to, county  
14 child welfare agencies and probation agency staff at all levels,  
15 current and former foster children, children's attorneys, and foster  
16 care providers. The county shall consult with at least one county  
17 child welfare worker named by the bargaining unit representing  
18 children's social workers.

19 (d) (1) The California Child and Family Service Review System  
20 outcome indicators shall be consistent with the federal child and  
21 family service review measures and standards for child and family  
22 outcomes and system factors authorized by Subtitle B (commencing  
23 with Section 421) and Subtitle E (commencing with Section 470)  
24 of Title IV of the federal Social Security Act and the regulations  
25 adopted pursuant to those provisions (Parts 1355 to 1357, inclusive,  
26 of Title 45 of the Code of Federal Regulations).

27 (2) During the first review cycle pursuant to this section, each  
28 county shall be reviewed according to the outcome indicators  
29 established for the California Child and Family Service Review  
30 System.

31 (3) For subsequent reviews, the workgroup shall consider  
32 whether to establish additional outcome indicators that support the  
33 federal outcomes and any program improvement plan, and promote  
34 good health, mental health, behavioral, educational, and other  
35 relevant outcomes for children and families in California's child  
36 welfare services system.

37 (4) The workgroup shall convene as necessary to update the  
38 outcome indicators described in paragraph (1).

39 (5) The county improvement plans developed pursuant to this  
40 section that are approved by the county board of supervisors shall

1 include a separately titled provision that lists and provides the  
2 rationale for proposed operational improvements identified during  
3 the stakeholder process described in paragraph (2) of subdivision  
4 (c) that may be implemented at a cost savings to the county or  
5 within existing county resources.

6 (e) The State Department of Social Services shall identify and  
7 promote the replication of best practices in child welfare service  
8 delivery to achieve the measurable outcomes established pursuant  
9 to subdivision (d).

10 (f) Notwithstanding Section 10231.5 of the Government Code,  
11 the State Department of Social Services shall provide information  
12 to the Assembly Committee on Budget and the Senate Committee  
13 on Budget and Fiscal Review and appropriate legislative policy  
14 committees annually, beginning with the 2002–03 fiscal year, on  
15 all of the following:

16 (1) The department’s progress in planning for the federal child  
17 and family service review to be conducted by the United States  
18 Department of Health and Human Services and, upon completion  
19 of the federal review, the findings of that review, the state’s  
20 response to the findings, and the details of any program  
21 improvement plan entered into by the state.

22 (2) The department’s progress in implementing the California  
23 child and family service reviews, including, but not limited to, the  
24 timelines for implementation, the process to be used, and any  
25 funding or staffing increases needed at the state or local level to  
26 implement the requirements of this section.

27 (3) The findings and recommendations for child welfare system  
28 improvements identified in county self-assessments and county  
29 system improvement plans, including information on common  
30 statutory, regulatory, or fiscal barriers identified as inhibiting  
31 system improvements, any recommendations to overcome those  
32 barriers, and, as applicable, information regarding the allocation  
33 and use of the moneys provided to counties pursuant to subdivision  
34 (i).

35 (g) Effective April 1, 2003, the existing county compliance  
36 review system shall be suspended to provide to the State  
37 Department of Social Services sufficient lead time to provide  
38 training and technical assistance to counties for the preparation  
39 necessary to transition to the new child and family service review  
40 system.

1 (h) Beginning January 1, 2004, the department shall commence  
2 individual child and family service reviews of California counties.  
3 County child welfare systems that do not meet the established  
4 compliance thresholds for the outcome measures that are reviewed  
5 shall receive technical assistance from teams made up of state and  
6 peer-county administrators to assist with implementing best  
7 practices to improve their performance and make progress toward  
8 meeting established levels of compliance.

9 (i) (1) To the extent that funds are appropriated in the annual  
10 Budget Act to enable counties to implement approaches to  
11 improving their performance on the outcome indicators under this  
12 section, the department, in consultation with counties, shall  
13 establish a process for allocating the funds to counties.

14 (2) The allocation process shall take into account, at a minimum,  
15 the extent to which the proposed funding would be used for  
16 activities that are reasonably expected to help the county make  
17 progress toward the outcome indicators established pursuant to  
18 this section, and the extent to which county funding for the Child  
19 Abuse, Prevention and Treatment program is aligned with the  
20 outcome indicators.

21 (3) To the extent possible, a county shall use funds in a manner  
22 that enables the county to access additional federal, state, and local  
23 funds from other available sources. However, a county's ability  
24 to receive additional matching funds from these sources shall not  
25 be a determining factor in the allocation process established  
26 pursuant to this subdivision.

27 (4) The department shall provide information to the appropriate  
28 committees of the Legislature on the process established pursuant  
29 to this subdivision for allocating funds to counties.

30 (j) (1) Counties shall continue to be responsible for and  
31 accountable to the department for child welfare program  
32 performance measures, including all of the following:

33 (A) The outcome and systemic factor measures contained in the  
34 federal Department of Health and Human Services Child and  
35 Family Services Review Procedures Manual, Appendix B, Index  
36 of Outcomes and Systemic Factors, and Associated Items and Data  
37 Indicators, issued pursuant to Sections 1355.34(b) and 1355.34(c)  
38 of Title 45 of the Code of Federal Regulations.

1 (B) Information and other requirements necessary for the  
2 California Child and Family Service Review System, as required  
3 pursuant to this section.

4 (C) Monthly caseworker visits with a child in care.

5 (D) Timeliness to begin an investigation of allegations of child  
6 abuse or neglect.

7 (E) Notwithstanding the rulemaking provisions of the  
8 Administrative Procedure Act (Chapter 3.5 (commencing with  
9 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
10 Code), other performance measures resulting from new federal  
11 mandates or court decrees as specified in an all-county letter issued  
12 by the department.

13 (2) The department shall monitor, on an ongoing basis, county  
14 performance on the measures specified in paragraph (1).

15 (3) At least once every five years, the department shall conduct  
16 a comprehensive review of county performance on the measures  
17 specified in paragraph (1).

18 (4) (A) The department shall periodically update the process  
19 guides utilized by counties to prepare the self assessments and  
20 system improvement plans to promote implementation and  
21 evaluation of promising practices and use of data.

22 (B) The process guides also shall include, but not be limited to,  
23 both of the following:

24 (i) County evaluation of demographics for the children and  
25 families served and effectiveness of the system improvement  
26 activities for these populations.

27 (ii) A description of the process by which the department and  
28 counties shall develop mutually agreed upon performance targets  
29 for improvement.

30 (5) The department, in consultation with counties, shall develop  
31 a process for resolving any disputes regarding the establishment  
32 of appropriate targets pursuant to the process provided in paragraph  
33 (4).

34 (6) A county shall submit an update to the department, no less  
35 than annually, on its progress in achieving improvements from the  
36 county's baseline for the applicable measure. The department may  
37 require a county that has not met its performance targets to submit  
38 and implement a corrective action plan, as determined by the  
39 director.

1 (k) Beginning in the 2011–12 fiscal year, and for each fiscal  
2 year thereafter, funding and expenditures for programs and  
3 activities required under this section shall be in accordance with  
4 the requirements provided in Sections 30025 and 30026.5 of the  
5 Government Code.

6 SEC. 3. Section 10605.5 is added to the Welfare and  
7 Institutions Code, to read:

8 10605.5. (a) A county child welfare agency that is an employer  
9 of social workers engaged in providing child welfare services shall  
10 not retaliate against a social worker if the social worker has  
11 reasonable cause to believe that a policy, procedure, or practice  
12 related to the provision of child welfare services endangers the  
13 health or well-being of a child or children and the social worker  
14 discloses this information to a government or law enforcement  
15 agency, an appointed or elected official, or the public.

16 (b) Nothing in this section authorizes a social worker employed  
17 by a county child welfare agency to disclose the identity of a child  
18 or any portion of a case file.

19 (c) For purposes of this section, “county child welfare agency”  
20 includes a county welfare department, child welfare department,  
21 and any other county agency that employs social workers and is  
22 responsible for the placement and supervision of children and  
23 youth in foster care.

24 SEC. 4. Section 10850.4 of the Welfare and Institutions Code  
25 is amended to read:

26 10850.4. (a) Within five business days of learning that a child  
27 fatality has occurred in the county and that there is a reasonable  
28 suspicion that the fatality was caused by abuse or neglect, the  
29 custodian of records for the county child welfare agency, upon  
30 request, shall release the following information:

- 31 (1) The age and gender of the child.
- 32 (2) The date of death.
- 33 (3) Whether the child was in foster care or in the home of his  
34 or her parent or guardian at the time of death.
- 35 (4) Whether an investigation is being conducted by a law  
36 enforcement agency or the county child welfare agency.

37 (b) All cases in which abuse or neglect leads to a child’s death  
38 shall be subject to the disclosures required in subdivision (c). Abuse  
39 or neglect is determined to have led to a child’s death if one or  
40 more of the following conditions are met:

1 (1) A county child protective services agency determines that  
2 the abuse or neglect was substantiated.

3 (2) A law enforcement investigation concludes that abuse or  
4 neglect occurred.

5 (3) A coroner or medical examiner concludes that the child who  
6 died had suffered abuse or neglect.

7 (c) Upon completion of the child abuse or neglect investigation  
8 into the child's death, as described in subdivision (b), the following  
9 documents from the juvenile case file shall be released by the  
10 custodian of records upon request, subject to the redactions set  
11 forth in subdivision (e):

12 (1) All of the information in subdivision (a).

13 (2) For cases in which the child's death occurred while living  
14 with a parent or guardian, all previous referrals of abuse or neglect  
15 of the deceased child while living with that parent or guardian  
16 shall be disclosed along with the following documents:

17 (A) The emergency response referral information form and the  
18 emergency response notice of referral disposition form completed  
19 by the county child welfare agency relating to the abuse or neglect  
20 that caused the death of the child.

21 (B) Any cross reports completed by the county child welfare  
22 agency to law enforcement relating to the deceased child.

23 (C) All risk and safety assessments completed by the county  
24 child welfare services agency relating to the deceased child.

25 (D) All health care records of the deceased child, excluding  
26 mental health records, related to the child's death and previous  
27 injuries reflective of a pattern of abuse or neglect.

28 (E) Copies of police reports about the person against whom the  
29 child abuse or neglect was substantiated.

30 (3) For cases in which the child's death occurred while the child  
31 was in foster care, the following documents in addition to those  
32 specified in paragraphs (1) and (2) generated while the child was  
33 living in the foster care placement that was the placement at the  
34 time of the child's death:

35 (A) Records pertaining to the foster parents' initial licensing  
36 and renewals and type of license or licenses held, if in the case  
37 file.

38 (B) All reported licensing violations, including notices of action,  
39 if in the case file.

1 (C) Records of the training completed by the foster parents, if  
2 in the case file.

3 (d) The documents listed in subdivision (c) shall be released to  
4 the public by the custodian of records within 10 business days of  
5 the request or the disposition of the investigation, whichever is  
6 later.

7 (e) (1) Prior to releasing any document pursuant to subdivision  
8 (c), the custodian of records shall redact the following information:

9 (A) The names, addresses, telephone numbers, ethnicity,  
10 religion, or any other identifying information of any person or  
11 institution, other than the county or the State Department of Social  
12 Services, that is mentioned in the documents listed in paragraphs  
13 (2) and (3) of subdivision (c).

14 (B) Any information that would, after consultation with the  
15 district attorney, jeopardize a criminal investigation or proceeding.

16 (C) Any information that is privileged, confidential, or not  
17 subject to disclosure pursuant to any other state or federal law.

18 (2) (A) The State Department of Social Services shall  
19 promulgate a regulation listing the laws described in subparagraph  
20 (C) of paragraph (1) and setting forth standards governing  
21 redactions.

22 (B) Notwithstanding the rulemaking provisions of the  
23 Administrative Procedure Act (Chapter 3.5 (commencing with  
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
25 Code), until emergency regulations are filed with the Secretary of  
26 State, the State Department of Social Services may implement the  
27 changes made to Section 827 and this section at the 2007–08  
28 Regular Session of the Legislature through all-county letters or  
29 similar instructions from the director. The department shall adopt  
30 emergency regulations, as necessary to implement those changes,  
31 no later than January 1, 2009.

32 (C) The adoption of regulations pursuant to this paragraph shall  
33 be deemed to be an emergency necessary for the immediate  
34 preservation of the public peace, health, safety, or general welfare.  
35 The emergency regulations authorized by this section shall be  
36 exempt from review by the Office of Administrative Law. The  
37 emergency regulations authorized by this section shall be submitted  
38 for filing with the Secretary of State and shall remain in effect for  
39 no more than 180 days, by which time the final regulations shall  
40 be adopted.

1 (f) Upon receiving a request for the documents listed in  
2 subdivision (c), the custodian of records shall notify and provide  
3 a copy of the request upon counsel for any child who is directly  
4 or indirectly connected to the juvenile case file. If counsel for a  
5 child, including the deceased child or any sibling of the deceased  
6 child, objects to the release of any part of the documents listed in  
7 paragraphs (2) and (3) of subdivision (c), they may petition the  
8 juvenile court for relief to prevent the release of any document or  
9 part of a document requested pursuant to paragraph (2) of  
10 subdivision (a) of Section 827.

11 (g) Documents from the juvenile case file, other than those listed  
12 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed  
13 upon an order by the juvenile court pursuant to Section 827.

14 (h) Once documents pursuant to this section have been released  
15 by the custodian of records, the State Department of Social  
16 Services, ~~the and the respective~~ county welfare department or  
17 ~~agency, and any~~ agency and county child welfare social worker,  
18 may comment on the case within the scope of the release.

19 (i) Information released by a custodian of records consistent  
20 with the requirements of this section does not require prior notice  
21 to any other individual.

22 (j) Each county welfare department or agency shall notify the  
23 State Department of Social Services of every child fatality that  
24 occurred within its jurisdiction that was the result of child abuse  
25 or neglect. Based on these notices and any other relevant  
26 information in the State Department of Social Services' possession,  
27 the department shall annually issue a report identifying the child  
28 fatalities and any systemic issues or patterns revealed by the notices  
29 and other relevant information. The State Department of Social  
30 Services, after consultation with interested stakeholders, shall  
31 provide instructions by an all-county letter regarding the procedure  
32 for notification.

33 (k) For purposes of this section, the following definitions apply:

34 (1) "Child abuse or neglect" has the same meaning as defined  
35 in Section 11165.6 of the Penal Code.

36 (2) "Custodian of records," for the purposes of this section and  
37 paragraph (2) of subdivision (a) of Section 827, means the county  
38 welfare department or agency.

39 (3) "Juvenile case files" or "case files" include any juvenile  
40 court files, as defined in Rule 5.552 of the California Rules of

1 Court, and any county child welfare department or agency or State  
2 Department of Social Services records regardless of whether they  
3 are maintained electronically or in paper form.

4 (4) “Substantiated” has the same meaning as defined in Section  
5 11165.12 of the Penal Code.

6 (l) A person disclosing juvenile case file information as required  
7 by this section shall not be subject to suit in civil or criminal  
8 proceedings for complying with the requirements of this section.

9 (m) This section shall apply only to deaths that occur on or after  
10 January 1, 2008.

11 (n) Nothing in this section shall require a custodian of records  
12 to retain documents beyond any date otherwise required by law.

13 (o) Nothing in this section shall be construed as requiring a  
14 custodian of records to obtain documents not in the case file.

15 SEC. 5. If the Commission on State Mandates determines that  
16 this act contains costs mandated by the state, reimbursement to  
17 local agencies and school districts for those costs shall be made  
18 pursuant to Part 7 (commencing with Section 17500) of Division  
19 4 of Title 2 of the Government Code.