

AMENDED IN SENATE MAY 11, 2016

AMENDED IN ASSEMBLY JANUARY 14, 2016

AMENDED IN ASSEMBLY JANUARY 4, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1001**

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**Introduced by Assembly Member Maienschein**  
**(Coauthors: Assembly Members ~~Chávez and Gallagher~~ Baker,**  
**Calderon, Chávez, Cooley, Gallagher, Grove, Hadley, and Olsen)**  
**(Coauthor: Senator Anderson)**  
*(Coauthors: Senators Anderson, Bates, Cannella, and Runner)*

February 26, 2015

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An act to amend Section 1558 of, and to add Section 1556.5 to, the Health and Safety Code, *to amend Sections 11165.7 and 11166 of the Penal Code*, and to amend Section 10605.5 of the Welfare and Institutions Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1001, as amended, Maienschein. Child abuse: reporting: foster family agencies.

(1) The Child Abuse and Neglect Reporting Act requires a mandated reporter, ~~as defined~~, *defined and including an administrator or employee of a public or private organization whose duties require direct contact and supervision of children*, to make a report to a specified agency whenever the mandated reporter, 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. Under existing law, the failure to make this report is a crime. Existing law also prohibits a supervisor

or administrator from impeding or inhibiting the reporting duties, provides that a person making the report shall not be subject to any sanctions for making the report, and prohibits internal procedures to facilitate reporting from requiring any employee required to make reports to disclose his or her identity to the employer.

Existing law, the California Community Care Facilities Act (the act), governs the licensing and regulation of community care facilities, as defined, including foster family agencies for children. Existing law vests responsibility for administering and enforcing laws and regulations governing those facilities in the State Department of Social Services. Existing law authorizes the department to prohibit a person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility or certified family home, or allowing contact with clients of a licensed facility or certified family home by, any employee, prospective employee, or person who is not a client who has committed various acts or has been denied an exemption to work or to be present in a facility or certified family home, as specified.

This bill would *expand the definition of mandated report to include a board member of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency. By imposing the reporting requirements on a new class of persons, for whom failure to report specified conduct is a crime, this bill would impose a state-mandated local program. The bill would also* require that if the department, as a condition of licensure, requires the chief executive officer or other authorized member of the board of directors and the administrator of a foster family agency to attend an orientation ~~give~~ *given* by the licensing agency that outlines the applicable rules and regulations for operation of a foster family agency, then that orientation shall include a description of policies, procedures, or practices, that violate the provisions described above governing mandated reporters. The bill would also require the department to take reasonable action, including, among other things, prohibiting a person from being a member of the board of directors, upon a finding of a violation of the provisions described above governing mandated reporters.

(2) Existing law requires the department, in consultation with counties and labor organizations, to establish a process to receive voluntary disclosures from social workers, if a social worker has reasonable cause

to believe that a policy, procedure, or practice, related to the provision of child welfare services by a county child welfare agency, meets any of specified conditions, including that the policy, procedure, or practice endangers the health or well-being of children or is contrary to an existing statute or regulation. Existing law requires the department to make available to counties and labor organizations a description of the process established, and, no later than January 1, 2018, to report to the Legislature the total number of relevant disclosures received from social workers and a summary description of both the issues raised in the disclosures received and the actions taken by the department in response to the disclosures, and to post the information on the department's Internet Web site.

This bill would, effective January 1, 2018, require the department to carry out the duties imposed pursuant to these provisions with respect to voluntary disclosures from social workers employed at a foster family agency, as defined, including, but not limited to, disclosures from social workers who have reasonable cause to believe that a policy, procedure, or practice violates the provisions governing mandated reporters described in paragraph (1). The bill would require the department to make a report regarding this information, similar to the report required pursuant to existing law, no later than July 1, 2019, and to post the information on its Internet Web site.

*(3) 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 no reimbursement is required by this act for a specified reason.*

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

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

- 1 SECTION 1. Section 1556.5 is added to the Health and Safety
- 2 Code, to read:
- 3 1556.5. (a) If the department, as a condition of licensure,
- 4 requires the chief executive officer or other authorized member of
- 5 the board of directors and the administrator of a foster family
- 6 agency to attend an orientation given by the licensing agency that
- 7 outlines the applicable rules and regulations for operation of a

1 foster family agency, that orientation shall include, but not be  
2 limited to, a description of policies, procedures, or practices that  
3 violate paragraph (1) or (2) of subdivision (i) of Section 11166 of  
4 the Penal Code.

5 (b) If the department requires, as part of an application for  
6 licensure for a foster family agency, a written plan of operation,  
7 that plan of operation shall include a written plan establishing  
8 policies, procedures, or practices to ensure that the foster family  
9 agency does not violate paragraph (1) or (2) of subdivision (i) of  
10 Section 11166 of the Penal Code.

11 (c) For purposes of this section, a foster family agency is defined  
12 in paragraph (4) of subdivision (a) of Section 1502.

13 SEC. 2. Section 1558 of the Health and Safety Code is amended  
14 to read:

15 1558. (a) The department may prohibit any person from being  
16 a member of the board of directors, an executive director, or an  
17 officer of a licensee, or a licensee from employing, or continuing  
18 the employment of, or allowing in a licensed facility or certified  
19 family home, or allowing contact with clients of a licensed facility  
20 or certified family home by, any employee, prospective employee,  
21 or person who is not a client who has:

22 (1) Violated, or aided or permitted the violation by any other  
23 person of, any provisions of this chapter or of any rules or  
24 regulations promulgated under this chapter.

25 (2) Engaged in conduct that is inimical to the health, morals,  
26 welfare, or safety of either the people of this state or an individual  
27 in or receiving services from the facility or certified family home.

28 (3) Been denied an exemption to work or to be present in a  
29 facility or certified family home, when that person has been  
30 convicted of a crime as defined in Section 1522.

31 (4) Engaged in any other conduct that would constitute a basis  
32 for disciplining a licensee or certified family home.

33 (5) Engaged in acts of financial malfeasance concerning the  
34 operation of a facility or certified family home, including, but not  
35 limited to, improper use or embezzlement of client moneys and  
36 property or fraudulent appropriation for personal gain of facility  
37 moneys and property, or willful or negligent failure to provide  
38 services.

39 (b) The excluded person, the facility or certified family home,  
40 and the licensee shall be given written notice of the basis of the

1 department's action and of the excluded person's right to an appeal.  
2 The notice shall be served either by personal service or by  
3 registered mail. Within 15 days after the department serves the  
4 notice, the excluded person may file with the department a written  
5 appeal of the exclusion order. If the excluded person fails to file  
6 a written appeal within the prescribed time, the department's action  
7 shall be final.

8 (c) (1) The department may require the immediate removal of  
9 a member of the board of directors, an executive director, or an  
10 officer of a licensee or exclusion of an employee, prospective  
11 employee, or person who is not a client from a facility or certified  
12 family home pending a final decision of the matter, when, in the  
13 opinion of the director, the action is necessary to protect residents  
14 or clients from physical or mental abuse, abandonment, or any  
15 other substantial threat to their health or safety.

16 (2) If the department requires the immediate removal of a  
17 member of the board of directors, an executive director, or an  
18 officer of a licensee or exclusion of an employee, prospective  
19 employee, or person who is not a client from a facility or certified  
20 family home, the department shall serve an order of immediate  
21 exclusion upon the excluded person that shall notify the excluded  
22 person of the basis of the department's action and of the excluded  
23 person's right to a hearing.

24 (3) Within 15 days after the department serves an order of  
25 immediate exclusion, the excluded person may file a written appeal  
26 of the exclusion with the department. The department's action  
27 shall be final if the excluded person does not appeal the exclusion  
28 within the prescribed time. The department shall do the following  
29 upon receipt of a written appeal:

30 (A) Within 30 days of receipt of the appeal, serve an accusation  
31 upon the excluded person.

32 (B) Within 60 days of receipt of a notice of defense pursuant  
33 to Section 11506 of the Government Code by the excluded person  
34 to conduct a hearing on the accusation.

35 (4) An order of immediate exclusion of the excluded person  
36 from the facility or certified family home shall remain in effect  
37 until the hearing is completed and the director has made a final  
38 determination on the merits. However, the order of immediate  
39 exclusion shall be deemed vacated if the director fails to make a

1 final determination on the merits within 60 days after the original  
2 hearing has been completed.

3 (d) An excluded person who files a written appeal with the  
4 department pursuant to this section shall, as part of the written  
5 request, provide his or her current mailing address. The excluded  
6 person shall subsequently notify the department in writing of any  
7 change in mailing address, until the hearing process has been  
8 completed or terminated.

9 (e) Hearings held pursuant to this section shall be conducted in  
10 accordance with Chapter 5 (commencing with Section 11500) of  
11 Division 3 of Title 2 of the Government Code. The standard of  
12 proof shall be the preponderance of the evidence and the burden  
13 of proof shall be on the department.

14 (f) The department may institute or continue a disciplinary  
15 proceeding against a member of the board of directors, an executive  
16 director, or an officer of a licensee or an employee, prospective  
17 employee, or person who is not a client upon any ground provided  
18 by this section. The department may enter an order prohibiting  
19 any person from being a member of the board of directors, an  
20 executive director, or an officer of a licensee or prohibiting the  
21 excluded person's employment or presence in the facility or  
22 certified family home, or otherwise take disciplinary action against  
23 the excluded person, notwithstanding any resignation, withdrawal  
24 of employment application, or change of duties by the excluded  
25 person, or any discharge, failure to hire, or reassignment of the  
26 excluded person by the licensee or that the excluded person no  
27 longer has contact with clients at the facility or certified family  
28 home.

29 (g) A licensee's or certified family home's failure to comply  
30 with the department's exclusion order after being notified of the  
31 order shall be grounds for disciplining the licensee pursuant to  
32 Section 1550.

33 (h) (1) (A) In cases where the excluded person appealed the  
34 exclusion order, the person shall be prohibited from working in  
35 any facility or being licensed to operate any facility licensed by  
36 the department or from being a certified foster parent for the  
37 remainder of the excluded person's life, unless otherwise ordered  
38 by the department.

39 (B) The excluded individual may petition for reinstatement one  
40 year after the effective date of the decision and order of the

1 department upholding the exclusion order pursuant to Section  
2 11522 of the Government Code. The department shall provide the  
3 excluded person with a copy of Section 11522 of the Government  
4 Code with the decision and order.

5 (2) (A) In cases where the department informed the excluded  
6 person of his or her right to appeal the exclusion order and the  
7 excluded person did not appeal the exclusion order, the person  
8 shall be prohibited from working in any facility or being licensed  
9 to operate any facility licensed by the department or a certified  
10 foster parent for the remainder of the excluded person's life, unless  
11 otherwise ordered by the department.

12 (B) The excluded individual may petition for reinstatement after  
13 one year has elapsed from the date of the notification of the  
14 exclusion order pursuant to Section 11522 of the Government  
15 Code. The department shall provide the excluded person with a  
16 copy of Section 11522 of the Government Code with the exclusion  
17 order.

18 (i) Notwithstanding paragraph (2) of subdivision (a) or  
19 subdivision (c) of Section 1550, the department shall take  
20 reasonable action, including, but not limited to, prohibiting a person  
21 from being a member of the board of directors, an executive  
22 director, or an officer of a licensee of a licensed facility or certified  
23 family home, or denying an application for, or suspending or  
24 revoking, a license, special permit, certificate of approval, or  
25 administrator certificate, issued under this chapter, or denying a  
26 transfer of a license pursuant to paragraph (2) of subdivision (c)  
27 of Section 1524, upon a finding of a violation of subdivision (i)  
28 of Section 11166 of the Penal Code.

29 *SEC. 3. Section 11165.7 of the Penal Code is amended to read:*

30 11165.7. (a) As used in this article, "mandated reporter" is  
31 defined as any of the following:

32 (1) A teacher.

33 (2) An instructional aide.

34 (3) A teacher's aide or teacher's assistant employed by a public  
35 or private school.

36 (4) A classified employee of a public school.

37 (5) An administrative officer or supervisor of child welfare and  
38 attendance, or a certificated pupil personnel employee of a public  
39 or private school.

40 (6) An administrator of a public or private day camp.

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

1 (22) An emergency medical technician I or II, paramedic, or  
2 other person certified pursuant to Division 2.5 (commencing with  
3 Section 1797) of the Health and Safety Code.

4 (23) A psychological assistant registered pursuant to Section  
5 2913 of the Business and Professions Code.

6 (24) A marriage and family therapist trainee, as defined in  
7 subdivision (c) of Section 4980.03 of the Business and Professions  
8 Code.

9 (25) An unlicensed marriage and family therapist intern  
10 registered under Section 4980.44 of the Business and Professions  
11 Code.

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

14 (27) A coroner.

15 (28) A medical examiner or other person who performs  
16 autopsies.

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

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

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

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

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

8 (32) A clergy member, as specified in subdivision (d) of Section  
9 11166. As used in this article, “clergy member” means a priest,  
10 minister, rabbi, religious practitioner, or similar functionary of a  
11 church, temple, or recognized denomination or organization.

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

14 (34) An employee of any police department, county sheriff’s  
15 department, county probation department, or county welfare  
16 department.

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

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

21 (37) A person providing services to a minor child under Section  
22 12300 or 12300.1 of the Welfare and Institutions Code.

23 (38) An alcohol and drug counselor. As used in this article, an  
24 “alcohol and drug counselor” is a person providing counseling,  
25 therapy, or other clinical services for a state licensed or certified  
26 drug, alcohol, or drug and alcohol treatment program. However,  
27 alcohol or drug abuse, or both alcohol and drug abuse, is not, in  
28 and of itself, a sufficient basis for reporting child abuse or neglect.

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

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

33 (41) An employee or administrator of a public or private  
34 postsecondary educational institution, whose duties bring the  
35 administrator or employee into contact with children on a regular  
36 basis, or who supervises those whose duties bring the administrator  
37 or employee into contact with children on a regular basis, as to  
38 child abuse or neglect occurring on that institution’s premises or  
39 at an official activity of, or program conducted by, the institution.  
40 Nothing in this paragraph shall be construed as altering the

1 lawyer-client privilege as set forth in Article 3 (commencing with  
2 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

3 (42) An athletic coach, athletic administrator, or athletic director  
4 employed by any public or private school that provides any  
5 combination of instruction for kindergarten, or grades 1 to 12,  
6 inclusive.

7 (43) (A) A commercial computer technician as specified in  
8 subdivision (e) of Section 11166. As used in this article,  
9 “commercial computer technician” means a person who works for  
10 a company that is in the business of repairing, installing, or  
11 otherwise servicing a computer or computer component, including,  
12 but not limited to, a computer part, device, memory storage or  
13 recording mechanism, auxiliary storage recording or memory  
14 capacity, or any other material relating to the operation and  
15 maintenance of a computer or computer network system, for a fee.  
16 An employer who provides an electronic communications service  
17 or a remote computing service to the public shall be deemed to  
18 comply with this article if that employer complies with Section  
19 2258A of Title 18 of the United States Code.

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

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

36 (b) Except as provided in paragraph (35) of subdivision (a),  
37 volunteers of public or private organizations whose duties require  
38 direct contact with and supervision of children are not mandated  
39 reporters but are encouraged to obtain training in the identification  
40 and reporting of child abuse and neglect and are further encouraged

1 to report known or suspected instances of child abuse or neglect  
2 to an agency specified in Section 11165.9.

3 (c) Except as provided in subdivision (d), employers are strongly  
4 encouraged to provide their employees who are mandated reporters  
5 with training in the duties imposed by this article. This training  
6 shall include training in child abuse and neglect identification and  
7 training in child abuse and neglect reporting. Whether or not  
8 employers provide their employees with training in child abuse  
9 and neglect identification and reporting, the employers shall  
10 provide their employees who are mandated reporters with the  
11 statement required pursuant to subdivision (a) of Section 11166.5.

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

21 (e) (1) On and after January 1, 2018, pursuant to Section  
22 1596.8662 of the Health and Safety Code, a child care licensee  
23 applicant shall take training in the duties of mandated reporters  
24 under the child abuse reporting laws as a condition of licensure,  
25 and a child care administrator or an employee of a licensed child  
26 day care facility shall take training in the duties of mandated  
27 reporters during the first 90 days when he or she is employed by  
28 the facility.

29 (2) A person specified in paragraph (1) who becomes a licensee,  
30 administrator, or employee of a licensed child day care facility  
31 shall take renewal mandated reporter training every two years  
32 following the date on which he or she completed the initial  
33 mandated reporter training. The training shall include, but not  
34 necessarily be limited to, training in child abuse and neglect  
35 identification and child abuse and neglect reporting.

36 (f) Unless otherwise specifically provided, the absence of  
37 training shall not excuse a mandated reporter from the duties  
38 imposed by this article.

39 (g) Public and private organizations are encouraged to provide  
40 their volunteers whose duties require direct contact with and

1 supervision of children with training in the identification and  
2 reporting of child abuse and neglect.

3 *SEC. 4. Section 11166 of the Penal Code is amended to read:*

4 11166. (a) Except as provided in subdivision (d), and in  
5 Section 11166.05, a mandated reporter shall make a report to an  
6 agency specified in Section 11165.9 whenever the mandated  
7 reporter, in his or her professional capacity or within the scope of  
8 his or her employment, has knowledge of or observes a child whom  
9 the mandated reporter knows or reasonably suspects has been the  
10 victim of child abuse or neglect. The mandated reporter shall make  
11 an initial report by telephone to the agency immediately or as soon  
12 as is practicably possible, and shall prepare and send, fax, or  
13 electronically transmit a written followup report within 36 hours  
14 of receiving the information concerning the incident. The mandated  
15 reporter may include with the report any nonprivileged  
16 documentary evidence the mandated reporter possesses relating  
17 to the incident.

18 (1) For purposes of this article, “reasonable suspicion” means  
19 that it is objectively reasonable for a person to entertain a suspicion,  
20 based upon facts that could cause a reasonable person in a like  
21 position, drawing, when appropriate, on his or her training and  
22 experience, to suspect child abuse or neglect. “Reasonable  
23 suspicion” does not require certainty that child abuse or neglect  
24 has occurred nor does it require a specific medical indication of  
25 child abuse or neglect; any “reasonable suspicion” is sufficient.  
26 For purposes of this article, the pregnancy of a minor does not, in  
27 and of itself, constitute a basis for a reasonable suspicion of sexual  
28 abuse.

29 (2) The agency shall be notified and a report shall be prepared  
30 and sent, faxed, or electronically transmitted even if the child has  
31 expired, regardless of whether or not the possible abuse was a  
32 factor contributing to the death, and even if suspected child abuse  
33 was discovered during an autopsy.

34 (3) A report made by a mandated reporter pursuant to this  
35 section shall be known as a mandated report.

36 (b) If, after reasonable efforts, a mandated reporter is unable to  
37 submit an initial report by telephone, he or she shall immediately  
38 or as soon as is practicably possible, by fax or electronic  
39 transmission, make a one-time automated written report on the  
40 form prescribed by the Department of Justice, and shall also be

1 available to respond to a telephone followup call by the agency  
2 with which he or she filed the report. A mandated reporter who  
3 files a one-time automated written report because he or she was  
4 unable to submit an initial report by telephone is not required to  
5 submit a written followup report.

6 (1) The one-time automated written report form prescribed by  
7 the Department of Justice shall be clearly identifiable so that it is  
8 not mistaken for a standard written followup report. In addition,  
9 the automated one-time report shall contain a section that allows  
10 the mandated reporter to state the reason the initial telephone call  
11 was not able to be completed. The reason for the submission of  
12 the one-time automated written report in lieu of the procedure  
13 prescribed in subdivision (a) shall be captured in the Child Welfare  
14 Services/Case Management System (CWS/CMS). The department  
15 shall work with stakeholders to modify reporting forms and the  
16 CWS/CMS as is necessary to accommodate the changes enacted  
17 by these provisions.

18 (2) This subdivision shall not become operative until the  
19 CWS/CMS is updated to capture the information prescribed in this  
20 subdivision.

21 (3) This subdivision shall become inoperative three years after  
22 this subdivision becomes operative or on January 1, 2009,  
23 whichever occurs first.

24 (4) On the inoperative date of these provisions, a report shall  
25 be submitted to the counties and the Legislature by the State  
26 Department of Social Services that reflects the data collected from  
27 automated one-time reports indicating the reasons stated as to why  
28 the automated one-time report was filed in lieu of the initial  
29 telephone report.

30 (5) Nothing in this section shall supersede the requirement that  
31 a mandated reporter first attempt to make a report via telephone,  
32 or that agencies specified in Section 11165.9 accept reports from  
33 mandated reporters and other persons as required.

34 (c) A mandated reporter who fails to report an incident of known  
35 or reasonably suspected child abuse or neglect as required by this  
36 section is guilty of a misdemeanor punishable by up to six months  
37 confinement in a county jail or by a fine of one thousand dollars  
38 (\$1,000) or by both that imprisonment and fine. If a mandated  
39 reporter intentionally conceals his or her failure to report an  
40 incident known by the mandated reporter to be abuse or severe

1 neglect under this section, the failure to report is a continuing  
2 offense until an agency specified in Section 11165.9 discovers the  
3 offense.

4 (d) (1) A clergy member who acquires knowledge or a  
5 reasonable suspicion of child abuse or neglect during a penitential  
6 communication is not subject to subdivision (a). For the purposes  
7 of this subdivision, “penitential communication” means a  
8 communication, intended to be in confidence, including, but not  
9 limited to, a sacramental confession, made to a clergy member  
10 who, in the course of the discipline or practice of his or her church,  
11 denomination, or organization, is authorized or accustomed to hear  
12 those communications, and under the discipline, tenets, customs,  
13 or practices of his or her church, denomination, or organization,  
14 has a duty to keep those communications secret.

15 (2) Nothing in this subdivision shall be construed to modify or  
16 limit a clergy member’s duty to report known or suspected child  
17 abuse or neglect when the clergy member is acting in some other  
18 capacity that would otherwise make the clergy member a mandated  
19 reporter.

20 (3) (A) On or before January 1, 2004, a clergy member or any  
21 custodian of records for the clergy member may report to an agency  
22 specified in Section 11165.9 that the clergy member or any  
23 custodian of records for the clergy member, prior to January 1,  
24 1997, in his or her professional capacity or within the scope of his  
25 or her employment, other than during a penitential communication,  
26 acquired knowledge or had a reasonable suspicion that a child had  
27 been the victim of sexual abuse and that the clergy member or any  
28 custodian of records for the clergy member did not previously  
29 report the abuse to an agency specified in Section 11165.9. The  
30 provisions of Section 11172 shall apply to all reports made pursuant  
31 to this paragraph.

32 (B) This paragraph shall apply even if the victim of the known  
33 or suspected abuse has reached the age of majority by the time the  
34 required report is made.

35 (C) The local law enforcement agency shall have jurisdiction  
36 to investigate any report of child abuse made pursuant to this  
37 paragraph even if the report is made after the victim has reached  
38 the age of majority.

39 (e) (1) A commercial film, photographic print, or image  
40 processor who has knowledge of or observes, within the scope of

1 his or her professional capacity or employment, any film,  
2 photograph, videotape, negative, slide, or any representation of  
3 information, data, or an image, including, but not limited to, any  
4 film, filmstrip, photograph, negative, slide, photocopy, videotape,  
5 video laser disc, computer hardware, computer software, computer  
6 floppy disk, data storage medium, CD-ROM, computer-generated  
7 equipment, or computer-generated image depicting a child under  
8 16 years of age engaged in an act of sexual conduct, shall,  
9 immediately or as soon as practicably possible, telephonically  
10 report the instance of suspected abuse to the law enforcement  
11 agency located in the county in which the images are seen. Within  
12 36 hours of receiving the information concerning the incident, the  
13 reporter shall prepare and send, fax, or electronically transmit a  
14 written followup report of the incident with a copy of the image  
15 or material attached.

16 (2) A commercial computer technician who has knowledge of  
17 or observes, within the scope of his or her professional capacity  
18 or employment, any representation of information, data, or an  
19 image, including, but not limited to, any computer hardware,  
20 computer software, computer file, computer floppy disk, data  
21 storage medium, CD-ROM, computer-generated equipment, or  
22 computer-generated image that is retrievable in perceivable form  
23 and that is intentionally saved, transmitted, or organized on an  
24 electronic medium, depicting a child under 16 years of age engaged  
25 in an act of sexual conduct, shall immediately, or as soon as  
26 practicably possible, telephonically report the instance of suspected  
27 abuse to the law enforcement agency located in the county in which  
28 the images or materials are seen. As soon as practicably possible  
29 after receiving the information concerning the incident, the reporter  
30 shall prepare and send, fax, or electronically transmit a written  
31 followup report of the incident with a brief description of the  
32 images or materials.

33 (3) For purposes of this article, “commercial computer  
34 technician” includes an employee designated by an employer to  
35 receive reports pursuant to an established reporting process  
36 authorized by subparagraph (B) of paragraph (43) of subdivision  
37 (a) of Section 11165.7.

38 (4) As used in this subdivision, “electronic medium” includes,  
39 but is not limited to, a recording, CD-ROM, magnetic disk memory,

1 magnetic tape memory, CD, DVD, thumbdrive, or any other  
2 computer hardware or media.

3 (5) As used in this subdivision, “sexual conduct” means any of  
4 the following:

5 (A) Sexual intercourse, including genital-genital, oral-genital,  
6 anal-genital, or oral-anal, whether between persons of the same or  
7 opposite sex or between humans and animals.

8 (B) Penetration of the vagina or rectum by any object.

9 (C) Masturbation for the purpose of sexual stimulation of the  
10 viewer.

11 (D) Sadomasochistic abuse for the purpose of sexual stimulation  
12 of the viewer.

13 (E) Exhibition of the genitals, pubic, or rectal areas of a person  
14 for the purpose of sexual stimulation of the viewer.

15 (f) Any mandated reporter who knows or reasonably suspects  
16 that the home or institution in which a child resides is unsuitable  
17 for the child because of abuse or neglect of the child shall bring  
18 the condition to the attention of the agency to which, and at the  
19 same time as, he or she makes a report of the abuse or neglect  
20 pursuant to subdivision (a).

21 (g) Any other person who has knowledge of or observes a child  
22 whom he or she knows or reasonably suspects has been a victim  
23 of child abuse or neglect may report the known or suspected  
24 instance of child abuse or neglect to an agency specified in Section  
25 11165.9. For purposes of this section, “any other person” includes  
26 a mandated reporter who acts in his or her private capacity and  
27 not in his or her professional capacity or within the scope of his  
28 or her employment.

29 (h) When two or more persons, who are required to report,  
30 jointly have knowledge of a known or suspected instance of child  
31 abuse or neglect, and when there is agreement among them, the  
32 telephone report may be made by a member of the team selected  
33 by mutual agreement and a single report may be made and signed  
34 by the selected member of the reporting team. Any member who  
35 has knowledge that the member designated to report has failed to  
36 do so shall thereafter make the report.

37 (i) (1) The reporting duties under this section are individual,  
38 and no supervisor or administrator may impede or inhibit the  
39 reporting duties, and no person making a report shall be subject  
40 to any sanction for making the report. However, internal procedures

1 to facilitate reporting and apprise supervisors and administrators  
2 of reports may be established provided that they are not inconsistent  
3 with this article. *An internal policy shall not direct an employee*  
4 *to allow his or her supervisor to file or process a mandated report*  
5 *under any circumstances.*

6 (2) The internal procedures shall not require any employee  
7 required to make reports pursuant to this article to disclose his or  
8 her identity to the employer.

9 (3) Reporting the information regarding a case of possible child  
10 abuse or neglect to an employer, supervisor, school principal,  
11 school counselor, coworker, or other person shall not be a substitute  
12 for making a mandated report to an agency specified in Section  
13 11165.9.

14 (j) (1) A county probation or welfare department shall  
15 immediately, or as soon as practicably possible, report by  
16 telephone, fax, or electronic transmission to the law enforcement  
17 agency having jurisdiction over the case, to the agency given the  
18 responsibility for investigation of cases under Section 300 of the  
19 Welfare and Institutions Code, and to the district attorney's office  
20 every known or suspected instance of child abuse or neglect, as  
21 defined in Section 11165.6, except acts or omissions coming within  
22 subdivision (b) of Section 11165.2, or reports made pursuant to  
23 Section 11165.13 based on risk to a child that relates solely to the  
24 inability of the parent to provide the child with regular care due  
25 to the parent's substance abuse, which shall be reported only to  
26 the county welfare or probation department. A county probation  
27 or welfare department also shall send, fax, or electronically transmit  
28 a written report thereof within 36 hours of receiving the information  
29 concerning the incident to any agency to which it makes a  
30 telephone report under this subdivision.

31 (2) A county probation or welfare department shall immediately,  
32 and in no case in more than 24 hours, report to the law enforcement  
33 agency having jurisdiction over the case after receiving information  
34 that a child or youth who is receiving child welfare services has  
35 been identified as the victim of commercial sexual exploitation,  
36 as defined in subdivision (d) of Section 11165.1.

37 (3) When a child or youth who is receiving child welfare  
38 services and who is reasonably believed to be the victim of, or is  
39 at risk of being the victim of, commercial sexual exploitation, as  
40 defined in Section 11165.1, is missing or has been abducted, the

1 county probation or welfare department shall immediately, or in  
2 no case later than 24 hours from receipt of the information, report  
3 the incident to the appropriate law enforcement authority for entry  
4 into the National Crime Information Center database of the Federal  
5 Bureau of Investigation and to the National Center for Missing  
6 and Exploited Children.

7 (k) A law enforcement agency shall immediately, or as soon as  
8 practicably possible, report by telephone, fax, or electronic  
9 transmission to the agency given responsibility for investigation  
10 of cases under Section 300 of the Welfare and Institutions Code  
11 and to the district attorney's office every known or suspected  
12 instance of child abuse or neglect reported to it, except acts or  
13 omissions coming within subdivision (b) of Section 11165.2, which  
14 shall be reported only to the county welfare or probation  
15 department. A law enforcement agency shall report to the county  
16 welfare or probation department every known or suspected instance  
17 of child abuse or neglect reported to it which is alleged to have  
18 occurred as a result of the action of a person responsible for the  
19 child's welfare, or as the result of the failure of a person responsible  
20 for the child's welfare to adequately protect the minor from abuse  
21 when the person responsible for the child's welfare knew or  
22 reasonably should have known that the minor was in danger of  
23 abuse. A law enforcement agency also shall send, fax, or  
24 electronically transmit a written report thereof within 36 hours of  
25 receiving the information concerning the incident to any agency  
26 to which it makes a telephone report under this subdivision.

27 ~~SEC. 3.~~

28 *SEC. 5.* Section 10605.5 of the Welfare and Institutions Code  
29 is amended to read:

30 10605.5. (a) (1) The department, in consultation with counties  
31 and labor organizations, shall establish, no later than January 1,  
32 2016, a process to receive voluntary disclosures from social  
33 workers, if a social worker has reasonable cause to believe that a  
34 policy, procedure, or practice, related to the provision of child  
35 welfare services by a county child welfare agency, meets any of  
36 the following conditions:

- 37 (A) Endangers the health or well-being of a child or children.
- 38 (B) Is contrary to existing statute or regulation.
- 39 (C) Is contrary to public policy.

1 (2) Notwithstanding any other law, the department shall not  
2 disclose to any person or entity the identity of a social worker  
3 making a disclosure described in paragraph (1), unless (A) the  
4 social worker has consented to the disclosure or (B) there is an  
5 immediate risk to the health and safety of a child.

6 (b) The department shall make available a description of the  
7 process established pursuant to subdivision (a) to counties and  
8 labor organizations.

9 (c) For purposes of this section, “county child welfare agency”  
10 includes a county welfare department, child welfare department,  
11 and any other county agency that employs social workers and is  
12 responsible for the placement and supervision of children and  
13 youth in foster care, including department social workers contracted  
14 by counties to perform direct adoption services.

15 (d) (1) No later than January 1, 2018, the department shall  
16 report to the Legislature only the following information:

17 (A) The total number of relevant disclosures received from  
18 social workers, including the month and year the disclosure was  
19 received.

20 (B) A summary description of both of the following:

21 (i) The issues raised in the disclosures received from a social  
22 worker.

23 (ii) The actions taken by the department in response to the  
24 disclosures.

25 (2) No later than January 1, 2018, the department shall post on  
26 its Internet Web site the information described in paragraph (1).

27 (3) The report required pursuant to paragraph (1) shall be  
28 submitted in compliance with Section 9795 of the Government  
29 Code.

30 (e) (1) Effective January 1, 2018, all of the duties imposed on  
31 the department pursuant to subdivisions (a) and (b) shall apply  
32 with respect to the receipt of voluntary disclosures from social  
33 workers employed at a foster family agency, as defined in Section  
34 1502 of the Health and Safety Code, including, but not limited to,  
35 disclosures from social workers who have reasonable cause to  
36 believe that a policy, procedure, or practice violates paragraph (1)  
37 or (2) of subdivision (i) of Section 11166 of the Penal Code.

38 (2) No later than July 1, 2019, the department shall report to  
39 the Legislature only the following information:

1 (A) The total number of relevant disclosures received from  
2 social workers employed at foster family agencies, including the  
3 month and year the disclosure was received.

4 (B) A summary description of both of the following:

5 (i) The issues raised in the disclosures received from a social  
6 worker.

7 (ii) The actions taken by the department in response to the  
8 disclosures.

9 (3) No later than July 1, 2019, the department shall post on its  
10 Internet Web site the information described in paragraph (1).

11 (4) The report required pursuant to paragraph (2) shall be  
12 submitted in compliance with Section 9795 of the Government  
13 Code.

14 *SEC. 6. No reimbursement is required by this act pursuant to*  
15 *Section 6 of Article XIII B of the California Constitution because*  
16 *the only costs that may be incurred by a local agency or school*  
17 *district will be incurred because this act creates a new crime or*  
18 *infraction, eliminates a crime or infraction, or changes the penalty*  
19 *for a crime or infraction, within the meaning of Section 17556 of*  
20 *the Government Code, or changes the definition of a crime within*  
21 *the meaning of Section 6 of Article XIII B of the California*  
22 *Constitution.*