

ASSEMBLY BILL

No. 1207

Introduced by Assembly Member Lopez

February 27, 2015

An act to amend Section 1596.866 of, and to add Section 1569.8662 to, the Health and Safety Code, and to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, as introduced, Lopez. Mandated child abuse reporting: child day care licensees: training.

Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates child day care facilities, as defined. The act requires that, as a condition of licensure and in addition to any other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, have at least 15 hours of health and safety training, covering specified components, including preventative health practices courses, that may include identification and reporting of signs and symptoms of child abuse. A violation of the act is a misdemeanor.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, including a licensee, an administrator, or an employee of a licensed child day care facility, to report whenever he or she, in his or her professional capacity, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

This bill would require the department to develop and disseminate information to those persons regarding detecting and reporting child

abuse, and to provide statewide guidance on the responsibilities of those persons as mandated reporters, as provided. The bill would require those persons, as a condition of licensure, to complete training pertaining to these matters, as provided. By creating a new crime, this bill would impose a state-mandated local program. The bill would make conforming changes.

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: yes.

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

1 SECTION 1. Section 1596.866 of the Health and Safety Code
2 is amended to read:

3 1596.866. (a) (1) In addition to other required training, at
4 least one director or teacher at each day care center, and each
5 family day care home licensee who provides care, shall have at
6 least 15 hours of health and safety training, and if applicable, at
7 least one additional hour of training pursuant to clause (ii) of
8 subparagraph (C) of paragraph (2).

9 (2) The training shall include the following components:

10 (A) Pediatric first aid.

11 (B) Pediatric cardiopulmonary resuscitation (CPR).

12 (C) (i) A preventive health practices course or courses that
13 include instruction in the recognition, management, and prevention
14 of infectious diseases, including immunizations, and prevention
15 of childhood injuries.

16 (ii) For licenses issued on or after January 1, 2016, at least one
17 director or teacher at each day care center, and each family day
18 care home licensee who provides care, shall have at least one hour
19 of childhood nutrition training as part of the preventive health
20 practices course or courses.

21 (3) The training may include instruction in sanitary food
22 handling, emergency preparedness and evacuation, *and* caring for
23 children with special needs, ~~and identification and reporting of~~
24 ~~signs and symptoms of child abuse.~~ *needs.*

1 (b) Day care center directors and licensees of family day care
2 homes shall ensure that at least one staff member who has a current
3 course completion card in pediatric first aid and pediatric CPR
4 issued by the American Red Cross, the American Heart
5 Association, or by a training program that has been approved by
6 the Emergency Medical Services Authority pursuant to this section
7 and Section 1797.191 shall be onsite at all times when children
8 are present at the facility, and shall be present with the children
9 when children are offsite from the facility for facility activities.
10 Nothing in this subdivision shall be construed to require, in the
11 event of an emergency, additional staff members, who are onsite
12 when children are present at the facility, to have a current course
13 completion card in pediatric first aid and pediatric CPR.

14 (c) (1) The completion of health and safety training by all
15 personnel and licensees described in subdivision (a) shall be a
16 condition of licensure.

17 (2) Training in pediatric first aid and pediatric CPR by persons
18 described in subdivisions (a) and (b) shall be current at all times.
19 Training in preventive health practices as described in subparagraph
20 (C) of paragraph (2) of subdivision (a) is a one-time only
21 requirement for persons described in subdivision (a).

22 (3) The department shall issue a provisional license for otherwise
23 qualified applicants who are not in compliance with this section.
24 This provisional license shall expire 90 days after the date of
25 issuance and shall not be extended.

26 (4) A notice of deficiency shall be issued by the department at
27 the time of a site visit to any licensee who is not in compliance
28 with this section. The licensee shall, at the time the notice is issued,
29 develop a plan of correction to correct the deficiency within 90
30 days of receiving the notice. The facility's license may be revoked
31 if it fails to correct the deficiency within the 90-day period. Section
32 1596.890 shall not apply to this paragraph.

33 (d) Completion of the training required pursuant to subdivisions
34 (a) and (b) shall be demonstrated, upon request of the licensing
35 agency, by the following:

36 (1) Current pediatric first aid and pediatric CPR course
37 completion cards issued by the American Red Cross, the American
38 Heart Association, or by a training program approved by the
39 Emergency Medical Services Authority pursuant to Section
40 1797.191.

1 (2) (A) A course completion card for a preventive health
2 practices course or courses as described in subparagraph (C) of
3 paragraph (2) of subdivision (a) issued by a training program
4 approved by the Emergency Medical Services Authority pursuant
5 to Section 1797.191.

6 (B) Persons who, prior to the date on which the amendments to
7 this section enacted in 1998 become operative, have completed a
8 course or courses in preventive health practices as described in
9 clause (i) of subparagraph (C) of paragraph (2) of subdivision (a),
10 and have a certificate of completion of a course or courses in
11 preventive health practices, or certified copies of transcripts that
12 identify the number of hours and the specific course or courses
13 taken for training in preventive health practices, shall be deemed
14 to have met the training in preventive health practices.

15 (3) In addition to training programs specified in paragraphs (1)
16 and (2), training programs or courses in pediatric first aid, pediatric
17 CPR, and preventive health practices offered or approved by an
18 accredited college or university are considered to be approved
19 sources of training that may be used to satisfy the training
20 requirements of paragraph (2) of subdivision (a). Completion of
21 this training shall be demonstrated to the licensing agency by a
22 certificate of course completion, course completion cards, or
23 certified copies of transcripts that identify the number of hours
24 and the specified course or courses taken for the training as defined
25 in paragraph (2) of subdivision (a).

26 (e) The training required under subdivision (a) shall not be
27 provided by a home study course. This training may be provided
28 through in-service training, workshops, or classes.

29 (f) All personnel and licensees described in subdivisions (a) and
30 (b) shall maintain current course completion cards for pediatric
31 first aid and pediatric CPR issued by the American Red Cross, the
32 American Heart Association, or by a training program approved
33 by the Emergency Medical Services Authority pursuant to Section
34 1797.191, or shall have current certification in pediatric first aid
35 and pediatric CPR from an accredited college or university in
36 accordance with paragraph (3) of subdivision (d).

37 (g) The department shall have the authority to grant exceptions
38 to the requirements imposed by this section in order to meet the
39 requirements of the Americans with Disabilities Act of 1990 (42
40 U.S.C. Sec. 12101 et seq.).

1 (h) The department shall adopt regulations to implement this
2 section.

3 SEC. 2. Section 1569.8662 is added to the Health and Safety
4 Code, to read:

5 1569.8662. (a) The Office of Child Abuse Prevention within
6 the department in consultation with the Community Care Licensing
7 Division in the department, shall do all of the following:

8 (1) Develop and disseminate information to all licensees,
9 administrators, and employees of licensed child day care facilities
10 regarding detecting and reporting child abuse.

11 (2) Provide statewide guidance on the responsibilities of a
12 mandated reporter who is a licensee, administrator, or employee
13 of a licensed child day care facility in accordance with the Child
14 Abuse and Neglect Reporting Act (Article 2.5 (commencing with
15 Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code).
16 This guidance shall include, but is not necessarily limited to, both
17 of the following:

18 (A) Information on the identification of child abuse and neglect.

19 (B) Reporting requirements for child abuse and neglect.

20 (3) Develop appropriate means of instructing child care
21 licensees, administrators, and employees of licensed child day care
22 facilities in detecting child abuse and neglect and the proper action
23 that a child care licensee, administrator, or employee of a licensed
24 child day care facility is required to take in a suspected case of
25 child abuse and neglect, including, but not limited to, using the
26 free online Mandated Reporter “General Training Module” and
27 “Child Care Professionals Training Module” provided by the Office
28 of Child Abuse Prevention.

29 (b) A child care licensee shall do both of the following:

30 (1) (A) Complete training as specified in this subparagraph,
31 using the online training module provided by the Office of Child
32 Abuse Prevention and provide the training to their administrators,
33 employees, and persons working on their behalf who are mandated
34 reporters, as defined in Section 11165.7 of the Penal Code, pursuant
35 to this section and subdivision (e) of Section 11165.7 of the Penal
36 Code on the mandated reporting requirements. Completing
37 mandated reporter training is a condition of licensure, and child
38 care administrators and employees of licensed child day care
39 facilities shall take mandated reporter training during the first six
40 weeks of employment. This training shall include information that

1 failure to report an incident of known or reasonably suspected
2 child abuse or neglect, as required by Section 11166 of the Penal
3 Code, is a misdemeanor punishable by up to six months
4 confinement in a county jail, or by a fine of one thousand dollars
5 (\$1,000), or by both that imprisonment and fine.

6 (B) A child care licensee, administrator, or employee of a
7 licensed child care facility shall take this training as frequently as
8 prescribed by regulations adopted by the department to implement
9 this section.

10 (2) Develop a process for all persons required to receive training
11 pursuant to this section to obtain proof of completing the training
12 as a condition of licensure, or within the first six weeks of that
13 person's employment. The process may include, but is not
14 necessarily limited to, a child care licensee applicant obtaining a
15 current certificate of completion and submitting the certificate to
16 the department prior to acquiring a child care license. A child care
17 administrator or employee of licensed child day care facility shall
18 submit a current certificate of completion to the child care director
19 or child care licensee within six weeks of employment. A current
20 certificate of completion for each child care licensee, administrator,
21 and employee of a licensed child day care facility, shall be
22 submitted to the department upon inspection of the child care
23 facility, when proof of other required training is submitted to the
24 department, or upon request by the department.

25 (3) The department shall issue a notice of deficiency at the time
26 of a site visit to a licensee who is not in compliance with this
27 section. The licensee shall, at the time the notice is issued, develop
28 a plan of correction to correct the deficiency within 90 days of
29 receiving the notice. The department may revoke the facility's
30 license if the facility fails to correct the deficiency within the
31 90-day period. Section 1596.890 does not apply to a deficiency
32 described in this paragraph.

33 (c) A child care licensee, administrator, or employee of a
34 licensed child day care facility who does not use the online training
35 module provided by the department shall report to, and obtain
36 approval from, the department regarding the training that person
37 shall use in lieu of the online training module.

38 (d) The department shall adopt regulations to implement this
39 section, including, but not limited to, defining "current certificate

1 of completion” and prescribing how frequently a licensee is
2 required to take the training.

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

4 11165.7. (a) As used in this article, “mandated reporter” is
5 defined as any of the following:

6 (1) A teacher.

7 (2) An instructional aide.

8 (3) A teacher’s aide or teacher’s assistant employed by a public
9 or private school.

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

11 (5) An administrative officer or supervisor of child welfare and
12 attendance, or a certificated pupil personnel employee of a public
13 or private school.

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

15 (7) An administrator or employee of a public or private youth
16 center, youth recreation program, or youth organization.

17 (8) An administrator or employee of a public or private
18 organization whose duties require direct contact and supervision
19 of children.

20 (9) An employee of a county office of education or the State
21 Department of Education whose duties bring the employee into
22 contact with children on a regular basis.

23 (10) A licensee, an administrator, or an employee of a licensed
24 community care or child day care facility.

25 (11) A Head Start program teacher.

26 (12) A licensing worker or licensing evaluator employed by a
27 licensing agency, as defined in Section 11165.11.

28 (13) A public assistance worker.

29 (14) An employee of a child care institution, including, but not
30 limited to, foster parents, group home personnel, and personnel of
31 residential care facilities.

32 (15) A social worker, probation officer, or parole officer.

33 (16) An employee of a school district police or security
34 department.

35 (17) A person who is an administrator or presenter of, or a
36 counselor in, a child abuse prevention program in a public or
37 private school.

38 (18) A district attorney investigator, inspector, or local child
39 support agency caseworker, unless the investigator, inspector, or
40 caseworker is working with an attorney appointed pursuant to

1 Section 317 of the Welfare and Institutions Code to represent a
2 minor.

3 (19) A peace officer, as defined in Chapter 4.5 (commencing
4 with Section 830) of Title 3 of Part 2, who is not otherwise
5 described in this section.

6 (20) A firefighter, except for volunteer firefighters.

7 (21) A physician and surgeon, psychiatrist, psychologist, dentist,
8 resident, intern, podiatrist, chiropractor, licensed nurse, dental
9 hygienist, optometrist, marriage and family therapist, clinical social
10 worker, professional clinical counselor, or any other person who
11 is currently licensed under Division 2 (commencing with Section
12 500) of the Business and Professions Code.

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

16 (23) A psychological assistant registered pursuant to Section
17 2913 of the Business and Professions Code.

18 (24) A marriage and family therapist trainee, as defined in
19 subdivision (c) of Section 4980.03 of the Business and Professions
20 Code.

21 (25) An unlicensed marriage and family therapist intern
22 registered under Section 4980.44 of the Business and Professions
23 Code.

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

26 (27) A coroner.

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

29 (29) A commercial film and photographic print or image
30 processor as specified in subdivision (e) of Section 11166. As used
31 in this article, “commercial film and photographic print or image
32 processor” means a person who develops exposed photographic
33 film into negatives, slides, or prints, or who makes prints from
34 negatives or slides, or who prepares, publishes, produces, develops,
35 duplicates, or prints any representation of information, data, or an
36 image, including, but not limited to, any film, filmstrip, photograph,
37 negative, slide, photocopy, videotape, video laser disc, computer
38 hardware, computer software, computer floppy disk, data storage
39 medium, CD-ROM, computer-generated equipment, or
40 computer-generated image, for compensation. The term includes

1 any employee of that person; it does not include a person who
2 develops film or makes prints or images for a public agency.

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

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

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

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

18 (32) A clergy member, as specified in subdivision (d) of Section
19 11166. As used in this article, “clergy member” means a priest,
20 minister, rabbi, religious practitioner, or similar functionary of a
21 church, temple, or recognized denomination or organization.

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

24 (34) An employee of any police department, county sheriff’s
25 department, county probation department, or county welfare
26 department.

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

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

31 (37) A person providing services to a minor child under Section
32 12300 or 12300.1 of the Welfare and Institutions Code.

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

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

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

3 (41) An employee or administrator of a public or private
4 postsecondary educational institution, whose duties bring the
5 administrator or employee into contact with children on a regular
6 basis, or who supervises those whose duties bring the administrator
7 or employee into contact with children on a regular basis, as to
8 child abuse or neglect occurring on that institution's premises or
9 at an official activity of, or program conducted by, the institution.
10 Nothing in this paragraph shall be construed as altering the
11 lawyer-client privilege as set forth in Article 3 (commencing with
12 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

13 (42) An athletic coach, athletic administrator, or athletic director
14 employed by any public or private school that provides any
15 combination of instruction for kindergarten, or grades 1 to 12,
16 inclusive.

17 (43) (A) A commercial computer technician as specified in
18 subdivision (e) of Section 11166. As used in this article,
19 "commercial computer technician" means a person who works for
20 a company that is in the business of repairing, installing, or
21 otherwise servicing a computer or computer component, including,
22 but not limited to, a computer part, device, memory storage or
23 recording mechanism, auxiliary storage recording or memory
24 capacity, or any other material relating to the operation and
25 maintenance of a computer or computer network system, for a fee.
26 An employer who provides an electronic communications service
27 or a remote computing service to the public shall be deemed to
28 comply with this article if that employer complies with Section
29 2258A of Title 18 of the United States Code.

30 (B) An employer of a commercial computer technician may
31 implement internal procedures for facilitating reporting consistent
32 with this article. These procedures may direct employees who are
33 mandated reporters under this paragraph to report materials
34 described in subdivision (e) of Section 11166 to an employee who
35 is designated by the employer to receive the reports. An employee
36 who is designated to receive reports under this subparagraph shall
37 be a commercial computer technician for purposes of this article.
38 A commercial computer technician who makes a report to the
39 designated employee pursuant to this subparagraph shall be deemed
40 to have complied with the requirements of this article and shall be

1 subject to the protections afforded to mandated reporters, including,
2 but not limited to, those protections afforded by Section 11172.

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

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

13 (c) Except as provided in subdivision (d), employers are strongly
14 encouraged to provide their employees who are mandated reporters
15 with training in the duties imposed by this article. This training
16 shall include training in child abuse and neglect identification and
17 training in child abuse and neglect reporting. Whether or not
18 employers provide their employees with training in child abuse
19 and neglect identification and reporting, the employers shall
20 provide their employees who are mandated reporters with the
21 statement required pursuant to subdivision (a) of Section 11166.5.

22 (d) Pursuant to Section 44691 of the Education Code, school
23 districts, county offices of education, state special schools and
24 diagnostic centers operated by the State Department of Education,
25 and charter schools shall annually train their employees and persons
26 working on their behalf specified in subdivision (a) in the duties
27 of mandated reporters under the child abuse reporting laws. The
28 training shall include, but not necessarily be limited to, training in
29 child abuse and neglect identification and child abuse and neglect
30 reporting.

31 (e) (1) *Pursuant to Section 1596.8662 of the Health and Safety*
32 *Code, a child care licensee applicant shall take training in the*
33 *duties of mandated reporters under the child abuse reporting laws*
34 *as a condition of licensure, and a child care administrator or an*
35 *employee of a licensed child day care facility shall take training*
36 *in the duties of mandated reporters during the first six weeks when*
37 *he or she is employed by the facility.*

38 (2) *A person specified in paragraph (1) shall take the training*
39 *regularly, as defined by the regulations adopted pursuant to Section*
40 *1596.8662 of the Health and Safety Code. The training shall*

1 *include, but not necessarily be limited to, training in child abuse*
2 *and neglect identification and child abuse and neglect reporting.*

3 ~~(e)~~

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

7 ~~(f)~~

8 (g) Public and private organizations are encouraged to provide
9 their volunteers whose duties require direct contact with and
10 supervision of children with training in the identification and
11 reporting of child abuse and neglect.

12 SEC. 4. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.