

AMENDED IN SENATE SEPTEMBER 5, 1997

AMENDED IN SENATE JULY 2, 1997

AMENDED IN ASSEMBLY APRIL 21, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1065

Introduced by Assembly Member Goldsmith

(Coauthor: Senator Solis)

February 27, 1997

An act to amend Sections 11167.5 and 11170 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 1065, as amended, Goldsmith. Child abuse reports: dependent children.

(1) Existing law, *the Child Abuse and Neglect Reporting Act*, requires the Department of Justice to maintain an index of all reports of child abuse, and requires the department to notify a child protective agency that submits a report of known or suspected child abuse of any information maintained in the index that is relevant to that report of abuse. Under existing law, the reports of child abuse and the information contained in them are confidential, and unauthorized disclosure is a misdemeanor.

This bill would expand the list of agencies and persons to whom reports of suspected child abuse and information contained in them may be disclosed. This bill would include in that list child protective agencies responsible for making

placements and persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index, pursuant to a request by a child protective agency responsible for making placements.

This bill would also require the department to make available to any child protective agency responsible for placing dependent children, upon request, relevant information concerning child abuse reports contained in the index, as specified. This bill would also require that upon receipt of this information, the child protective agency shall provide written notice to the person identified by the department, by notifying that person of the fact that he or she is in the index. By imposing new duties on child protective agencies and expanding the scope of an existing crime, this bill would impose a state-mandated local program.

(2) The Child Abuse and Neglect Reporting Act also authorizes the department to charge the person or entity making the request a fee whenever information contained in these files is furnished to the State Department of Social Services as the result of certain applications for employment or licensing, and requires that all moneys received for this purpose be deposited in the Department of Justice Sexual Habitual Offender Fund, for expenditure to offset various costs.

This bill would require that all moneys received under this provision to process trustline applications for purposes of provisions contained in AB 753 relating to child care provider registration be deposited in a special account in the General Fund created by this bill, named the Department of Justice Child Abuse Fund. The moneys in this fund would be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline applications.

(3) This bill would incorporate additional changes in Sections 11167.5 and 11170 of the Penal Code proposed by SB 644, to become operative if SB 644 and this bill are both enacted and become effective on or before January 1, 1998, and this bill is enacted last.

(4) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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 11167.5 of the Penal Code is
2 amended to read:

3 11167.5. (a) The reports required by Sections 11166
4 and 11166.2 shall be confidential and may be disclosed
5 only as provided in subdivision (b). Any violation of the
6 confidentiality provided by this article shall be a
7 misdemeanor punishable by up to six months in jail or by
8 a fine of five hundred dollars (\$500) or by both.

9 (b) Reports of suspected child abuse and information
10 contained therein may be disclosed only to the following:

11 (1) Persons or agencies to whom disclosure of the
12 identity of the reporting party is permitted under Section
13 11167.

14 (2) Persons or agencies to whom disclosure of
15 information is permitted under subdivision (b) of Section
16 11170.

17 (3) Persons or agencies with whom investigations of
18 child abuse are coordinated under the regulations
19 promulgated under Section 11174.



1 (4) Multidisciplinary personnel teams as defined in
2 subdivision (d) of Section 18951 of the Welfare and
3 Institutions Code.

4 (5) Persons or agencies responsible for the licensing of
5 facilities which care for children, as specified in Section
6 11165.7.

7 (6) The State Department of Social Services or any
8 county licensing agency which has contracted with the
9 state, as specified in paragraph (3) of subdivision (b) of
10 Section 11170, when an individual has applied for a
11 community care license or child day care license, or for
12 employment in an out-of-home care facility, or when a
13 complaint alleges child abuse by an operator or employee
14 of an out-of-home care facility.

15 (7) Hospital scan teams. As used in this paragraph,
16 “hospital scan team” means a team of three or more
17 persons established by a hospital, or two or more hospitals
18 in the same county, consisting of health care professionals
19 and representatives of law enforcement and child
20 protective services, the members of which are engaged
21 in the identification of child abuse. The disclosure
22 authorized by this section includes disclosure among
23 hospital scan teams located in the same county.

24 (8) Coroners and medical examiners when
25 conducting a postmortem examination of a child.

26 (9) The Board of Prison Terms may subpoena reports
27 that (A) are not unfounded, pursuant to Section 11165.12,
28 and (B) concern only the current incidents upon which
29 parole revocation proceedings are pending against a
30 parolee charged with child abuse. The reports and
31 information shall be confidential pursuant to subdivision
32 (d) of Section 11167.

33 (10) Personnel from a child protective agency
34 responsible for making a placement of a child pursuant to
35 Section 361.3 of, and Article 7 (commencing with Section
36 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare
37 and Institutions Code.

38 (11) Persons who have been identified by the
39 Department of Justice as listed in the Child Abuse Central
40 Index pursuant to subdivision (c) of Section 11170.



1 Nothing in this paragraph shall preclude a submitting
2 agency prior to disclosure from redacting the name,
3 address, and telephone number of a witness, person who
4 reports under this article, or victim in order to maintain
5 confidentiality as required by law.

6 (c) Authorized persons within county health
7 departments shall be permitted to receive copies of any
8 reports made by health practitioners, as defined in
9 Section 11165.8, pursuant to Section 11165.13, and copies
10 of assessments completed pursuant to Sections 10900 and
11 10901 of the Health and Safety Code, to the extent
12 permitted by federal law. Any information received
13 pursuant to this subdivision is protected by subdivision
14 (e).

15 (d) Nothing in this section shall be interpreted to
16 require the Department of Justice to disclose information
17 contained in records maintained under Section 11169 or
18 under the regulations promulgated pursuant to Section
19 11174, except as otherwise provided in this article.

20 (e) This section shall not be interpreted to allow
21 disclosure of any reports or records relevant to the reports
22 of child abuse if the disclosure would be prohibited by any
23 other provisions of state or federal law applicable to the
24 reports or records relevant to the reports of child abuse.

25 *SEC. 1.5. Section 11167.5 of the Penal Code is*
26 *amended to read:*

27 11167.5. (a) The reports required by Sections 11166
28 and 11166.2 shall be confidential and may be disclosed
29 only as provided in subdivision (b). Any violation of the
30 confidentiality provided by this article ~~shall be~~ *is* a
31 misdemeanor punishable by ~~up to six months in jail or~~
32 *imprisonment in a county jail not to exceed six months,*
33 *by a fine of five hundred dollars (\$500), or by both that*
34 *imprisonment and fine.*

35 (b) Reports of suspected child abuse and information
36 contained therein may be disclosed only to the following:

37 (1) Persons or agencies to whom disclosure of the
38 identity of the reporting party is permitted under Section
39 11167.



1 (2) Persons or agencies to whom disclosure of
2 information is permitted under subdivision (b) of Section
3 11170.

4 (3) Persons or agencies with whom investigations of
5 child abuse are coordinated under the regulations
6 promulgated under Section 11174.

7 (4) Multidisciplinary personnel teams as defined in
8 subdivision (d) of Section 18951 of the Welfare and
9 Institutions Code.

10 (5) Persons or agencies responsible for the licensing of
11 facilities which care for children, as specified in Section
12 11165.7.

13 (6) The State Department of Social Services or any
14 county licensing agency which has contracted with the
15 state, as specified in paragraph (3) of subdivision (b) of
16 Section 11170, when an individual has applied for a
17 community care license or child day care license, or for
18 employment in an out-of-home care facility, or when a
19 complaint alleges child abuse by an operator or employee
20 of an out-of-home care facility.

21 (7) Hospital scan teams. As used in this paragraph,
22 "hospital scan team" means a team of three or more
23 persons established by a hospital, or two or more hospitals
24 in the same county, consisting of health care professionals
25 and representatives of law enforcement and child
26 protective services, the members of which are engaged
27 in the identification of child abuse. The disclosure
28 authorized by this section includes disclosure among *all*
29 hospital scan teams ~~located in the same county.~~

30 (8) Coroners and medical examiners when
31 conducting a postmortem examination of a child.

32 (9) The Board of Prison Terms, *who may subpoena an*
33 *employee of a county welfare department who can*
34 *provide relevant evidence and reports that (A) are not*
35 *unfounded, pursuant to Section 11165.12, and (B)*
36 *concern only the current incidents upon which parole*
37 *revocation proceedings are pending against a parolee*
38 *charged with child abuse. The reports and information*
39 *shall be confidential pursuant to subdivision (d) of*
40 *Section 11167.*



1 (10) Personnel from a child protective agency
2 responsible for making a placement of a child pursuant to
3 Section 361.3 of, and Article 7 (commencing with Section
4 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare
5 and Institutions Code.

6 (11) Persons who have been identified by the
7 Department of Justice as listed in the Child Abuse Central
8 Index pursuant to subdivision (c) of Section 11170.
9 Nothing in this paragraph shall preclude a submitting
10 agency prior to disclosure from redacting the name,
11 address, and telephone number of a witness, person who
12 reports under this article, or victim in order to maintain
13 confidentiality as required by law.

14 (12) Out-of-state law enforcement agencies
15 conducting an investigation of child abuse only when an
16 agency makes the request for reports of suspected child
17 abuse in writing and on official letterhead, identifying the
18 suspected abuser or victim by name. The request shall be
19 signed by the department supervisor of the requesting
20 law enforcement agency. The written requests shall cite
21 the out-of-state statute or interstate compact provision
22 that requires that the information contained within these
23 reports shall be disclosed only to law enforcement,
24 prosecutorial entities, or multidisciplinary investigative
25 teams, and shall cite the criminal penalties for unlawful
26 disclosure provided by the requesting state or the
27 applicable interstate compact provision. In the absence of
28 a specific out-of-state statute or interstate compact
29 provision that requires that the information contained
30 within these reports shall be disclosed only to law
31 enforcement, prosecutorial entities, or multidisciplinary
32 investigative teams, and criminal penalties equivalent to
33 the penalties in California for unlawful disclosure, access
34 shall be denied.

35 (13) Persons who have verified with the Department
36 of Justice that they are listed in the Child Abuse Central
37 Index as provided by subdivision (e) of Section 11170.
38 Disclosure under this section shall be subject to the
39 California Public Records Act (Chapter 3.5
40 (commencing with Section 6250) of Division 7 of Title 1



1 of the Government Code). Nothing in this section shall
2 preclude a submitting agency prior to disclosure from
3 redacting the name, address, and telephone number of a
4 witness, person who reports under this article, or victim
5 to maintain confidentiality as required by law.

6 (14) Each county child death review team's
7 chairperson, or the chairperson's designee, to whom
8 disclosure of information is permitted under this article,
9 relating to the death of one or more children and any
10 prior child abuse investigation reports maintained
11 involving the same victim, siblings, or suspects. Local
12 child death review teams may share any relevant
13 information regarding case reviews involving child death
14 with other child death review teams.

15 (c) Authorized persons within county health
16 departments shall be permitted to receive copies of any
17 reports made by health practitioners, as defined in
18 Section 11165.8, pursuant to Section 11165.13, and copies
19 of assessments completed pursuant to Sections ~~10900~~
20 ~~123600~~ and ~~10901~~ 123605 of the Health and Safety Code,
21 to the extent permitted by federal law. Any information
22 received pursuant to this subdivision is protected by
23 subdivision (e).

24 (d) Nothing in this section shall be interpreted to
25 require the Department of Justice to disclose information
26 contained in records maintained under Section 11169 or
27 under the regulations promulgated pursuant to Section
28 11174, except as otherwise provided in this article.

29 (e) This section shall not be interpreted to allow
30 disclosure of any reports or records relevant to the reports
31 of child abuse if the disclosure would be prohibited by any
32 other provisions of state or federal law applicable to the
33 reports or records relevant to the reports of child abuse.

34 SEC. 2. Section 11170 of the Penal Code is amended
35 to read:

36 11170. (a) The Department of Justice shall maintain
37 an index of all reports of child abuse submitted pursuant
38 to Section 11169. The index shall be continually updated
39 by the department and shall not contain any reports that
40 are determined to be unfounded. The department may



1 adopt rules governing recordkeeping and reporting
2 pursuant to this article.

3 (b) (1) The Department of Justice shall immediately
4 notify a child protective agency ~~which~~ *that* submits a
5 report pursuant to Section 11169, or a district attorney
6 who requests notification, of any information maintained
7 pursuant to subdivision (a) ~~which~~ *that* is relevant to the
8 known or suspected instance of child abuse reported by
9 the agency. A child protective agency shall make that
10 information available to the reporting medical
11 practitioner, child custodian, guardian ad litem
12 appointed under Section 326, or counsel appointed under
13 Section 317 or 318 of the Welfare and Institutions Code,
14 or the appropriate licensing agency, if he or she is treating
15 or investigating a case of known or suspected child abuse.

16 (2) When a report is made pursuant to subdivision (a)
17 or (c) of Section 11166, the investigating agency, upon
18 completion of the investigation or after there has been a
19 final disposition in the matter, shall inform the person
20 required to report of the results of the investigation and
21 of any action the agency is taking with regard to the child
22 or family.

23 (3) The department shall make available to the State
24 Department of Social Services or to any county licensing
25 agency ~~which~~ *that* has contracted with the state for the
26 performance of licensing duties any information received
27 subsequent to January 1, 1981, pursuant to this section
28 concerning any person who is an applicant for licensure
29 or any adult who resides or is employed in the home of an
30 applicant for licensure or who is an applicant for
31 employment in a position having supervisory or
32 disciplinary power over a child or children, or who will
33 provide 24-hour care for a child or children in a
34 residential home or facility, pursuant to Section 1522.1 or
35 1596.877 of the Health and Safety Code, or Section 8714,
36 8802, 8912, or 9000 of the Family Code. If the department
37 has information that has been received subsequent to
38 January 1, 1981, concerning ~~such~~ a person, it also shall
39 make available to the State Department of Social Services



1 or to the county licensing agency any other information
 2 maintained pursuant to subdivision (a).

3 (4) Persons or agencies, as specified in subdivision (b),
 4 if investigating a case of known or suspected child abuse,
 5 or the State Department of Social Services or any county
 6 licensing agency pursuant to paragraph (3), to whom
 7 disclosure of any information maintained pursuant to
 8 subdivision (a) is authorized, are responsible for
 9 obtaining the original investigative report from the
 10 reporting agency, and for drawing independent
 11 conclusions regarding the quality of the evidence
 12 disclosed, and its sufficiency for making decisions
 13 regarding investigation, prosecution, or licensing.

14 (5) (A) Effective January 1, 1993, whenever
 15 information contained in the Department of Justice files
 16 is furnished as the result of an application for employment
 17 or licensing pursuant to paragraph (3), the Department
 18 of Justice may charge the person or entity making the
 19 request a fee. The fee shall not exceed the reasonable
 20 costs to the department of providing the information. The
 21 only increase shall be at a rate not to exceed the
 22 legislatively approved cost-of-living adjustment for the
 23 department. In no case shall the fee exceed fifteen dollars
 24 (\$15).

25 ~~All moneys~~

26 (B) *All moneys received by the department pursuant*
 27 *to this section to process trustline applications for*
 28 *purposes of Chapter 3.35 (commencing with Section*
 29 *1596.60) of Division 2 of the Health and Safety Code shall*
 30 *be deposited in a special account in the General Fund*
 31 *that is hereby established and named the Department of*
 32 *Justice Child Abuse Fund. Moneys in the fund shall be*
 33 *available, upon appropriation by the Legislature, for*
 34 *expenditure by the department to offset the costs*
 35 *incurred to process trustline automated child abuse*
 36 *system checks pursuant to this section.*

37 (C) *All moneys, other than that described in*
 38 *subparagraph (B), received by the department pursuant*
 39 *to this paragraph shall be deposited in a special account*
 40 *in the General Fund which is hereby created and named*



1 the Department of Justice Sexual Habitual Offender
2 Fund. The funds shall be available, upon appropriation by
3 the Legislature, for expenditure by the department to
4 offset the costs incurred pursuant to Chapter 9.5
5 (commencing with Section 13885) and Chapter 10
6 (commencing with Section 13890) of Title 6 of Part 4, and
7 Section 290.2, and for maintenance and improvements to
8 the statewide Sexual Habitual Offender Program and the
9 DNA offender identification file (CAL-DNA) authorized
10 by Chapter 9.5 (commencing with Section 13885) of Title
11 6 of Part 4 and Section 290.2.

12 (c) The Department of Justice shall make available to
13 any child protective agency responsible for placing
14 children pursuant to Article 7 (commencing with Section
15 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and
16 Institutions Code, upon request, relevant information
17 concerning child abuse reports contained in the index,
18 when making a placement with a responsible relative
19 pursuant to Sections 281.5, 305, and 361.3 of the Welfare
20 and Institutions Code. Upon receipt of relevant
21 information concerning child abuse reports contained in
22 the index from the Department of Justice pursuant to this
23 subdivision, the child protective agency shall also notify
24 in writing the person listed in the Child Abuse Central
25 Index that he or she is in the index. The notification shall
26 include the location of the original investigative report
27 and the submitting agency. The notification shall be
28 submitted to the person listed at the same time that all
29 other parties are notified of the information, and no later
30 than the actual judicial proceeding that determines
31 placement.

32 If Child Abuse Central Index information is requested
33 by a child protective agency for the placement of a child
34 with a responsible relative in an emergency situation
35 pursuant to Article 7 (commencing with Section 305) of
36 Chapter 2 of Part 1 of Division 2 of the Welfare and
37 Institutions Code, the department is exempt from the
38 requirements of Section 1798.18 of the Civil Code if
39 compliance would cause a delay in providing an
40 expedited response to the child protective agency's



1 inquiry and if further delay in placement may be
2 detrimental to the child.

3 ~~SEC. 3.~~

4 *SEC. 2.5. Section 11170 of the Penal Code is amended*
5 *to read:*

6 11170. (a) (1) The Department of Justice shall
7 maintain an index of all reports of child abuse submitted
8 pursuant to Section 11169. The index shall be continually
9 updated by the department and shall not contain any
10 reports that are determined to be unfounded. The
11 department may adopt rules governing recordkeeping
12 and reporting pursuant to this article.

13 (2) *The department shall act only as a repository of*
14 *reports of suspected child abuse to be maintained in the*
15 *Child Abuse Central Index pursuant to paragraph (1).*
16 *The submitting agencies are responsible for the accuracy,*
17 *completeness, and retention of the reports described in*
18 *this section. The department shall be responsible for*
19 *ensuring that the Child Abuse Central Index accurately*
20 *reflects the report it receives from the submitting agency.*

21 (3) *Information from an inconclusive or*
22 *unsubstantiated report filed pursuant to subdivision (a)*
23 *of Section 11169 shall be deleted from the Child Abuse*
24 *Central Index after 10 years if no subsequent report*
25 *concerning the same suspected child abuser is received*
26 *within that time period. If a subsequent report is received*
27 *within that 10-year period, information from any prior*
28 *report, as well as any subsequently filed report, shall be*
29 *maintained on the Child Abuse Central Index for a period*
30 *of 10 years from the time the most recent report is*
31 *received by the department.*

32 (b) (1) The Department of Justice shall immediately
33 notify a child protective agency—~~which~~ that submits a
34 report pursuant to Section 11169, or a district attorney
35 who requests notification, of any information maintained
36 pursuant to subdivision (a)—~~which~~ that is relevant to the
37 known or suspected instance of child abuse reported by
38 the agency. A child protective agency shall make that
39 information available to the reporting medical
40 practitioner, child custodian, guardian ad litem



1 appointed under Section 326, or counsel appointed under
2 Section 317 or 318 of the Welfare and Institutions Code,
3 or the appropriate licensing agency, if he or she is treating
4 or investigating a case of known or suspected child abuse.

5 (2) When a report is made pursuant to subdivision (a)
6 or (c) of Section 11166, the investigating agency, upon
7 completion of the investigation or after there has been a
8 final disposition in the matter, shall inform the person
9 required to report of the results of the investigation and
10 of any action the agency is taking with regard to the child
11 or family.

12 (3) The department shall make available to the State
13 Department of Social Services or to any county licensing
14 agency ~~which that~~ has contracted with the state for the
15 performance of licensing duties ~~any information received~~
16 ~~subsequent to January 1, 1981,~~ *information regarding a*
17 *known or suspected child abuser maintained* pursuant to
18 this section *and subdivision (a) of Section 11169*
19 concerning any person who is an applicant for licensure
20 or any adult who resides or is employed in the home of an
21 applicant for licensure or who is an applicant for
22 employment in a position having supervisory or
23 disciplinary power over a child or children, or who will
24 provide 24-hour care for a child or children in a
25 residential home or facility, pursuant to Section 1522.1 or
26 1596.877 of the Health and Safety Code, or Section 8714,
27 8802, 8912, or 9000 of the Family Code. ~~If the department~~
28 ~~has information that has been received subsequent to~~
29 ~~January 1, 1981, concerning such a person, it also shall~~
30 ~~make available to the State Department of Social Services~~
31 ~~or to the county licensing agency any other information~~
32 ~~maintained pursuant to subdivision (a).~~

33 (4) *For purposes of child death review, the*
34 *Department of Justice shall make available to the*
35 *chairperson, or the chairperson's designee, for each*
36 *county child death review team, or the State Child Death*
37 *Review Council, information maintained in the Child*
38 *Abuse Central Index pursuant to subdivision (a) of*
39 *Section 11170 relating to the death of one or more*
40 *children and any prior child abuse investigation reports*



1 *maintained involving the same victims, siblings, or*
2 *suspects. Local child death review teams may share any*
3 *relevant information regarding case reviews involving*
4 *child death with other child death review teams.*

5 (5) *The department shall make available to child*
6 *protective agencies, or court investigators acting*
7 *pursuant to Section 1513 of the Probate Code, responsible*
8 *for placing children or assessing the possible placement*
9 *of children pursuant to Article 6 (commencing with*
10 *Section 300), Article 7 (commencing with Section 305),*
11 *Article 10 (commencing with Section 360), or Article 14*
12 *(commencing with Section 601) of Chapter 2 of Part 1 of*
13 *Division 2 of the Welfare and Institutions Code, Article 2*
14 *(commencing with Section 1510) or Article 3*
15 *(commencing with Section 1540) of Chapter 1 of Part 2*
16 *of Division 4 of the Probate Code, information regarding*
17 *a known or suspected child abuser contained in the index*
18 *concerning any adult residing in the home where the*
19 *child may be placed, when this information is requested*
20 *for purposes of ensuring that the placement is in the best*
21 *interests of the child. Upon receipt of relevant*
22 *information concerning child abuse investigation reports*
23 *contained in the index from the Department of Justice*
24 *pursuant to this subdivision, the child protective agency*
25 *or court investigator shall notify, in writing, the person*
26 *listed in the Child Abuse Central Index that he or she is*
27 *in the index. The notification shall include the name of*
28 *the reporting agency and the date of the report.*

29 (6) (A) *Persons or agencies, as specified in*
30 *subdivision (b), if investigating a case of known or*
31 *suspected child abuse, or the State Department of Social*
32 *Services or any county licensing agency pursuant to*
33 *paragraph (3), or a child protective agency or court*
34 *investigator responsible for placing children or assessing*
35 *the possible placement of children pursuant to paragraph*
36 *(5), to whom disclosure of any information maintained*
37 *pursuant to subdivision (a) is authorized, are responsible*
38 *for obtaining the original investigative report from the*
39 *reporting agency, and for drawing independent*
40 *conclusions regarding the quality of the evidence*



1 disclosed, and its sufficiency for making decisions
2 regarding investigation, prosecution,—~~or~~ licensing, or
3 placement of a child.

4 ~~(5) Effective January 1, 1993, whenever~~

5 (B) *If Child Abuse Central Index information is*
6 *requested by a child protective agency for the temporary*
7 *placement of a child in an emergency situation pursuant*
8 *to Article 7 (commencing with Section 305) of Chapter*
9 *2 of Part 1 of Division 2 of the Welfare and Institutions*
10 *Code, the department is exempt from the requirements*
11 *of Section 1798.18 of the Civil Code if compliance would*
12 *cause a delay in providing an expedited response to the*
13 *child protective agency's inquiry and if further delay in*
14 *placement may be detrimental to the child.*

15 (7) (A) *Whenever* information contained in the
16 Department of Justice files is furnished as the result of an
17 application for employment or licensing pursuant to
18 paragraph (3), the Department of Justice may charge the
19 person or entity making the request a fee. The fee shall
20 not exceed the reasonable costs to the department of
21 providing the information. The only increase shall be at
22 a rate not to exceed the legislatively approved
23 cost-of-living adjustment for the department. In no case
24 shall the fee exceed fifteen dollars (\$15).

25 (B) All moneys received by the department pursuant
26 to this section to process trustline applications for
27 purposes of Chapter 3.35 (commencing with Section
28 1596.60) of Division 2 of the Health and Safety Code shall
29 be deposited in a special account in the General Fund
30 that is hereby established and named the Department of
31 Justice Child Abuse Fund. Moneys in the fund shall be
32 available, upon appropriation by the Legislature, for
33 expenditure by the department to offset the costs
34 incurred to process trustline automated child abuse
35 system checks pursuant to this section.

36 (C) All moneys, other than that described in
37 subparagraph (B), received by the department pursuant
38 to this paragraph shall be deposited in a special account
39 in the General Fund which is hereby created and named
40 the Department of Justice Sexual Habitual Offender



1 Fund. The funds shall be available, upon appropriation by
2 the Legislature, for expenditure by the department to
3 offset the costs incurred pursuant to Chapter 9.5
4 (commencing with Section 13885) and Chapter 10
5 (commencing with Section 13890) of Title 6 of Part 4, and
6 Section 290.2, and for maintenance and improvements to
7 the statewide Sexual Habitual Offender Program and the
8 DNA offender identification file (CAL-DNA) authorized
9 by Chapter 9.5 (commencing with Section 13885) of Title
10 6 of Part 4 and Section 290.2.

11 *(c) The Department of Justice shall make available to*
12 *any child protective agency responsible for placing*
13 *children pursuant to Article 7 (commencing with Section*
14 *305) of Chapter 2 of Part 1 of Division 2 of the Welfare and*
15 *Institutions Code, upon request, relevant information*
16 *concerning child abuse reports contained in the index,*
17 *when making a placement with a responsible relative*
18 *pursuant to Sections 281.5, 305, and 361.3 of the Welfare*
19 *and Institutions Code. Upon receipt of relevant*
20 *information concerning child abuse reports contained in*
21 *the index from the Department of Justice pursuant to this*
22 *subdivision, the child protective agency shall also notify*
23 *in writing the person listed in the Child Abuse Central*
24 *Index that he or she is in the index. The notification shall*
25 *include the location of the original investigative report*
26 *and the submitting agency. The notification shall be*
27 *submitted to the person listed at the same time that all*
28 *other parties are notified of the information, and no later*
29 *than the actual judicial proceeding that determines*
30 *placement.*

31 *If Child Abuse Central Index information is requested*
32 *by a child protective agency for the placement of a child*
33 *with a responsible relative in an emergency situation*
34 *pursuant to Article 7 (commencing with Section 305) of*
35 *Chapter 2 of Part 1 of Division 2 of the Welfare and*
36 *Institutions Code, the department is exempt from the*
37 *requirements of Section 1798.18 of the Civil Code if*
38 *compliance would cause a delay in providing an*
39 *expedited response to the child protective agency's*



1 inquiry and if further delay in placement may be
2 detrimental to the child.

3 (d) The department shall make available any
4 information maintained pursuant to Section 11169 to
5 out-of-state law enforcement agencies conducting
6 investigations of known or suspected child abuse only
7 when an agency makes the request for information in
8 writing and on official letterhead, identifying the
9 suspected abuser or victim by name. The request shall be
10 signed by the department supervisor of the requesting
11 law enforcement agency. The written requests shall cite
12 the out-of-state statute or interstate compact provision
13 that requires that the information contained within these
14 reports shall be disclosed only to law enforcement,
15 prosecutorial entities, or multidisciplinary investigative
16 teams, and shall cite the criminal penalties for unlawful
17 disclosure of any confidential information provided by
18 the requesting state or the applicable interstate compact
19 provision. In the absence of a specified out-of-state statute
20 or interstate compact provision that requires that the
21 information contained within these reports shall be
22 disclosed only to law enforcement, prosecutorial entities,
23 or multidisciplinary investigative teams, and criminal
24 penalties equivalent to the penalties in California for
25 unlawful disclosure, access shall be denied.

26 (e) Any person may determine if he or she is listed in
27 the Child Abuse Central Index by making a request in
28 writing to the Department of Justice. The request shall be
29 notarized and include the person's name, address, date of
30 birth, and either a social security number or a California
31 identification number. Upon receipt of a notarized
32 request, the Department of Justice shall make available
33 to the requesting person information identifying the date
34 of the report and the submitting agency. The requesting
35 person is responsible for obtaining the investigative
36 report from the submitting agency pursuant to paragraph
37 (13) of subdivision (a) of Section 11167.5.

38 (f) If a person is listed in the Child Abuse Central
39 Index only as a victim of child abuse, and that person is
40 18 years of age or older, that person may have his or her



1 name removed from the index by making a written
2 request to the Department of Justice. The request shall be
3 notarized and include the person's name, address, social
4 security number, and date of birth.

5 SEC. 3. Section 1.5 of this bill incorporates
6 amendments to Section 11167.5 of the Penal Code
7 proposed by both this bill and SB 644. It shall only become
8 operative if (1) both bills are enacted and become
9 effective on or before January 1, 1998, (2) each bill
10 amends Section 11167.5 of the Penal Code, and (3) this
11 bill is enacted after SB 644, in which case Section 1 of this
12 bill shall not become operative.

13 SEC. 4. Section 2.5 of this bill incorporates
14 amendments to Section 11170 of the Penal Code proposed
15 by both this bill and SB 644. It shall only become operative
16 if (1) both bills are enacted and become effective on or
17 before January 1, 1998, (2) each bill amends Section 11170
18 of the Penal Code, and (3) this bill is enacted after SB 644,
19 in which case Section 2 of this bill shall not become
20 operative.

21 SEC. 5. No reimbursement is required by this act
22 pursuant to Section 6 of Article XIII B of the California
23 Constitution for certain costs that may be incurred by a
24 local agency or school district because in that regard this
25 act creates a new crime or infraction, eliminates a crime
26 or infraction, or changes the penalty for a crime or
27 infraction, within the meaning of Section 17556 of the
28 Government Code, or changes the definition of a crime
29 within the meaning of Section 6 of Article XIII B of the
30 California Constitution.

31 However, notwithstanding Section 17610 of the
32 Government Code, if the Commission on State Mandates
33 determines that this act contains other costs mandated by
34 the state, reimbursement to local agencies and school
35 districts for those costs shall be made pursuant to Part 7
36 (commencing with Section 17500) of Division 4 of Title
37 2 of the Government Code. If the statewide cost of the
38 claim for reimbursement does not exceed one million
39 dollars (\$1,000,000), reimbursement shall be made from
40 the State Mandates Claims Fund.



1 Notwithstanding Section 17580 of the Government
2 Code, unless otherwise specified, the provisions of this act
3 shall become operative on the same date that the act
4 takes effect pursuant to the California Constitution.

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