

Introduced by Senator Polanco

February 25, 1997

An act to add Sections 324.5 and 361.4 to the Welfare and Institutions Code, relating to children.

LEGISLATIVE COUNSEL'S DIGEST

SB 645, as introduced, Polanco. Child abuse.

(1) Existing law sets forth specified conditions of abuse and neglect pursuant to which a child may be declared a dependent child of the juvenile court.

This bill would provide that whenever allegations of physical or sexual abuse of a child come to the attention of the local law enforcement agency or local child welfare department, and the child is taken into protective custody, the department or agency may, as soon as practically possible, consult with a specified medical practitioner and, if deemed appropriate, shall cause the minor to undergo a physical examination by a licensed medical practitioner, as provided. The bill would require the agency or department, whenever possible, to ensure that the examination takes place within 72 hours of the time the child was taken into protective custody or, where the allegations are made while the child is in custody, within 72 hours of the time the allegations are made.

This bill also would require that whenever a dependent child may be placed in the home of his or her parent or relative, or the home of any prospective guardian or other person who is not a licensed or certified foster parent, the court or other agency placing the child shall cause a criminal record check to be conducted by an appropriate

governmental agency, with respect to any person over the age of 14 living in the home and on every other person known to the placing entity who may spend considerable time with the child, as specified. The bill would require the court or other agency placing the child to evaluate all individuals who may have significant contact with the child when assessing the risk of placement, as provided. The bill would require the social worker to visit the home to ascertain the appropriateness of the placement prior to placing a child in the home of a relative of the child and would require the county social worker to cause a check of the Child Abuse Index to be requested from the Department of Justice.

Because this bill would require increased duties of local officials, the bill would impose a state-mandated local program.

(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. This act shall be known as the Lance
2 Helms Child Safety Act of 1997.

3 SEC. 2. Section 324.5 is added to the Welfare and
4 Institutions Code, to read:

5 324.5. (a) Whenever allegations of physical or sexual
6 abuse of a child come to the attention of a local law
7 enforcement agency or the local child welfare
8 department and the child is taken into protective



1 custody, the local law enforcement agency, or child
2 welfare department may, as soon as practically possible,
3 consult with a medical practitioner, who has specialized
4 training in detecting child abuse injuries and neglect, to
5 determine whether a physical examination of the child is
6 appropriate. If deemed appropriate, the local law
7 enforcement agency, or the child welfare department,
8 shall cause the child to undergo a physical examination
9 performed by a medical practitioner who has specialized
10 training in detecting child abuse injuries and neglect,
11 and, whenever possible, shall ensure that this
12 examination take place within 72 hours of the time the
13 child was taken into protective custody. In the event the
14 allegations are made while the child is in custody, the
15 physical examination shall be performed within 72 hours
16 of the time the allegations were made.

17 In the case of a petition filed pursuant to Section 319,
18 the department shall provide the results of the physical
19 examination to the court and to any counsel for the minor,
20 and counsel for the parent or guardian of the minor.
21 Failure to obtain this physical examination shall not be
22 grounds to deny a petition under this section.

23 (b) The local child welfare agency shall, whenever
24 possible, request that additional medical examinations to
25 determine child abuse injuries or neglect, be performed
26 by the same medical practitioner who performed the
27 examinations described in subdivision (a). If it is not
28 possible to obtain additional medical examinations, the
29 local child welfare agency shall ensure that medical
30 practitioners have access to the child's medical records
31 covering previous incidents of child abuse.

32 SEC. 3. Section 361.4 is added to the Welfare and
33 Institutions Code, to read:

34 361.4. (a) Whenever a child may be placed in the
35 home of his or her parent or relative, or the home of any
36 prospective guardian or other person who is not a
37 licensed or certified foster parent, the court or other
38 agency placing the child shall cause a criminal record
39 check to be conducted by an appropriate governmental
40 agency through the Bureau of Criminal Identification



1 and Information and the National Criminal Identification
2 Center. The criminal record check shall be conducted
3 with regard to all persons over the age of 14 living in the
4 home, and on every other person, other than
5 professionals providing professional services to the child,
6 known to the placing entity who, by the nature of his or
7 her relationships, may spend considerable time with the
8 child. The court or other agency placing the child shall
9 evaluate all individuals who may have significant contact
10 with the child when assessing the risk of placement and
11 shall evaluate the proposed caretaker, any other person
12 over the age of 14 living in the home, or any other person,
13 other than professionals providing professional services
14 to the child, who may spend considerable time with the
15 child. Prior to placing a child in the home of a relative of
16 the child, the social worker shall visit the home to
17 ascertain the appropriateness of the placement.

18 (b) Whenever a child may be placed in the home of a
19 relative, or a prospective guardian, the county social
20 worker shall cause a check of the Child Abuse Index
21 pursuant to subdivision (a) of Section 11170 of the Penal
22 Code to be requested from the Department of Justice.
23 The Child Abuse Index check shall be conducted on all
24 persons living in the home. In determining whether
25 placement with a relative pursuant to Section 361.3 or a
26 prospective guardian is appropriate, the court and the
27 county social worker shall consider the results of the Child
28 Abuse Index check when assessing the risk of the
29 placement to the child.

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