

AMENDED IN SENATE AUGUST 7, 2000

AMENDED IN SENATE JUNE 23, 1999

AMENDED IN ASSEMBLY APRIL 28, 1999

AMENDED IN ASSEMBLY APRIL 7, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1447

Introduced by Assembly Member Granlund

February 26, 1999

An act to amend Sections ~~1522.1 and 1596.877~~ of the Health and Safety Code, and Sections ~~11167.5, 11169, 11170 and 11170.5~~ of, and to add Sections ~~11168.5 and 11173~~ to, the Penal Code, relating to child abuse records, and declaring the urgency thereof, to take effect immediately. ~~11169 and 11170 of, and to add Section 11174.4 to, the Penal Code, relating to child abuse records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1447, as amended, Granlund. Child abuse records.

Existing law requires a child protective agency to forward to the Department of Justice a report of every case it investigates of known or suspected child abuse that is determined not to be unfounded, as specified. Existing law also requires a child protective agency to retain a copy of these reports for a specified period of time.

This bill would require these reports to be maintained in a location and manner that will permit them to be readily

accessible and retrievable for all authorized purposes and would also require child protective agencies to respond to specified inquiries from the Department of Justice in a prompt and timely manner. By imposing new duties on local officials, this bill would impose a state-mandated local program.

Existing law requires the Department of Justice to maintain the Child Abuse Central Index, including listing the name of known or suspected child abusers, and requires the department to keep information from an inconclusive or unsubstantiated report in the index for 10 years.

This bill would require that information from a substantiated report be deleted from the Child Abuse Central Index after 15 years, except as specified.

Existing law also requires the department to make relevant information available to child protective agencies and also requires the child protective agencies to provide certain notice to known or suspected child abusers listed in the Child Abuse Central Index.

This bill would recast and reorganize certain provisions relating to information requested by a child protective agency for temporary placement of a child in specified emergency situations. This bill would also delete specified notification requirements.

This bill would create the Child Abuse and Neglect Reporting Act Task Force for the purpose of reviewing the act and for the purpose of evaluating how effective the Child Abuse Central Index is in protecting children and for determining what changes are needed in the manner in which the index operates. The task force would be chaired by a designee of the Attorney General and would consist of specified members. The task force would be required to report on its findings on or before June 30, 2001.

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.

~~(1) Existing law requires that prior to granting a license or otherwise approving any individual to care for children, the Department of Social Services must check the Child Abuse Registry and investigate any information received from the county child protective services agency regarding that individual. However, the department is prohibited from denying a license based upon a report from the registry or records of a county child protective agency, unless the department finds that the report of child abuse is substantiated.~~

~~This bill would change the references to the “Child Abuse Registry” in the above provisions to the “Child Abuse Central Index” and would require the department to notify the index when information on an individual is no longer required, as specified.~~

~~(2) Existing law provides that reports of child abuse, as specified, are confidential, and may only be disclosed to certain individuals and entities. Violation of the confidentiality provisions is a misdemeanor.~~

~~This bill would recast and reorganize certain of those provisions relating to the disclosure of confidential records, and would provide notice to known or suspected child abusers. The bill would additionally provide in the reorganized provisions that information in the required reports is confidential and that violation of the confidentiality provisions is a misdemeanor. By creating a new crime, this bill would impose a state-mandated program.~~

~~Existing law requires the Department of Justice to maintain the Child Abuse Central Index, including listing the name of known or suspected child abusers.~~

~~This bill would authorize the department to delete the name of a known or suspected child abuser from the Child Abuse Central Index when the department receives information that the person has died.~~

~~Existing law also requires the department to make relevant information available to child protective agencies, as~~



~~specified, and also requires the child protective agencies to provide certain notice to known or suspected child abusers listed in the Child Abuse Central Index, as specified.~~

~~This bill would require a child protective agency who has initiated an investigation of suspected child abuse, to conduct and complete an active investigation as specified and to prepare a written report of that investigation. The bill would authorize the agency to withhold specified information in that report when necessary to protect the safety of any person, the confidentiality of a mandated reporter, or the confidentiality of a continuing investigation. The bill would also delete certain provisions that are duplicative. By imposing new duties on local officials, this bill would impose a state-mandated local program.~~

~~This bill would also make various other technical changes.~~

~~(3) The bill would state the Legislature's findings and declarations regarding the Child Abuse Index and would require the Department of Justice to prepare a report to the Legislature by January 1, 2000, on the appropriateness of purging the index of substantiated reports of child abuse after 10 years under specified circumstances and to address the cost and effects of providing a hearing for an individual to contest his or her listing in the index.~~

~~(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.~~



~~(5) The bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ —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 1522.1 of the Health and Safety~~

2 *SECTION 1. Section 11169 of the Penal Code is*
3 *amended to read:*

4 11169. (a) A child protective agency shall forward to
5 the Department of Justice a report in writing of every
6 case it investigates of known or suspected child abuse
7 which is determined not to be unfounded, other than
8 cases coming within subdivision (b) of Section 11165.2. A
9 child protective agency shall not forward a report to the
10 Department of Justice unless it has conducted an active
11 investigation and determined that the report is not
12 unfounded, as defined in Section 11165.12. If a report has
13 previously been filed which subsequently proves to be
14 unfounded, the Department of Justice shall be notified in
15 writing of that fact and shall not retain the report. The
16 report required by this section shall be in a form approved
17 by the Department of Justice. A child protective agency
18 receiving a written report from another child protective
19 agency shall not send that report to the Department of
20 Justice.

21 (b) At the time a child protective agency forwards a
22 report in writing to the Department of Justice pursuant
23 to subdivision (a), the agency shall also notify in writing
24 the known or suspected child abuser that he or she has
25 been reported to the Child Abuse Central Index. The
26 notice required by this section shall be in a form approved
27 by the Department of Justice. The requirements of this
28 subdivision shall apply with respect to reports forwarded
29 to the department on or after the date on which this
30 subdivision becomes operative.

31 (c) Child protective agencies shall retain child abuse
32 investigative reports that result in a report filed with the
33 Department of Justice pursuant to subdivision (a) for the



1 same period of time that the information is required to be
2 maintained on the Child Abuse Central Index pursuant
3 to this section. Nothing in this section precludes a child
4 protective agency from retaining the reports for a longer
5 period of time if required by law. *The reports shall be*
6 *maintained in a location and manner that will permit*
7 *them to be readily accessible and retrievable for all*
8 *authorized purposes. Child protective agencies shall*
9 *respond to inquiries from the Department of Justice*
10 *regarding record retention and accessibility in a prompt*
11 *and timely manner.*

12 (d) The immunity provisions of Section 11172 shall not
13 apply to the submission of a report by a child protective
14 agency pursuant to this section. However, nothing in this
15 section shall be construed to alter or diminish any other
16 immunity provisions of state or federal law.

17 *SEC. 2. Section 11170 of the Penal Code is amended*
18 *to read:*

19 11170. (a) (1) The Department of Justice shall
20 maintain an index of all reports of child abuse submitted
21 pursuant to Section 11169. The index shall be continually
22 updated by the department and shall not contain any
23 reports that are determined to be unfounded. The
24 department may adopt rules governing recordkeeping
25 and reporting pursuant to this article.

26 (2) The department shall act only as a repository of
27 reports of suspected child abuse to be maintained in the
28 Child Abuse Central Index pursuant to paragraph (1).
29 The submitting agencies are responsible for the accuracy,
30 completeness, and retention of the reports described in
31 this section. The department shall be responsible for
32 ensuring that the Child Abuse Central Index accurately
33 reflects the report it receives from the submitting agency.

34 (3) Information from an inconclusive or
35 unsubstantiated report filed pursuant to subdivision (a)
36 of Section 11169 shall be deleted from the Child Abuse
37 Central Index after 10 years if no subsequent report
38 concerning the same suspected child abuser is received
39 within that time period. If a subsequent report is received
40 within that 10-year period, information from any prior



1 report, as well as any subsequently filed report, shall be
2 maintained on the Child Abuse Central Index for a period
3 of 10 years from the time the most recent report is
4 received by the department.

5 *(4) Information from a substantiated report filed*
6 *pursuant to subdivision (a) of Section 11169 shall be*
7 *deleted from the Child Abuse Central Index after 15 years*
8 *if no subsequent report concerning the same suspected*
9 *child abuser is received within that time period. If a*
10 *subsequent report is received within that 15 year period,*
11 *information from any prior report, as well as any*
12 *subsequently filed report, shall be maintained on the*
13 *Child Abuse Central Index for a period of 15 years from*
14 *the time that the most recent report is received by the*
15 *department.*

16 *(5) The Department of Justice may delete a known or*
17 *suspected child abuser's name from the Child Abuse*
18 *Central Index upon receipt of information that the*
19 *person has died.*

20 (b) (1) The Department of Justice shall, upon
21 request, immediately notify a child protective agency
22 that submits a report pursuant to Section 11169, or a
23 district attorney who requests notification, of any
24 information maintained pursuant to subdivision (a) that
25 is relevant to the known or suspected instance of child
26 abuse reported by the agency. A child protective agency
27 shall make that information available to the reporting
28 medical practitioner, child custodian, guardian ad litem
29 appointed under Section 326, or counsel appointed under
30 Section 317 or 318 of the Welfare and Institutions Code,
31 or the appropriate licensing agency, if he or she is treating
32 or investigating a case of known or suspected child abuse.

33 (2) When a report is made pursuant to subdivision (a)
34 or (c) of Section 11166, the investigating agency, upon
35 completion of the investigation or after there has been a
36 final disposition in the matter, shall inform the person
37 required to report of the results of the investigation and
38 of any action the agency is taking with regard to the child
39 or family.



1 (3) The department shall make available to the State
2 Department of Social Services or to any county licensing
3 agency that has contracted with the state for the
4 performance of licensing duties information regarding a
5 known or suspected child abuser maintained pursuant to
6 this section and subdivision (a) of Section 11169
7 concerning any person who is an applicant for licensure
8 or any adult who resides or is employed in the home of an
9 applicant for licensure or who is an applicant for
10 employment in a position having supervisory or
11 disciplinary power over a child or children, or who will
12 provide 24-hour care for a child or children in a
13 residential home or facility, pursuant to Section 1522.1 or
14 1596.877 of the Health and Safety Code, or Section 8714,
15 8802, 8912, or 9000 of the Family Code.

16 (4) For purposes of child death review, the
17 Department of Justice shall make available to the
18 chairperson, or the chairperson's designee, for each
19 county child death review team, or the State Child Death
20 Review Council, information maintained in the Child
21 Abuse Central Index pursuant to subdivision (a) of
22 Section 11170 relating to the death of one or more
23 children and any prior child abuse investigation reports
24 maintained involving the same victims, siblings, or
25 suspects. Local child death review teams may share any
26 relevant information regarding case reviews involving
27 child death with other child death review teams.

28 (5) The department shall make available to child
29 protective agencies, or court investigators acting
30 pursuant to Section 1513 of the Probate Code, responsible
31 for placing children or assessing the possible placement
32 of children pursuant to Article 6 (commencing with
33 Section 300), Article 7 (commencing with Section 305),
34 Article 10 (commencing with Section 360), or Article 14
35 (commencing with Section 601) of Chapter 2 of Part 1 of
36 Division 2 of the Welfare and Institutions Code, Article 2
37 (commencing with Section 1510) or Article 3
38 (commencing with Section 1540) of Chapter 1 of Part 2
39 of Division 4 of the Probate Code, information regarding
40 a known or suspected child abuser contained in the index



1 concerning any adult residing in the home where the
2 child may be placed, when this information is requested
3 for purposes of ensuring that the placement is in the best
4 interests of the child. Upon receipt of relevant
5 information concerning child abuse investigation reports
6 contained in the index from the Department of Justice
7 pursuant to this subdivision, the child protective agency
8 or court investigator shall notify, in writing, the person
9 listed in the Child Abuse Central Index that he or she is
10 in the index. The notification shall include the name of
11 the reporting agency and the date of the report.

12 *If Child Abuse Central Index information is requested*
13 *by a child protective agency for temporary placement of*
14 *a child in an emergency situation pursuant to Article 7*
15 *(commencing with Section 305) of Chapter 2 of Part 1 of*
16 *Division 2 of the Welfare and Institutions Code, the*
17 *department is exempt from the requirements of Section*
18 *1798.18 of the Civil Code if compliance would cause a*
19 *delay in providing an expedited response to the child*
20 *protective agency's inquiry and if further delay in*
21 *placement may be detrimental to the child. This*
22 *exemption shall apply whether or not the placement is*
23 *with a relative or a nonrelative.*

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

39 ~~(B) If Child Abuse Central Index information is~~
40 ~~requested by a child protective agency for the temporary~~



~~1 placement of a child in an emergency situation pursuant
2 to Article 7 (commencing with Section 305) of Chapter
3 2 of Part 1 of Division 2 of the Welfare and Institutions
4 Code, the department is exempt from the requirements
5 of Section 1798.18 of the Civil Code if compliance would
6 cause a delay in providing an expedited response to the
7 child protective agency's inquiry and if further delay in
8 placement may be detrimental to the child.~~

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

19 (B) All moneys received by the department pursuant
20 to this section to process trustline applications for
21 purposes of Chapter 3.35 (commencing with Section
22 1596.60) of Division 2 of the Health and Safety Code shall
23 be deposited in a special account in the General Fund
24 that is hereby established and named the Department of
25 Justice Child Abuse Fund. Moneys in the fund shall be
26 available, upon appropriation by the Legislature, for
27 expenditure by the department to offset the costs
28 incurred to process trustline automated child abuse
29 system checks pursuant to this section.

30 (C) All moneys, other than that described in
31 subparagraph (B), received by the department pursuant
32 to this paragraph shall be deposited in a special account
33 in the General Fund which is hereby created and named
34 the Department of Justice Sexual Habitual Offender
35 Fund. The funds shall be available, upon appropriation by
36 the Legislature, for expenditure by the department to
37 offset the costs incurred pursuant to Chapter 9.5
38 (commencing with Section 13885) and Chapter 10
39 (commencing with Section 13890) of Title 6 of Part 4, and
40 the DNA and Forensic Identification Data Base and Data



1 Bank Act of 1998 (Chapter 6 (commencing with Section
2 295) of Title 9 of Part 1), and for maintenance and
3 improvements to the statewide Sexual Habitual Offender
4 Program and the DNA offender identification file
5 (CAL-DNA) authorized by Chapter 9.5 (commencing
6 with Section 13885) of Title 6 of Part 4 and the DNA and
7 Forensic Identification Data Base and Data Bank Act of
8 1998 (Chapter 6 (commencing with Section 295) of Title
9 9 of Part 1).

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

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



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

24 ~~(e)~~

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

37 ~~(f)~~

38 (e) 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 11174.4 is added to the Penal Code, to*
6 *read:*

7 *11174.4. (a) There is hereby created the Child Abuse*
8 *and Neglect Reporting Act Task Force, for the purpose*
9 *of reviewing the act and answering the following:*

10 *(1) How valuable the Child Abuse Central Index is in*
11 *protecting children.*

12 *(2) What changes, if any, are needed in the manner in*
13 *which the Child Abuse Central Index operates.*

14 *(b) The task force shall be chaired by a designee of the*
15 *Attorney General.*

16 *(c) The members of the task force shall serve at the*
17 *pleasure of the chairperson, without compensation,*
18 *except for the reimbursement of necessary expenses.*

19 *(d) The task force shall consist of the following*
20 *representatives:*

21 *(1) Two representatives from the Department of*
22 *Justice, not including the chairperson.*

23 *(2) One representative from the State Department of*
24 *Social Services.*

25 *(3) One representative from the County Welfare*
26 *Directors' Association.*

27 *(4) One representative from the California State*
28 *Child Death Review Council.*

29 *(5) One representative from Prevent Child Abuse*
30 *California.*

31 *(6) Two representatives from local law enforcement,*
32 *one who is nominated by the California State Sheriffs*
33 *Association and who is one nominated by the California*
34 *Police Chiefs Association.*

35 *(7) Two representatives from recognized*
36 *organizations in privacy advocacy, civil liberties*
37 *advocacy, or legal aid, one who is appointed by the*
38 *Speaker of the Assembly and one who is appointed by the*
39 *Senate Committee on Rules.*



1 (8) Two members of the public, one who is appointed
2 by the Speaker of the Assembly and one who is appointed
3 by the Senate Committee on Rules.

4 (9) Two representatives appointed by the Governor.

5 (e) The Department of Justice shall provide staff and
6 support for the task force.

7 (f) On or before June 30, 2001, the task force shall
8 report its findings and recommendations to the
9 Governor, the Attorney General, the Speaker of the
10 Assembly, and the Senate Committee on Rules.

11 SEC. 4. Notwithstanding Section 17610 of the
12 Government Code, if the Commission on State Mandates
13 determines that this act contains costs mandated by the
14 state, reimbursement to local agencies and school
15 districts for those costs shall be made pursuant to Part 7
16 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million
19 dollars (\$1,000,000), reimbursement shall be made from
20 the State Mandates Claims Fund.

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**All matter omitted in this version of the
bill appears in the bill as amended in the
Senate, June 23, 1999 (JR 11)**

