

AMENDED IN SENATE MARCH 7, 2006  
AMENDED IN ASSEMBLY JANUARY 23, 2006  
AMENDED IN ASSEMBLY APRIL 26, 2005  
AMENDED IN ASSEMBLY APRIL 4, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 525**

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**Introduced by Assembly Member Chu**

February 16, 2005

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An act to ~~add Section 12698.02 to the Insurance Code, relating to health care; amend Sections 11165.6, 11165.9, 11166, 11167, 11167.5, and 11170 of the Penal Code, relating to child abuse reporting.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 525, as amended, Chu. ~~Health care: Access for Infants and Mothers Program. Child abuse reporting.~~

*Existing law defines the term "child abuse or neglect" for purposes of mandatory reporting of suspected instances of child abuse or neglect. Existing law specifies certain agencies to which mandated reports of suspected child abuse or neglect shall be made. Existing law requires those agencies to forward those reports that are determined not to be unfounded to the Department of Justice. Existing law also authorizes, but does not require, the reporting of instances where a child suffers or is at substantial risk of suffering serious emotional damage, as specified.*

*This bill would include within that definition of "child abuse or neglect," instances where a child suffers or is at substantial risk of*

*suffering serious emotional damage, as defined. This bill would generally conform the procedures for authorized reporting of instances of child abuse or neglect involving emotional damage, as specified, to certain existing procedures applicable to mandated child abuse reporting.*

*By increasing the reporting burden on local law enforcement agencies, this bill would impose a state-mandated local program.*

*Existing law requires a representative of a child protective services agency performing an investigation resulting from a required report of suspected child abuse or neglect to inform the individual who is the subject of the investigation, at the first contact, of the complaints or allegations against that person, as specified.*

*This bill would apply that requirement in the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.*

*By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.*

*Existing law requires the investigating agency investigating suspected child abuse or neglect, upon completion of the investigation or after there has been a final disposition of the matter, to inform the mandated reporter of the results of the investigation and of any action the agency is taking with regard to the child or family.*

*This bill would apply that requirement to the context of reports of child abuse or neglect involving serious emotional damage that are authorized to be reported.*

*By increasing the duties of local government entities in connection with investigating certain instances of suspected child abuse, this bill would impose a state-mandated local program.*

*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, 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.*

~~Existing law establishes the Access for Infants and Mothers (AIM) Program, administered by the Managed Risk Medical Insurance Board, to provide health care coverage for certain eligible persons~~

who pay a subscriber contribution. The AIM Program provides coverage, at a minimum, to subscribers during one pregnancy, and for 60 days thereafter, and to children less than 2 years of age who were born of a pregnancy covered under this program to a woman enrolled in the program before July 1, 2004.

~~This bill would prohibit the board from imposing a written verification of pregnancy requirement as a condition of eligibility for the AIM Program.~~

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

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

1     SECTION 1. Section 11165.6 of the Penal Code is amended  
2 to read:

3     11165.6. As used in this article, the term “child abuse or  
4 neglect” includes physical injury inflicted by other than  
5 accidental means upon a child by another person, sexual abuse as  
6 defined in Section 11165.1, neglect as defined in Section  
7 11165.2, the willful harming or injuring of a child or the  
8 endangering of the person or health of a child, as defined in  
9 Section 11165.3, and unlawful corporal punishment or injury as  
10 defined in Section 11165.4. “Child abuse and neglect also  
11 includes instances in which a child suffers or is at substantial  
12 risk of suffering serious emotional damage as described in  
13 Section 11165.05. “Child abuse or neglect” does not include a  
14 mutual affray between minors. “Child abuse or neglect” does not  
15 include an injury caused by reasonable and necessary force used  
16 by a peace officer acting within the course and scope of his or her  
17 employment as a peace officer.

18     SEC. 2. Section 11165.9 of the Penal Code is amended to  
19 read:

20     11165.9. Reports of suspected child abuse or neglect shall be  
21 made by mandated reporters, *or in the case of reports pursuant to*  
22 *Section 11166.05, may be made,* to any police department or  
23 sheriff’s department, not including a school district police or  
24 security department, county probation department, if designated  
25 by the county to receive mandated reports, or the county welfare  
26 department. Any of those agencies shall accept a report of  
27 suspected child abuse or neglect whether offered by a mandated

1 reporter or another person, or referred by another agency, even if  
2 the agency to whom the report is being made lacks subject matter  
3 or geographical jurisdiction to investigate the reported case,  
4 unless the agency can immediately electronically transfer the call  
5 to an agency with proper jurisdiction. When an agency takes a  
6 report about a case of suspected child abuse or neglect in which  
7 that agency lacks jurisdiction, the agency shall immediately refer  
8 the case by telephone, fax, or electronic transmission to an  
9 agency with proper jurisdiction. Agencies that are required to  
10 receive reports of suspected child abuse or neglect may not  
11 refuse to accept a report of suspected child abuse or neglect from  
12 a mandated reporter or another person unless otherwise  
13 authorized pursuant to this section, and shall maintain a record of  
14 all reports received.

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

16 11166. (a) Except as provided in subdivision (d), *and in*  
17 *Section 11166.05*, a mandated reporter shall make a report to an  
18 agency specified in Section 11165.9 whenever the mandated  
19 reporter, in his or her professional capacity or within the scope of  
20 his or her employment, has knowledge of or observes a child  
21 whom the mandated reporter knows or reasonably suspects has  
22 been the victim of child abuse or neglect. The mandated reporter  
23 shall make an initial report to the agency immediately or as soon  
24 as is practicably possible by telephone and the mandated reporter  
25 shall prepare and send, fax, or electronically transmit a written  
26 followup report thereof within 36 hours of receiving the  
27 information concerning the incident. The mandated reporter may  
28 include with the report any nonprivileged documentary evidence  
29 the mandated reporter possesses relating to the incident.

30 (1) For the purposes of this article, “reasonable suspicion”  
31 means that it is objectively reasonable for a person to entertain a  
32 suspicion, based upon facts that could cause a reasonable person  
33 in a like position, drawing, when appropriate, on his or her  
34 training and experience, to suspect child abuse or neglect. For the  
35 purpose of this article, the pregnancy of a minor does not, in and  
36 of itself, constitute a basis for a reasonable suspicion of sexual  
37 abuse.

38 (2) The agency shall be notified and a report shall be prepared  
39 and sent, faxed, or electronically transmitted even if the child has  
40 expired, regardless of whether or not the possible abuse was a

1 factor contributing to the death, and even if suspected child abuse  
2 was discovered during an autopsy.

3 (3) Any report made by a mandated reporter pursuant to this  
4 section shall be known as a mandated report.

5 (b) If after reasonable efforts a mandated reporter is unable to  
6 submit an initial report by telephone, he or she shall immediately  
7 or as soon as is practicably possible, by fax or electronic  
8 transmission, make a one-time automated written report on the  
9 form prescribed by the Department of Justice, and shall also be  
10 available to respond to a telephone followup call by the agency  
11 with which he or she filed the report. A mandated reporter who  
12 files a one-time automated written report because he or she was  
13 unable to submit an initial report by telephone is not required to  
14 submit a written followup report.

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

27 (2) This subdivision shall not become operative until the  
28 CWS/CMS is updated to capture the information prescribed in  
29 this subdivision.

30 (3) This subdivision shall become inoperative three years after  
31 this subdivision becomes operative or on January 1, 2009, which  
32 ever occurs first.

33 (4) On the inoperative date of these provisions, a report shall  
34 be submitted to the counties and the Legislature by the  
35 Department of Social Services that reflects the data collected  
36 from automated one-time reports indicating the reasons stated as  
37 to why the automated one-time report was filed in lieu of the  
38 initial telephone report.

39 (5) Nothing in this section shall supersede the requirement that  
40 a mandated reporter first attempt to make a report via telephone,

1 or that agencies specified in Section 11165.9 accept reports from  
2 mandated reporters and other persons as required.

3 (c) Any mandated reporter who fails to report an incident of  
4 known or reasonably suspected child abuse or neglect as required  
5 by this section is guilty of a misdemeanor punishable by up to six  
6 months confinement in a county jail or by a fine of one thousand  
7 dollars (\$1,000) or by both that imprisonment and fine. If a  
8 mandated reporter intentionally conceals his or her failure to  
9 report an incident known by the mandated reporter to be abuse or  
10 severe neglect under this section, the failure to report is a  
11 continuing offense until an agency specified in Section 11165.9  
12 discovers the offense.

13 (d) (1) A clergy member who acquires knowledge or a  
14 reasonable suspicion of child abuse or neglect during a  
15 penitential communication is not subject to subdivision (a). For  
16 the purposes of this subdivision, “penitential communication”  
17 means a communication, intended to be in confidence, including,  
18 but not limited to, a sacramental confession, made to a clergy  
19 member who, in the course of the discipline or practice of his or  
20 her church, denomination, or organization, is authorized or  
21 accustomed to hear those communications, and under the  
22 discipline, tenets, customs, or practices of his or her church,  
23 denomination, or organization, has a duty to keep those  
24 communications secret.

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

30 (3) (A) On or before January 1, 2004, a clergy member or any  
31 custodian of records for the clergy member may report to an  
32 agency specified in Section 11165.9 that the clergy member or  
33 any custodian of records for the clergy member, prior to January  
34 1, 1997, in his or her professional capacity or within the scope of  
35 his or her employment, other than during a penitential  
36 communication, acquired knowledge or had a reasonable  
37 suspicion that a child had been the victim of sexual abuse that the  
38 clergy member or any custodian of records for the clergy  
39 member did not previously report the abuse to an agency

1 specified in Section 11165.9. The provisions of Section 11172  
2 shall apply to all reports made pursuant to this paragraph.

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

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

10 (e) Any commercial film and photographic print processor  
11 who has knowledge of or observes, within the scope of his or her  
12 professional capacity or employment, any film, photograph,  
13 videotape, negative, or slide depicting a child under the age of 16  
14 years engaged in an act of sexual conduct, shall report the  
15 instance of suspected child abuse to the law enforcement agency  
16 having jurisdiction over the case immediately, or as soon as  
17 practicably possible, by telephone and shall prepare and send,  
18 fax, or electronically transmit a written report of it with a copy of  
19 the film, photograph, videotape, negative, or slide attached  
20 within 36 hours of receiving the information concerning the  
21 incident. As used in this subdivision, “sexual conduct” means  
22 any of the following:

23 (1) Sexual intercourse, including genital-genital, oral-genital,  
24 anal-genital, or oral-anal, whether between persons of the same  
25 or opposite sex or between humans and animals.

26 (2) Penetration of the vagina or rectum by any object.

27 (3) Masturbation for the purpose of sexual stimulation of the  
28 viewer.

29 (4) Sadomasochistic abuse for the purpose of sexual  
30 stimulation of the viewer.

31 (5) Exhibition of the genitals, pubic, or rectal areas of any  
32 person for the purpose of sexual stimulation of the viewer.

33 (f) Any mandated reporter who knows or reasonably suspects  
34 that the home or institution in which a child resides is unsuitable  
35 for the child because of abuse or neglect of the child shall bring  
36 the condition to the attention of the agency to which, and at the  
37 same time as, he or she makes a report of the abuse or neglect  
38 pursuant to subdivision (a).

39 (g) Any other person who has knowledge of or observes a  
40 child whom he or she knows or reasonably suspects has been a

1 victim of child abuse or neglect may report the known or  
2 suspected instance of child abuse or neglect to an agency  
3 specified in Section 11165.9.

4 (h) When two or more persons, who are required to report,  
5 jointly have knowledge of a known or suspected instance of child  
6 abuse or neglect, and when there is agreement among them, the  
7 telephone report may be made by a member of the team selected  
8 by mutual agreement and a single report may be made and signed  
9 by the selected member of the reporting team. Any member who  
10 has knowledge that the member designated to report has failed to  
11 do so shall thereafter make the report.

12 (i) (1) The reporting duties under this section are individual,  
13 and no supervisor or administrator may impede or inhibit the  
14 reporting duties, and no person making a report shall be subject  
15 to any sanction for making the report. However, internal  
16 procedures to facilitate reporting and apprise supervisors and  
17 administrators of reports may be established provided that they  
18 are not inconsistent with this article.

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

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

27 (j) A county probation or welfare department shall  
28 immediately, or as soon as practicably possible, report by  
29 telephone, fax, or electronic transmission to the law enforcement  
30 agency having jurisdiction over the case, to the agency given the  
31 responsibility for investigation of cases under Section 300 of the  
32 Welfare and Institutions Code, and to the district attorney's  
33 office every known or suspected instance of child abuse or  
34 neglect, as defined in Section 11165.6, except acts or omissions  
35 coming within subdivision (b) of Section 11165.2, or reports  
36 made pursuant to Section 11165.13 based on risk to a child  
37 which relates solely to the inability of the parent to provide the  
38 child with regular care due to the parent's substance abuse, which  
39 shall be reported only to the county welfare or probation  
40 department. A county probation or welfare department also shall

1 send, fax, or electronically transmit a written report thereof  
2 within 36 hours of receiving the information concerning the  
3 incident to any agency to which it makes a telephone report  
4 under this subdivision.

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

26 *SEC. 4. Section 11167 of the Penal Code is amended to read:*

27 11167. (a) Reports of suspected child abuse or neglect  
28 pursuant to Section 11166 *or Section 11166.05* shall include the  
29 name, business address, and telephone number of the mandated  
30 *or authorized* reporter; the capacity that makes the person a  
31 mandated *or authorized* reporter; and the information that gave  
32 rise to the reasonable suspicion of child abuse or neglect and the  
33 source or sources of that information. If a report is made, the  
34 following information, if known, shall also be included in the  
35 report: the child's name, the child's address, present location,  
36 and, if applicable, school, grade, and class; the names, addresses,  
37 and telephone numbers of the child's parents or guardians; and  
38 the name, address, telephone number, and other relevant personal  
39 information about the person or persons who might have abused  
40 or neglected the child. The mandated reporter shall make a report

1 even if some of this information is not known or is uncertain to  
2 him or her.

3 (b) Information relevant to the incident of child abuse or  
4 neglect may be given to an investigator from an agency that is  
5 investigating the known or suspected case of child abuse or  
6 neglect.

7 (c) Information relevant to the incident of child abuse or  
8 neglect, including the investigation report and other pertinent  
9 materials, may be given to the licensing agency when it is  
10 investigating a known or suspected case of child abuse or  
11 neglect.

12 (d) (1) The identity of all persons who report under this article  
13 shall be confidential and disclosed only among agencies  
14 receiving or investigating mandated reports, to the prosecutor in  
15 a criminal prosecution or in an action initiated under Section 602  
16 of the Welfare and Institutions Code arising from alleged child  
17 abuse, or to counsel appointed pursuant to subdivision (c) of  
18 Section 317 of the Welfare and Institutions Code, or to the  
19 county counsel or prosecutor in a proceeding under Part 4  
20 (commencing with Section 7800) of Division 12 of the Family  
21 Code or Section 300 of the Welfare and Institutions Code, or to a  
22 licensing agency when abuse or neglect in out-of-home care is  
23 reasonably suspected, or when those persons waive  
24 confidentiality, or by court order.

25 (2) No agency or person listed in this subdivision shall  
26 disclose the identity of any person who reports under this article  
27 to that person's employer, except with the employee's consent or  
28 by court order.

29 (e) Notwithstanding the confidentiality requirements of this  
30 section, a representative of a child protective services agency  
31 performing an investigation that results from a report of  
32 suspected child abuse or neglect made pursuant to Section 11166  
33 *or Section 11166.05*, at the time of the initial contact with the  
34 individual who is subject to the investigation, shall advise the  
35 individual of the complaints or allegations against him or her, in  
36 a manner that is consistent with laws protecting the identity of  
37 the reporter under this article.

38 (f) Persons who may report pursuant to subdivision (f) of  
39 Section 11166 are not required to include their names.

1     *SEC. 5. Section 11167.5 of the Penal Code is amended to*  
2 *read:*

3     11167.5. (a) The reports required by Sections 11166 and  
4 11166.2, *or authorized by Section 11166.05*, and child abuse or  
5 neglect investigative reports that result in a summary report being  
6 filed with the Department of Justice pursuant to subdivision (a)  
7 of Section 11169 shall be confidential and may be disclosed only  
8 as provided in subdivision (b). Any violation of the  
9 confidentiality provided by this article is a misdemeanor  
10 punishable by imprisonment in a county jail not to exceed six  
11 months, by a fine of five hundred dollars (\$500), or by both that  
12 imprisonment and fine.

13     (b) Reports of suspected child abuse or neglect and  
14 information contained therein may be disclosed only to the  
15 following:

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

18     (2) Persons or agencies to whom disclosure of information is  
19 permitted under subdivision (b) of Section 11170 or subdivision  
20 (a) of Section 11170.5.

21     (3) Persons or agencies with whom investigations of child  
22 abuse or neglect are coordinated under the regulations  
23 promulgated under Section 11174.

24     (4) Multidisciplinary personnel teams as defined in  
25 subdivision (d) of Section 18951 of the Welfare and Institutions  
26 Code.

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

29     (6) The State Department of Social Services or any county  
30 licensing agency which has contracted with the state, as specified  
31 in paragraph (4) of subdivision (b) of Section 11170, when an  
32 individual has applied for a community care license or child day  
33 care license, or for employment in an out-of-home care facility,  
34 or when a complaint alleges child abuse or neglect by an operator  
35 or employee of an out-of-home care facility.

36     (7) Hospital scan teams. As used in this paragraph, "hospital  
37 scan team" means a team of three or more persons established by  
38 a hospital, or two or more hospitals in the same county,  
39 consisting of health care professionals and representatives of law  
40 enforcement and child protective services, the members of which

1 are engaged in the identification of child abuse or neglect. The  
2 disclosure authorized by this section includes disclosure among  
3 all hospital scan teams.

4 (8) Coroners and medical examiners when conducting a  
5 postmortem examination of a child.

6 (9) The Board of Prison Terms, who may subpoena an  
7 employee of a county welfare department who can provide  
8 relevant evidence and reports that both (A) are not unfounded,  
9 pursuant to Section 11165.12, and (B) concern only the current  
10 incidents upon which parole revocation proceedings are pending  
11 against a parolee charged with child abuse or neglect. The reports  
12 and information shall be confidential pursuant to subdivision (d)  
13 of Section 11167.

14 (10) Personnel from an agency responsible for making a  
15 placement of a child pursuant to Section 361.3 of, and Article 7  
16 (commencing with Section 305) of Chapter 2 of Part 1 of  
17 Division 2 of, the Welfare and Institutions Code.

18 (11) Persons who have been identified by the Department of  
19 Justice as listed in the Child Abuse Central Index pursuant to  
20 paragraph (6) of subdivision (b) of Section 11170 or subdivision  
21 (c) of Section 11170, or persons who have verified with the  
22 Department of Justice that they are listed in the Child Abuse  
23 Central Index as provided in subdivision (e) of Section 11170.  
24 Disclosure under this paragraph is required notwithstanding the  
25 California Public Records Act, Chapter 3.5 (commencing with  
26 Section 6250) of Division 7 of Title 1 of the Government Code.  
27 Nothing in this paragraph shall preclude a submitting agency  
28 prior to disclosure from redacting any information necessary to  
29 maintain confidentiality as required by law.

30 (12) Out-of-state law enforcement agencies conducting an  
31 investigation of child abuse or neglect only when an agency  
32 makes the request for reports of suspected child abuse or neglect  
33 in writing and on official letterhead, identifying the suspected  
34 abuser or victim by name. The request shall be signed by the  
35 department supervisor of the requesting law enforcement agency.  
36 The written request shall cite the out-of-state statute or interstate  
37 compact provision that requires that the information contained  
38 within these reports is to be disclosed only to law enforcement,  
39 prosecutorial entities, or multidisciplinary investigative teams,  
40 and shall cite the criminal penalties for unlawful disclosure

1 provided by the requesting state or the applicable interstate  
2 compact provision. In the absence of both (A) a specific  
3 out-of-state statute or interstate compact provision that requires  
4 that the information contained within these reports be disclosed  
5 only to law enforcement, prosecutorial entities, or  
6 multidisciplinary investigative teams, and (B) criminal penalties  
7 equivalent to the penalties in California for unlawful disclosure,  
8 access shall be denied.

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

17 (c) Authorized persons within county health departments shall  
18 be permitted to receive copies of any reports made by health  
19 practitioners, as defined in paragraphs (21) to (28), inclusive, of  
20 subdivision (a) of Section 11165.7, and pursuant to Section  
21 11165.13, and copies of assessments completed pursuant to  
22 Sections 123600 and 123605 of the Health and Safety Code, to  
23 the extent permitted by federal law. Any information received  
24 pursuant to this subdivision is protected by subdivision (e).

25 (d) Nothing in this section requires the Department of Justice  
26 to disclose information contained in records maintained under  
27 Section 11170 or under the regulations promulgated pursuant to  
28 Section 11174, except as otherwise provided in this article.

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

34 *SEC. 6. Section 11170 of the Penal Code is amended to read:*

35 11170. (a) (1) The Department of Justice shall maintain an  
36 index of all reports of child abuse and severe neglect submitted  
37 pursuant to Section 11169. The index shall be continually  
38 updated by the department and shall not contain any reports that  
39 are determined to be unfounded. The department may adopt rules  
40 governing recordkeeping and reporting pursuant to this article.

1 (2) The department shall act only as a repository of reports of  
2 suspected child abuse and severe neglect to be maintained in the  
3 Child Abuse Central Index pursuant to paragraph (1). The  
4 submitting agencies are responsible for the accuracy,  
5 completeness, and retention of the reports described in this  
6 section. The department shall be responsible for ensuring that the  
7 Child Abuse Central Index accurately reflects the report it  
8 receives from the submitting agency.

9 (3) Information from an inconclusive or unsubstantiated report  
10 filed pursuant to subdivision (a) of Section 11169 shall be  
11 deleted from the Child Abuse Central Index after 10 years if no  
12 subsequent report concerning the same suspected child abuser is  
13 received within that time period. If a subsequent report is  
14 received within that 10-year period, information from any prior  
15 report, as well as any subsequently filed report, shall be  
16 maintained on the Child Abuse Central Index for a period of 10  
17 years from the time the most recent report is received by the  
18 department.

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

31 (2) When a report is made pursuant to subdivision (a) of  
32 Section 11166, *or Section 11166.05*, the investigating agency,  
33 upon completion of the investigation or after there has been a  
34 final disposition in the matter, shall inform the person required *or*  
35 *authorized* to report of the results of the investigation and of any  
36 action the agency is taking with regard to the child or family.

37 (3) The Department of Justice shall make available to a law  
38 enforcement agency, county welfare department, or county  
39 probation department that is conducting a child abuse  
40 investigation relevant information contained in the index.

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

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

25 (6) The department shall make available to investigative  
26 agencies or probation officers, or court investigators acting  
27 pursuant to Section 1513 of the Probate Code, responsible for  
28 placing children or assessing the possible placement of children  
29 pursuant to Article 6 (commencing with Section 300), Article 7  
30 (commencing with Section 305), Article 10 (commencing with  
31 Section 360), or Article 14 (commencing with Section 601) of  
32 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
33 Code, Article 2 (commencing with Section 1510) or Article 3  
34 (commencing with Section 1540) of Chapter 1 of Part 2 of  
35 Division 4 of the Probate Code, information regarding a known  
36 or suspected child abuser contained in the index concerning any  
37 adult residing in the home where the child may be placed, when  
38 this information is requested for purposes of ensuring that the  
39 placement is in the best interests of the child. Upon receipt of  
40 relevant information concerning child abuse or neglect

1 investigation reports contained in the index from the Department  
2 of Justice pursuant to this subdivision, the agency or court  
3 investigator shall notify, in writing, the person listed in the Child  
4 Abuse Central Index that he or she is in the index. The  
5 notification shall include the name of the reporting agency and  
6 the date of the report.

7 (7) The Department of Justice shall make available to a  
8 government agency conducting a background investigation  
9 pursuant to Section 1031 of the Government Code of an  
10 applicant seeking employment as a peace officer, as defined in  
11 Section 830, information regarding a known or suspected child  
12 abuser maintained pursuant to this section concerning the  
13 applicant.

14 (8) (A) Persons or agencies, as specified in subdivision (b), if  
15 investigating a case of known or suspected child abuse or  
16 neglect, or the State Department of Social Services or any county  
17 licensing agency pursuant to paragraph (4), or an investigative  
18 agency, probation officer, or court investigator responsible for  
19 placing children or assessing the possible placement of children  
20 pursuant to paragraph (6), or a government agency conducting a  
21 background investigation of an applicant seeking employment as  
22 a peace officer pursuant to paragraph (7), to whom disclosure of  
23 any information maintained pursuant to subdivision (a) is  
24 authorized, are responsible for obtaining the original  
25 investigative report from the reporting agency, and for drawing  
26 independent conclusions regarding the quality of the evidence  
27 disclosed, and its sufficiency for making decisions regarding  
28 investigation, prosecution, licensing, placement of a child, or  
29 employment as a peace officer.

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

39 (9) (A) Whenever information contained in the Department of  
40 Justice files is furnished as the result of an application for

1 employment or licensing pursuant to paragraph (4) or (7), the  
2 Department of Justice may charge the person or entity making  
3 the request a fee. The fee shall not exceed the reasonable costs to  
4 the department of providing the information. The only increase  
5 shall be at a rate not to exceed the legislatively approved  
6 cost-of-living adjustment for the department. In no case shall the  
7 fee exceed fifteen dollars (\$15).

8 (B) All moneys received by the department pursuant to this  
9 section to process trustline applications for purposes of Chapter  
10 3.35 (commencing with Section 1596.60) of Division 2 of the  
11 Health and Safety Code shall be deposited in a special account in  
12 the General Fund that is hereby established and named the  
13 Department of Justice Child Abuse Fund. Moneys in the fund  
14 shall be available, upon appropriation by the Legislature, for  
15 expenditure by the department to offset the costs incurred to  
16 process trustline automated child abuse or neglect system checks  
17 pursuant to this section.

18 (C) All moneys, other than that described in subparagraph (B),  
19 received by the department pursuant to this paragraph shall be  
20 deposited in a special account in the General Fund which is  
21 hereby created and named the Department of Justice Sexual  
22 Habitual Offender Fund. The funds shall be available, upon  
23 appropriation by the Legislature, for expenditure by the  
24 department to offset the costs incurred pursuant to Chapter 9.5  
25 (commencing with Section 13885) and Chapter 10 (commencing  
26 with Section 13890) of Title 6 of Part 4, and the DNA and  
27 Forensic Identification Data Base and Data Bank Act of 1998  
28 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),  
29 and for maintenance and improvements to the statewide Sexual  
30 Habitual Offender Program and the DNA offender identification  
31 file (CAL-DNA) authorized by Chapter 9.5 (commencing with  
32 Section 13885) of Title 6 of Part 4 and the DNA and Forensic  
33 Identification Data Base and Data Bank Act of 1998 (Chapter 6  
34 (commencing with Section 295) of Title 9 of Part 1).

35 (c) The Department of Justice shall make available to any  
36 agency responsible for placing children pursuant to Article 7  
37 (commencing with Section 305) of Chapter 2 of Part 1 of  
38 Division 2 of the Welfare and Institutions Code, upon request,  
39 relevant information concerning child abuse or neglect reports  
40 contained in the index, when making a placement with a

1 responsible relative pursuant to Sections 281.5, 305, and 361.3 of  
2 the Welfare and Institutions Code. Upon receipt of relevant  
3 information concerning child abuse or neglect reports contained  
4 in the index from the Department of Justice pursuant to this  
5 subdivision, the agency shall also notify in writing the person  
6 listed in the Child Abuse Central Index that he or she is in the  
7 index. The notification shall include the location of the original  
8 investigative report and the submitting agency. The notification  
9 shall be submitted to the person listed at the same time that all  
10 other parties are notified of the information, and no later than the  
11 actual judicial proceeding that determines placement.

12 If Child Abuse Central Index information is requested by an  
13 agency for the placement of a child with a responsible relative in  
14 an emergency situation pursuant to Article 7 (commencing with  
15 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare  
16 and Institutions Code, the department is exempt from the  
17 requirements of Section 1798.18 of the Civil Code if compliance  
18 would cause a delay in providing an expedited response to the  
19 child protective agency's inquiry and if further delay in  
20 placement may be detrimental to the child.

21 (d) The department shall make available any information  
22 maintained pursuant to subdivision (a) to out-of-state law  
23 enforcement agencies conducting investigations of known or  
24 suspected child abuse or neglect only when an agency makes the  
25 request for information in writing and on official letterhead,  
26 identifying the suspected abuser or victim by name. The request  
27 shall be signed by the department supervisor of the requesting  
28 law enforcement agency. The written requests shall cite the  
29 out-of-state statute or interstate compact provision that requires  
30 that the information contained within these reports shall be  
31 disclosed only to law enforcement, prosecutorial entities, or  
32 multidisciplinary investigative teams, and shall cite the criminal  
33 penalties for unlawful disclosure of any confidential information  
34 provided by the requesting state or the applicable interstate  
35 compact provision. In the absence of a specified out-of-state  
36 statute or interstate compact provision that requires that the  
37 information contained within these reports shall be disclosed  
38 only to law enforcement, prosecutorial entities, or  
39 multidisciplinary investigative teams, and criminal penalties

1 equivalent to the penalties in California for unlawful disclosure,  
2 access shall be denied.

3 (e) (1) Any person may determine if he or she is listed in the  
4 Child Abuse Central Index by making a request in writing to the  
5 Department of Justice. The request shall be notarized and include  
6 the person's name, address, date of birth, and either a social  
7 security number or a California identification number. Upon  
8 receipt of a notarized request, the Department of Justice shall  
9 make available to the requesting person information identifying  
10 the date of the report and the submitting agency. The requesting  
11 person is responsible for obtaining the investigative report from  
12 the submitting agency pursuant to paragraph (11) of subdivision  
13 (b) of Section 11167.5.

14 (2) No person or agency shall require or request another  
15 person to furnish a copy of a record concerning himself or  
16 herself, or notification that a record concerning himself or herself  
17 exists or does not exist, pursuant to paragraph (1) of this  
18 subdivision.

19 (f) If a person is listed in the Child Abuse Central Index only  
20 as a victim of child abuse or neglect, and that person is 18 years  
21 of age or older, that person may have his or her name removed  
22 from the index by making a written request to the Department of  
23 Justice. The request shall be notarized and include the person's  
24 name, address, social security number, and date of birth.

25 *SEC. 7. If the Commission on State Mandates determines that*  
26 *this act contains costs mandated by the state, reimbursement to*  
27 *local agencies and school districts for those costs shall be made*  
28 *pursuant to Part 7 (commencing with Section 17500) of Division*  
29 *4 of Title 2 of the Government Code.*

30 ~~SECTION 1. Section 12698.02 is added to the Insurance~~  
31 ~~Code, to read:~~

32 ~~12698.02. The board shall not impose as a condition of~~  
33 ~~eligibility for the program a written verification of pregnancy~~  
34 ~~requirement.~~