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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 525

Introduced by Assembly Member Chu

February 16, 2005

An act to 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. 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 1st 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.

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 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~~ or neglect also
11 includes instances in which a child suffers or is at substantial risk
12 of suffering serious emotional damage as described in Section
13 ~~11165.05~~ 11166.05. “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
28 reporter or another person, or referred by another agency, even if
29 the agency to whom the report is being made lacks subject matter
30 or geographical jurisdiction to investigate the reported case,
31 unless the agency can immediately electronically transfer the call
32 to an agency with proper jurisdiction. When an agency takes a
33 report about a case of suspected child abuse or neglect in which
34 that agency lacks jurisdiction, the agency shall immediately refer
35 the case by telephone, fax, or electronic transmission to an
36 agency with proper jurisdiction. Agencies that are required to
37 receive reports of suspected child abuse or neglect may not
38 refuse to accept a report of suspected child abuse or neglect from

1 a mandated reporter or another person unless otherwise
2 authorized pursuant to this section, and shall maintain a record of
3 all reports received.

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

5 11166. (a) Except as provided in subdivision (d), and in
6 Section 11166.05, a mandated reporter shall make a report to an
7 agency specified in Section 11165.9 whenever the mandated
8 reporter, in his or her professional capacity or within the scope of
9 his or her employment, has knowledge of or observes a child
10 whom the mandated reporter knows or reasonably suspects has
11 been the victim of child abuse or neglect. The mandated reporter
12 shall make an initial report to the agency immediately or as soon
13 as is practicably possible by telephone and the mandated reporter
14 shall prepare and send, fax, or electronically transmit a written
15 followup report thereof within 36 hours of receiving the
16 information concerning the incident. The mandated reporter may
17 include with the report any nonprivileged documentary evidence
18 the mandated reporter possesses relating to the incident.

19 (1) For the purposes of this article, “reasonable suspicion”
20 means that it is objectively reasonable for a person to entertain a
21 suspicion, based upon facts that could cause a reasonable person
22 in a like position, drawing, when appropriate, on his or her
23 training and experience, to suspect child abuse or neglect. For the
24 purpose of this article, the pregnancy of a minor does not, in and
25 of itself, constitute a basis for a reasonable suspicion of sexual
26 abuse.

27 (2) The agency shall be notified and a report shall be prepared
28 and sent, faxed, or electronically transmitted even if the child has
29 expired, regardless of whether or not the possible abuse was a
30 factor contributing to the death, and even if suspected child abuse
31 was discovered during an autopsy.

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

34 (b) If after reasonable efforts a mandated reporter is unable to
35 submit an initial report by telephone, he or she shall immediately
36 or as soon as is practicably possible, by fax or electronic
37 transmission, make a one-time automated written report on the
38 form prescribed by the Department of Justice, and shall also be
39 available to respond to a telephone followup call by the agency
40 with which he or she filed the report. A mandated reporter who

1 files a one-time automated written report because he or she was
2 unable to submit an initial report by telephone is not required to
3 submit a written followup report.

4 (1) The one-time automated written report form prescribed by
5 the Department of Justice shall be clearly identifiable so that it is
6 not mistaken for a standard written followup report. In addition,
7 the automated one-time report shall contain a section that allows
8 the mandated reporter to state the reason the initial telephone call
9 was not able to be completed. The reason for the submission of
10 the one-time automated written report in lieu of the procedure
11 prescribed in subdivision (a) shall be captured in the Child
12 Welfare Services/Case Management System (CWS/CMS). The
13 department shall work with stakeholders to modify reporting
14 forms and the CWS/CMS as is necessary to accommodate the
15 changes enacted by these provisions.

16 (2) This subdivision shall not become operative until the
17 CWS/CMS is updated to capture the information prescribed in
18 this subdivision.

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

22 (4) On the inoperative date of these provisions, a report shall
23 be submitted to the counties and the Legislature by the
24 Department of Social Services that reflects the data collected
25 from automated one-time reports indicating the reasons stated as
26 to why the automated one-time report was filed in lieu of the
27 initial telephone report.

28 (5) Nothing in this section shall supersede the requirement that
29 a mandated reporter first attempt to make a report via telephone,
30 or that agencies specified in Section 11165.9 accept reports from
31 mandated reporters and other persons as required.

32 (c) Any mandated reporter who fails to report an incident of
33 known or reasonably suspected child abuse or neglect as required
34 by this section is guilty of a misdemeanor punishable by up to six
35 months confinement in a county jail or by a fine of one thousand
36 dollars (\$1,000) or by both that imprisonment and fine. If a
37 mandated reporter intentionally conceals his or her failure to
38 report an incident known by the mandated reporter to be abuse or
39 severe neglect under this section, the failure to report is a

1 continuing offense until an agency specified in Section 11165.9
2 discovers the offense.

3 (d) (1) A clergy member who acquires knowledge or a
4 reasonable suspicion of child abuse or neglect during a
5 penitential communication is not subject to subdivision (a). For
6 the purposes of this subdivision, “penitential communication”
7 means a communication, intended to be in confidence, including,
8 but not limited to, a sacramental confession, made to a clergy
9 member who, in the course of the discipline or practice of his or
10 her church, denomination, or organization, is authorized or
11 accustomed to hear those communications, and under the
12 discipline, tenets, customs, or practices of his or her church,
13 denomination, or organization, has a duty to keep those
14 communications secret.

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

20 (3) (A) On or before January 1, 2004, a clergy member or any
21 custodian of records for the clergy member may report to an
22 agency specified in Section 11165.9 that the clergy member or
23 any custodian of records for the clergy member, prior to January
24 1, 1997, in his or her professional capacity or within the scope of
25 his or her employment, other than during a penitential
26 communication, acquired knowledge or had a reasonable
27 suspicion that a child had been the victim of sexual abuse that the
28 clergy member or any custodian of records for the clergy
29 member did not previously report the abuse to an agency
30 specified in Section 11165.9. The provisions of Section 11172
31 shall apply to all reports made pursuant to this paragraph.

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

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

39 (e) Any commercial film and photographic print processor
40 who has knowledge of or observes, within the scope of his or her

1 professional capacity or employment, any film, photograph,
2 videotape, negative, or slide depicting a child under the age of 16
3 years engaged in an act of sexual conduct, shall report the
4 instance of suspected child abuse to the law enforcement agency
5 having jurisdiction over the case immediately, or as soon as
6 practicably possible, by telephone and shall prepare and send,
7 fax, or electronically transmit a written report of it with a copy of
8 the film, photograph, videotape, negative, or slide attached
9 within 36 hours of receiving the information concerning the
10 incident. As used in this subdivision, “sexual conduct” means
11 any of the following:

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

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

16 (3) Masturbation for the purpose of sexual stimulation of the
17 viewer.

18 (4) Sadomasochistic abuse for the purpose of sexual
19 stimulation of the viewer.

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

22 (f) Any mandated reporter who knows or reasonably suspects
23 that the home or institution in which a child resides is unsuitable
24 for the child because of abuse or neglect of the child shall bring
25 the condition to the attention of the agency to which, and at the
26 same time as, he or she makes a report of the abuse or neglect
27 pursuant to subdivision (a).

28 (g) Any other person who has knowledge of or observes a
29 child whom he or she knows or reasonably suspects has been a
30 victim of child abuse or neglect may report the known or
31 suspected instance of child abuse or neglect to an agency
32 specified in Section 11165.9.

33 (h) When two or more persons, who are required to report,
34 jointly have knowledge of a known or suspected instance of child
35 abuse or neglect, and when there is agreement among them, the
36 telephone report may be made by a member of the team selected
37 by mutual agreement and a single report may be made and signed
38 by the selected member of the reporting team. Any member who
39 has knowledge that the member designated to report has failed to
40 do so shall thereafter make the report.

1 (i) (1) The reporting duties under this section are individual,
2 and no supervisor or administrator may impede or inhibit the
3 reporting duties, and no person making a report shall be subject
4 to any sanction for making the report. However, internal
5 procedures to facilitate reporting and apprise supervisors and
6 administrators of reports may be established provided that they
7 are not inconsistent with this article.

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

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

16 (j) A county probation or welfare department shall
17 immediately, or as soon as practicably possible, report by
18 telephone, fax, or electronic transmission to the law enforcement
19 agency having jurisdiction over the case, to the agency given the
20 responsibility for investigation of cases under Section 300 of the
21 Welfare and Institutions Code, and to the district attorney's
22 office every known or suspected instance of child abuse or
23 neglect, as defined in Section 11165.6, except acts or omissions
24 coming within subdivision (b) of Section 11165.2, or reports
25 made pursuant to Section 11165.13 based on risk to a child
26 which relates solely to the inability of the parent to provide the
27 child with regular care due to the parent's substance abuse, which
28 shall be reported only to the county welfare or probation
29 department. A county probation or welfare department also shall
30 send, fax, or electronically transmit a written report thereof
31 within 36 hours of receiving the information concerning the
32 incident to any agency to which it makes a telephone report
33 under this subdivision.

34 (k) A law enforcement agency shall immediately, or as soon as
35 practicably possible, report by telephone, fax, or electronic
36 transmission to the agency given responsibility for investigation
37 of cases under Section 300 of the Welfare and Institutions Code
38 and to the district attorney's office every known or suspected
39 instance of child abuse or neglect reported to it, except acts or
40 omissions coming within subdivision (b) of Section 11165.2,

1 which shall be reported only to the county welfare or probation
2 department. A law enforcement agency shall report to the county
3 welfare or probation department every known or suspected
4 instance of child abuse or neglect reported to it which is alleged
5 to have occurred as a result of the action of a person responsible
6 for the child's welfare, or as the result of the failure of a person
7 responsible for the child's welfare to adequately protect the
8 minor from abuse when the person responsible for the child's
9 welfare knew or reasonably should have known that the minor
10 was in danger of abuse. A law enforcement agency also shall
11 send, fax, or electronically transmit a written report thereof
12 within 36 hours of receiving the information concerning the
13 incident to any agency to which it makes a telephone report
14 under this subdivision.

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

16 11167. (a) Reports of suspected child abuse or neglect
17 pursuant to Section 11166 or Section 11166.05 shall include the
18 name, business address, and telephone number of the mandated
19 ~~or authorized~~ reporter; the capacity that makes the person a
20 mandated ~~or authorized~~ reporter; and the information that gave
21 rise to the reasonable suspicion of child abuse or neglect and the
22 source or sources of that information. If a report is made, the
23 following information, if known, shall also be included in the
24 report: the child's name, the child's address, present location,
25 and, if applicable, school, grade, and class; the names, addresses,
26 and telephone numbers of the child's parents or guardians; and
27 the name, address, telephone number, and other relevant personal
28 information about the person or persons who might have abused
29 or neglected the child. The mandated reporter shall make a report
30 even if some of this information is not known or is uncertain to
31 him or her.

32 (b) Information relevant to the incident of child abuse or
33 neglect may be given to an investigator from an agency that is
34 investigating the known or suspected case of child abuse or
35 neglect.

36 (c) Information relevant to the incident of child abuse or
37 neglect, including the investigation report and other pertinent
38 materials, may be given to the licensing agency when it is
39 investigating a known or suspected case of child abuse or
40 neglect.

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

14 (2) No agency or person listed in this subdivision shall
 15 disclose the identity of any person who reports under this article
 16 to that person’s employer, except with the employee’s consent or
 17 by court order.

18 (e) Notwithstanding the confidentiality requirements of this
 19 section, a representative of a child protective services agency
 20 performing an investigation that results from a report of
 21 suspected child abuse or neglect made pursuant to Section 11166
 22 or Section 11166.05, at the time of the initial contact with the
 23 individual who is subject to the investigation, shall advise the
 24 individual of the complaints or allegations against him or her, in
 25 a manner that is consistent with laws protecting the identity of
 26 the reporter under this article.

27 (f) Persons who may report pursuant to subdivision ~~(f)~~ (g) of
 28 Section 11166 are not required to include their names.

29 SEC. 5. Section 11167.5 of the Penal Code is amended to
 30 read:

31 11167.5. (a) The reports required by Sections 11166 and
 32 11166.2, or authorized by Section 11166.05, and child abuse or
 33 neglect investigative reports that result in a summary report being
 34 filed with the Department of Justice pursuant to subdivision (a)
 35 of Section 11169 shall be confidential and may be disclosed only
 36 as provided in subdivision (b). Any violation of the
 37 confidentiality provided by this article is a misdemeanor
 38 punishable by imprisonment in a county jail not to exceed six
 39 months, by a fine of five hundred dollars (\$500), or by both that
 40 imprisonment and fine.

1 (b) Reports of suspected child abuse or neglect and
2 information contained therein may be disclosed only to the
3 following:

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

6 (2) Persons or agencies to whom disclosure of information is
7 permitted under subdivision (b) of Section 11170 or subdivision
8 (a) of Section 11170.5.

9 (3) Persons or agencies with whom investigations of child
10 abuse or neglect are coordinated under the regulations
11 promulgated under Section 11174.

12 (4) Multidisciplinary personnel teams as defined in
13 subdivision (d) of Section 18951 of the Welfare and Institutions
14 Code.

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

17 (6) The State Department of Social Services or any county
18 licensing agency which has contracted with the state, as specified
19 in paragraph (4) of subdivision (b) of Section 11170, when an
20 individual has applied for a community care license or child day
21 care license, or for employment in an out-of-home care facility,
22 or when a complaint alleges child abuse or neglect by an operator
23 or employee of an out-of-home care facility.

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

32 (8) Coroners and medical examiners when conducting a
33 postmortem examination of a child.

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

1 and information shall be confidential pursuant to subdivision (d)
2 of Section 11167.

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

7 (11) Persons who have been identified by the Department of
8 Justice as listed in the Child Abuse Central Index pursuant to
9 paragraph (6) of subdivision (b) of Section 11170 or subdivision
10 (c) of Section 11170, or persons who have verified with the
11 Department of Justice that they are listed in the Child Abuse
12 Central Index as provided in subdivision (e) of Section 11170.
13 Disclosure under this paragraph is required notwithstanding the
14 California Public Records Act, Chapter 3.5 (commencing with
15 Section 6250) of Division 7 of Title 1 of the Government Code.
16 Nothing in this paragraph shall preclude a submitting agency
17 prior to disclosure from redacting any information necessary to
18 maintain confidentiality as required by law.

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

38 (13) Each chairperson of a county child death review team, or
39 his or her designee, to whom disclosure of information is
40 permitted under this article, relating to the death of one or more

1 children and any prior child abuse or neglect investigation reports
2 maintained involving the same victim, siblings, or suspects.
3 Local child death review teams may share any relevant
4 information regarding case reviews involving child death with
5 other child death review teams.

6 (c) Authorized persons within county health departments shall
7 be permitted to receive copies of any reports made by health
8 practitioners, as defined in paragraphs (21) to (28), inclusive, of
9 subdivision (a) of Section 11165.7, and pursuant to Section
10 11165.13, and copies of assessments completed pursuant to
11 Sections 123600 and 123605 of the Health and Safety Code, to
12 the extent permitted by federal law. Any information received
13 pursuant to this subdivision is protected by subdivision (e).

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

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

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

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

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

38 (3) Information from an inconclusive or unsubstantiated report
39 filed pursuant to subdivision (a) of Section 11169 shall be
40 deleted from the Child Abuse Central Index after 10 years if no

1 subsequent report concerning the same suspected child abuser is
2 received within that time period. If a subsequent report is
3 received within that 10-year period, information from any prior
4 report, as well as any subsequently filed report, shall be
5 maintained on the Child Abuse Central Index for a period of 10
6 years from the time the most recent report is received by the
7 department.

8 (b) (1) The Department of Justice shall immediately notify an
9 agency that submits a report pursuant to Section 11169, or a
10 prosecutor who requests notification, of any information
11 maintained pursuant to subdivision (a) that is relevant to the
12 known or suspected instance of child abuse or severe neglect
13 reported by the agency. The agency shall make that information
14 available to the reporting medical practitioner, child custodian,
15 guardian ad litem appointed under Section 326, or counsel
16 appointed under Section 317 or 318 of the Welfare and
17 Institutions Code, or the appropriate licensing agency, if he or
18 she is treating or investigating a case of known or suspected child
19 abuse or severe neglect.

20 (2) When a report is made pursuant to subdivision (a) of
21 Section 11166, or Section 11166.05, the investigating agency,
22 upon completion of the investigation or after there has been a
23 final disposition in the matter, shall inform the person required or
24 authorized to report of the results of the investigation and of any
25 action the agency is taking with regard to the child or family.

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

30 (4) The department shall make available to the State
31 Department of Social Services or to any county licensing agency
32 that has contracted with the state for the performance of licensing
33 duties information regarding a known or suspected child abuser
34 maintained pursuant to this section and subdivision (a) of Section
35 11169 concerning any person who is an applicant for licensure or
36 any adult who resides or is employed in the home of an applicant
37 for licensure or who is an applicant for employment in a position
38 having supervisory or disciplinary power over a child or
39 children, or who will provide 24-hour care for a child or children
40 in a residential home or facility, pursuant to Section 1522.1 or

1 1596.877 of the Health and Safety Code, or Section 8714, 8802,
2 8912, or 9000 of the Family Code.

3 (5) For purposes of child death review, the Department of
4 Justice shall make available to the chairperson, or the
5 chairperson's designee, for each county child death review team,
6 or the State Child Death Review Council, information maintained
7 in the Child Abuse Central Index pursuant to subdivision (a) of
8 Section 11170 relating to the death of one or more children and
9 any prior child abuse or neglect investigation reports maintained
10 involving the same victims, siblings, or suspects. Local child
11 death review teams may share any relevant information regarding
12 case reviews involving child death with other child death review
13 teams.

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

36 (7) The Department of Justice shall make available to a
37 government agency conducting a background investigation
38 pursuant to Section 1031 of the Government Code of an
39 applicant seeking employment as a peace officer, as defined in
40 Section 830, information regarding a known or suspected child

1 abuser maintained pursuant to this section concerning the
2 applicant.

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

19 (B) If Child Abuse Central Index information is requested by
20 an agency for the temporary placement of a child in an
21 emergency situation pursuant to Article 7 (commencing with
22 Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
23 and Institutions Code, the department is exempt from the
24 requirements of Section 1798.18 of the Civil Code if compliance
25 would cause a delay in providing an expedited response to the
26 agency's inquiry and if further delay in placement may be
27 detrimental to the child.

28 (9) (A) Whenever information contained in the Department of
29 Justice files is furnished as the result of an application for
30 employment or licensing pursuant to paragraph (4) or (7), the
31 Department of Justice may charge the person or entity making
32 the request a fee. The fee shall not exceed the reasonable costs to
33 the department of providing the information. The only increase
34 shall be at a rate not to exceed the legislatively approved
35 cost-of-living adjustment for the department. In no case shall the
36 fee exceed fifteen dollars (\$15).

37 (B) All moneys received by the department pursuant to this
38 section to process trustline applications for purposes of Chapter
39 3.35 (commencing with Section 1596.60) of Division 2 of the
40 Health and Safety Code shall be deposited in a special account in

1 the General Fund that is hereby established and named the
2 Department of Justice Child Abuse Fund. Moneys in the fund
3 shall be available, upon appropriation by the Legislature, for
4 expenditure by the department to offset the costs incurred to
5 process trustline automated child abuse or neglect system checks
6 pursuant to this section.

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

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

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

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

31 (e) (1) Any person may determine if he or she is listed in the
32 Child Abuse Central Index by making a request in writing to the
33 Department of Justice. The request shall be notarized and include
34 the person's name, address, date of birth, and either a social
35 security number or a California identification number. Upon
36 receipt of a notarized request, the Department of Justice shall
37 make available to the requesting person information identifying
38 the date of the report and the submitting agency. The requesting
39 person is responsible for obtaining the investigative report from

1 the submitting agency pursuant to paragraph (11) of subdivision
2 (b) of Section 11167.5.

3 (2) No person or agency shall require or request another
4 person to furnish a copy of a record concerning himself or
5 herself, or notification that a record concerning himself or herself
6 exists or does not exist, pursuant to paragraph (1) of this
7 subdivision.

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

14 SEC. 7. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.