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AMENDED IN SENATE MAY 16, 2006

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AMENDED IN ASSEMBLY APRIL 26, 2005

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CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

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**ASSEMBLY BILL**

**No. 525**

**Introduced by Assembly Member Chu**

February 16, 2005

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An act to amend Sections 11162.5, 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.

*This bill would also correct an obsolete cross-reference.*

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 11162.5 of the Penal Code is amended  
2 to read:

3     11162.5. As used in this article, the following definitions  
4 shall apply:

5     (a) “Health practitioner” has the same meaning as provided in  
6 ~~Section 11165.8 paragraphs (21) to (28), inclusive, of~~  
7 ~~subdivision (a) of Section 11165.7.~~

8     (b) “Clinic” is limited to include any clinic specified in  
9 Sections 1204 and 1204.3 of the Health and Safety Code.

10     (c) “Health facility” has the same meaning as provided in  
11 Section 1250 of the Health and Safety Code.

12     (d) “Reasonably suspects” means that it is objectively  
13 reasonable for a person to entertain a suspicion, based upon facts  
14 that could cause a reasonable person in a like position, drawing,  
15 when appropriate, on his or her training and experience, to  
16 suspect.

17     ~~SECTION 1.~~

18     SEC. 2. Section 11165.6 of the Penal Code is amended to  
19 read:

20     11165.6. As used in this article, the term “child abuse or  
21 neglect” includes physical injury inflicted by other than  
22 accidental means upon a child by another person, sexual abuse as  
23 defined in Section 11165.1, neglect as defined in Section  
24 11165.2, the willful harming or injuring of a child or the  
25 endangering of the person or health of a child, as defined in  
26 Section 11165.3, and unlawful corporal punishment or injury as  
27 defined in Section 11165.4. “Child abuse or neglect also includes  
28 instances in which a child suffers or is at substantial risk of  
29 suffering serious emotional damage as described in Section  
30 11166.05. “Child abuse or neglect” does not include a mutual  
31 affray between minors. “Child abuse or neglect” does not include  
32 an injury caused by reasonable and necessary force used by a  
33 peace officer acting within the course and scope of his or her  
34 employment as a peace officer.

1     ~~SEC. 2.~~

2     *SEC. 3.* Section 11165.9 of the Penal Code is amended to  
3 read:

4     11165.9. Reports of suspected child abuse or neglect shall be  
5 made by mandated reporters, or in the case of reports pursuant to  
6 Section 11166.05, may be made, to any police department or  
7 sheriff’s department, not including a school district police or  
8 security department, county probation department, if designated  
9 by the county to receive mandated reports, or the county welfare  
10 department. Any of those agencies shall accept a report of  
11 suspected child abuse or neglect whether offered by a mandated  
12 reporter or another person, or referred by another agency, even if  
13 the agency to whom the report is being made lacks subject matter  
14 or geographical jurisdiction to investigate the reported case,  
15 unless the agency can immediately electronically transfer the call  
16 to an agency with proper jurisdiction. When an agency takes a  
17 report about a case of suspected child abuse or neglect in which  
18 that agency lacks jurisdiction, the agency shall immediately refer  
19 the case by telephone, fax, or electronic transmission to an  
20 agency with proper jurisdiction. Agencies that are required to  
21 receive reports of suspected child abuse or neglect may not  
22 refuse to accept a report of suspected child abuse or neglect from  
23 a mandated reporter or another person unless otherwise  
24 authorized pursuant to this section, and shall maintain a record of  
25 all reports received.

26     ~~SEC. 3.~~

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

28     11166. (a) Except as provided in subdivision (d), and in  
29 Section 11166.05, a mandated reporter shall make a report to an  
30 agency specified in Section 11165.9 whenever the mandated  
31 reporter, in his or her professional capacity or within the scope of  
32 his or her employment, has knowledge of or observes a child  
33 whom the mandated reporter knows or reasonably suspects has  
34 been the victim of child abuse or neglect. The mandated reporter  
35 shall make an initial report to the agency immediately or as soon  
36 as is practicably possible by telephone and the mandated reporter  
37 shall prepare and send, fax, or electronically transmit a written  
38 followup report thereof within 36 hours of receiving the  
39 information concerning the incident. The mandated reporter may

1 include with the report any nonprivileged documentary evidence  
2 the mandated reporter possesses relating to the incident.

3 (1) For the purposes of this article, “reasonable suspicion”  
4 means that it is objectively reasonable for a person to entertain a  
5 suspicion, based upon facts that could cause a reasonable person  
6 in a like position, drawing, when appropriate, on his or her  
7 training and experience, to suspect child abuse or neglect. For the  
8 purpose of this article, the pregnancy of a minor does not, in and  
9 of itself, constitute a basis for a reasonable suspicion of sexual  
10 abuse.

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

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

18 (b) If after reasonable efforts a mandated reporter is unable to  
19 submit an initial report by telephone, he or she shall immediately  
20 or as soon as is practicably possible, by fax or electronic  
21 transmission, make a one-time automated written report on the  
22 form prescribed by the Department of Justice, and shall also be  
23 available to respond to a telephone followup call by the agency  
24 with which he or she filed the report. A mandated reporter who  
25 files a one-time automated written report because he or she was  
26 unable to submit an initial report by telephone is not required to  
27 submit a written followup report.

28 (1) The one-time automated written report form prescribed by  
29 the Department of Justice shall be clearly identifiable so that it is  
30 not mistaken for a standard written followup report. In addition,  
31 the automated one-time report shall contain a section that allows  
32 the mandated reporter to state the reason the initial telephone call  
33 was not able to be completed. The reason for the submission of  
34 the one-time automated written report in lieu of the procedure  
35 prescribed in subdivision (a) shall be captured in the Child  
36 Welfare Services/Case Management System (CWS/CMS). The  
37 department shall work with stakeholders to modify reporting  
38 forms and the CWS/CMS as is necessary to accommodate the  
39 changes enacted by these provisions.

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

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

7 (4) On the inoperative date of these provisions, a report shall  
8 be submitted to the counties and the Legislature by the  
9 Department of Social Services that reflects the data collected  
10 from automated one-time reports indicating the reasons stated as  
11 to why the automated one-time report was filed in lieu of the  
12 initial telephone report.

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

17 (c) Any mandated reporter who fails to report an incident of  
18 known or reasonably suspected child abuse or neglect as required  
19 by this section is guilty of a misdemeanor punishable by up to six  
20 months confinement in a county jail or by a fine of one thousand  
21 dollars (\$1,000) or by both that imprisonment and fine. If a  
22 mandated reporter intentionally conceals his or her failure to  
23 report an incident known by the mandated reporter to be abuse or  
24 severe neglect under this section, the failure to report is a  
25 continuing offense until an agency specified in Section 11165.9  
26 discovers the offense.

27 (d) (1) A clergy member who acquires knowledge or a  
28 reasonable suspicion of child abuse or neglect during a  
29 penitential communication is not subject to subdivision (a). For  
30 the purposes of this subdivision, "penitential communication"  
31 means a communication, intended to be in confidence, including,  
32 but not limited to, a sacramental confession, made to a clergy  
33 member who, in the course of the discipline or practice of his or  
34 her church, denomination, or organization, is authorized or  
35 accustomed to hear those communications, and under the  
36 discipline, tenets, customs, or practices of his or her church,  
37 denomination, or organization, has a duty to keep those  
38 communications secret.

39 (2) Nothing in this subdivision shall be construed to modify or  
40 limit a clergy member's duty to report known or suspected child

1 abuse or neglect when the clergy member is acting in some other  
2 capacity that would otherwise make the clergy member a  
3 mandated reporter.

4 (3) (A) On or before January 1, 2004, a clergy member or any  
5 custodian of records for the clergy member may report to an  
6 agency specified in Section 11165.9 that the clergy member or  
7 any custodian of records for the clergy member, prior to January  
8 1, 1997, in his or her professional capacity or within the scope of  
9 his or her employment, other than during a penitential  
10 communication, acquired knowledge or had a reasonable  
11 suspicion that a child had been the victim of sexual abuse that the  
12 clergy member or any custodian of records for the clergy  
13 member did not previously report the abuse to an agency  
14 specified in Section 11165.9. The provisions of Section 11172  
15 shall apply to all reports made pursuant to this paragraph.

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

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

23 (e) Any commercial film and photographic print processor  
24 who has knowledge of or observes, within the scope of his or her  
25 professional capacity or employment, any film, photograph,  
26 videotape, negative, or slide depicting a child under the age of 16  
27 years engaged in an act of sexual conduct, shall report the  
28 instance of suspected child abuse to the law enforcement agency  
29 having jurisdiction over the case immediately, or as soon as  
30 practicably possible, by telephone and shall prepare and send,  
31 fax, or electronically transmit a written report of it with a copy of  
32 the film, photograph, videotape, negative, or slide attached  
33 within 36 hours of receiving the information concerning the  
34 incident. As used in this subdivision, "sexual conduct" means  
35 any of the following:

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

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

- 1 (3) Masturbation for the purpose of sexual stimulation of the  
2 viewer.
- 3 (4) Sadoomasochistic abuse for the purpose of sexual  
4 stimulation of the viewer.
- 5 (5) Exhibition of the genitals, pubic, or rectal areas of any  
6 person for the purpose of sexual stimulation of the viewer.
- 7 (f) Any mandated reporter who knows or reasonably suspects  
8 that the home or institution in which a child resides is unsuitable  
9 for the child because of abuse or neglect of the child shall bring  
10 the condition to the attention of the agency to which, and at the  
11 same time as, he or she makes a report of the abuse or neglect  
12 pursuant to subdivision (a).
- 13 (g) Any other person who has knowledge of or observes a  
14 child whom he or she knows or reasonably suspects has been a  
15 victim of child abuse or neglect may report the known or  
16 suspected instance of child abuse or neglect to an agency  
17 specified in Section 11165.9.
- 18 (h) When two or more persons, who are required to report,  
19 jointly have knowledge of a known or suspected instance of child  
20 abuse or neglect, and when there is agreement among them, the  
21 telephone report may be made by a member of the team selected  
22 by mutual agreement and a single report may be made and signed  
23 by the selected member of the reporting team. Any member who  
24 has knowledge that the member designated to report has failed to  
25 do so shall thereafter make the report.
- 26 (i) (1) The reporting duties under this section are individual,  
27 and no supervisor or administrator may impede or inhibit the  
28 reporting duties, and no person making a report shall be subject  
29 to any sanction for making the report. However, internal  
30 procedures to facilitate reporting and apprise supervisors and  
31 administrators of reports may be established provided that they  
32 are not inconsistent with this article.
- 33 (2) The internal procedures shall not require any employee  
34 required to make reports pursuant to this article to disclose his or  
35 her identity to the employer.
- 36 (3) Reporting the information regarding a case of possible  
37 child abuse or neglect to an employer, supervisor, school  
38 principal, school counselor, coworker, or other person shall not  
39 be a substitute for making a mandated report to an agency  
40 specified in Section 11165.9.

1 (j) A county probation or welfare department shall  
2 immediately, or as soon as practicably possible, report by  
3 telephone, fax, or electronic transmission to the law enforcement  
4 agency having jurisdiction over the case, to the agency given the  
5 responsibility for investigation of cases under Section 300 of the  
6 Welfare and Institutions Code, and to the district attorney's  
7 office every known or suspected instance of child abuse or  
8 neglect, as defined in Section 11165.6, except acts or omissions  
9 coming within subdivision (b) of Section 11165.2, or reports  
10 made pursuant to Section 11165.13 based on risk to a child  
11 which relates solely to the inability of the parent to provide the  
12 child with regular care due to the parent's substance abuse, which  
13 shall be reported only to the county welfare or probation  
14 department. A county probation or welfare department also shall  
15 send, fax, or electronically transmit a written report thereof  
16 within 36 hours of receiving the information concerning the  
17 incident to any agency to which it makes a telephone report  
18 under this subdivision.

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

1     ~~SEC. 4.~~

2     *SEC. 5.* Section 11167 of the Penal Code is amended to read:

3     11167. (a) Reports of suspected child abuse or neglect  
4 pursuant to Section 11166 or Section 11166.05 shall include the  
5 name, business address, and telephone number of the mandated  
6 reporter; the capacity that makes the person a mandated reporter;  
7 and the information that gave rise to the reasonable suspicion of  
8 child abuse or neglect and the source or sources of that  
9 information. If a report is made, the following information, if  
10 known, shall also be included in the report: the child's name, the  
11 child's address, present location, and, if applicable, school,  
12 grade, and class; the names, addresses, and telephone numbers of  
13 the child's parents or guardians; and the name, address, telephone  
14 number, and other relevant personal information about the person  
15 or persons who might have abused or neglected the child. The  
16 mandated reporter shall make a report even if some of this  
17 information is not known or is uncertain to him or her.

18     (b) Information relevant to the incident of child abuse or  
19 neglect may be given to an investigator from an agency that is  
20 investigating the known or suspected case of child abuse or  
21 neglect.

22     (c) Information relevant to the incident of child abuse or  
23 neglect, including the investigation report and other pertinent  
24 materials, may be given to the licensing agency when it is  
25 investigating a known or suspected case of child abuse or  
26 neglect.

27     (d) (1) The identity of all persons who report under this article  
28 shall be confidential and disclosed only among agencies  
29 receiving or investigating mandated reports, to the prosecutor in  
30 a criminal prosecution or in an action initiated under Section 602  
31 of the Welfare and Institutions Code arising from alleged child  
32 abuse, or to counsel appointed pursuant to subdivision (c) of  
33 Section 317 of the Welfare and Institutions Code, or to the  
34 county counsel or prosecutor in a proceeding under Part 4  
35 (commencing with Section 7800) of Division 12 of the Family  
36 Code or Section 300 of the Welfare and Institutions Code, or to a  
37 licensing agency when abuse or neglect in out-of-home care is  
38 reasonably suspected, or when those persons waive  
39 confidentiality, or by court order.

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

5 (e) Notwithstanding the confidentiality requirements of this  
6 section, a representative of a child protective services agency  
7 performing an investigation that results from a report of  
8 suspected child abuse or neglect made pursuant to Section 11166  
9 or Section 11166.05, at the time of the initial contact with the  
10 individual who is subject to the investigation, shall advise the  
11 individual of the complaints or allegations against him or her, in  
12 a manner that is consistent with laws protecting the identity of  
13 the reporter under this article.

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

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 11167.5 of the Penal Code is amended to  
18 read:

19 11167.5. (a) The reports required by Sections 11166 and  
20 11166.2, or authorized by Section 11166.05, and child abuse or  
21 neglect investigative reports that result in a summary report being  
22 filed with the Department of Justice pursuant to subdivision (a)  
23 of Section 11169 shall be confidential and may be disclosed only  
24 as provided in subdivision (b). Any violation of the  
25 confidentiality provided by this article is a misdemeanor  
26 punishable by imprisonment in a county jail not to exceed six  
27 months, by a fine of five hundred dollars (\$500), or by both that  
28 imprisonment and fine.

29 (b) Reports of suspected child abuse or neglect and  
30 information contained therein may be disclosed only to the  
31 following:

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

34 (2) Persons or agencies to whom disclosure of information is  
35 permitted under subdivision (b) of Section 11170 or subdivision  
36 (a) of Section 11170.5.

37 (3) Persons or agencies with whom investigations of child  
38 abuse or neglect are coordinated under the regulations  
39 promulgated under Section 11174.

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

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

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

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

21 (8) Coroners and medical examiners when conducting a  
22 postmortem examination of a child.

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

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

35 (11) Persons who have been identified by the Department of  
36 Justice as listed in the Child Abuse Central Index pursuant to  
37 paragraph (6) of subdivision (b) of Section 11170 or subdivision  
38 (c) of Section 11170, or persons who have verified with the  
39 Department of Justice that they are listed in the Child Abuse  
40 Central Index as provided in subdivision (e) of Section 11170.

1 Disclosure under this paragraph is required notwithstanding the  
2 California Public Records Act, Chapter 3.5 (commencing with  
3 Section 6250) of Division 7 of Title 1 of the Government Code.  
4 Nothing in this paragraph shall preclude a submitting agency  
5 prior to disclosure from redacting any information necessary to  
6 maintain confidentiality as required by law.

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

26 (13) Each chairperson of a county child death review team, or  
27 his or her designee, to whom disclosure of information is  
28 permitted under this article, relating to the death of one or more  
29 children and any prior child abuse or neglect investigation reports  
30 maintained involving the same victim, siblings, or suspects.  
31 Local child death review teams may share any relevant  
32 information regarding case reviews involving child death with  
33 other child death review teams.

34 (c) Authorized persons within county health departments shall  
35 be permitted to receive copies of any reports made by health  
36 practitioners, as defined in paragraphs (21) to (28), inclusive, of  
37 subdivision (a) of Section 11165.7, and pursuant to Section  
38 11165.13, and copies of assessments completed pursuant to  
39 Sections 123600 and 123605 of the Health and Safety Code, to

1 the extent permitted by federal law. Any information received  
2 pursuant to this subdivision is protected by subdivision (e).

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

7 (e) This section shall not be interpreted to allow disclosure of  
8 any reports or records relevant to the reports of child abuse or  
9 neglect if the disclosure would be prohibited by any other  
10 provisions of state or federal law applicable to the reports or  
11 records relevant to the reports of child abuse or neglect.

12 ~~SEC. 6.~~

13 SEC. 7. Section 11170 of the Penal Code is amended to read:

14 11170. (a) (1) The Department of Justice shall maintain an  
15 index of all reports of child abuse and severe neglect submitted  
16 pursuant to Section 11169. The index shall be continually  
17 updated by the department and shall not contain any reports that  
18 are determined to be unfounded. The department may adopt rules  
19 governing recordkeeping and reporting pursuant to this article.

20 (2) The department shall act only as a repository of reports of  
21 suspected child abuse and severe neglect to be maintained in the  
22 Child Abuse Central Index pursuant to paragraph (1). The  
23 submitting agencies are responsible for the accuracy,  
24 completeness, and retention of the reports described in this  
25 section. The department shall be responsible for ensuring that the  
26 Child Abuse Central Index accurately reflects the report it  
27 receives from the submitting agency.

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

38 (b) (1) The Department of Justice shall immediately notify an  
39 agency that submits a report pursuant to Section 11169, or a  
40 prosecutor who requests notification, of any information

1 maintained pursuant to subdivision (a) that is relevant to the  
2 known or suspected instance of child abuse or severe neglect  
3 reported by the agency. The agency shall make that information  
4 available to the reporting medical practitioner, child custodian,  
5 guardian ad litem appointed under Section 326, or counsel  
6 appointed under Section 317 or 318 of the Welfare and  
7 Institutions Code, or the appropriate licensing agency, if he or  
8 she is treating or investigating a case of known or suspected child  
9 abuse or severe neglect.

10 (2) When a report is made pursuant to subdivision (a) of  
11 Section 11166, or Section 11166.05, the investigating agency,  
12 upon completion of the investigation or after there has been a  
13 final disposition in the matter, shall inform the person required or  
14 authorized to report of the results of the investigation and of any  
15 action the agency is taking with regard to the child or family.

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

20 (4) The department shall make available to the State  
21 Department of Social Services or to any county licensing agency  
22 that has contracted with the state for the performance of licensing  
23 duties information regarding a known or suspected child abuser  
24 maintained pursuant to this section and subdivision (a) of Section  
25 11169 concerning any person who is an applicant for licensure or  
26 any adult who resides or is employed in the home of an applicant  
27 for licensure or who is an applicant for employment in a position  
28 having supervisory or disciplinary power over a child or  
29 children, or who will provide 24-hour care for a child or children  
30 in a residential home or facility, pursuant to Section 1522.1 or  
31 1596.877 of the Health and Safety Code, or Section 8714, 8802,  
32 8912, or 9000 of the Family Code.

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

1 death review teams may share any relevant information regarding  
2 case reviews involving child death with other child death review  
3 teams.

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

26 (7) The Department of Justice shall make available to a  
27 government agency conducting a background investigation  
28 pursuant to Section 1031 of the Government Code of an  
29 applicant seeking employment as a peace officer, as defined in  
30 Section 830, information regarding a known or suspected child  
31 abuser maintained pursuant to this section concerning the  
32 applicant.

33 (8) (A) Persons or agencies, as specified in subdivision (b), if  
34 investigating a case of known or suspected child abuse or  
35 neglect, or the State Department of Social Services or any county  
36 licensing agency pursuant to paragraph (4), or an investigative  
37 agency, probation officer, or court investigator responsible for  
38 placing children or assessing the possible placement of children  
39 pursuant to paragraph (6), or a government agency conducting a  
40 background investigation of an applicant seeking employment as

1 a peace officer pursuant to paragraph (7), to whom disclosure of  
2 any information maintained pursuant to subdivision (a) is  
3 authorized, are responsible for obtaining the original  
4 investigative report from the reporting agency, and for drawing  
5 independent conclusions regarding the quality of the evidence  
6 disclosed, and its sufficiency for making decisions regarding  
7 investigation, prosecution, licensing, placement of a child, or  
8 employment as a peace officer.

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

18 (9) (A) Whenever information contained in the Department of  
19 Justice files is furnished as the result of an application for  
20 employment or licensing pursuant to paragraph (4) or (7), the  
21 Department of Justice may charge the person or entity making  
22 the request a fee. The fee shall not exceed the reasonable costs to  
23 the department of providing the information. The only increase  
24 shall be at a rate not to exceed the legislatively approved  
25 cost-of-living adjustment for the department. In no case shall the  
26 fee exceed fifteen dollars (\$15).

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

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

1 Habitual Offender Fund. The funds shall be available, upon  
2 appropriation by the Legislature, for expenditure by the  
3 department to offset the costs incurred pursuant to Chapter 9.5  
4 (commencing with Section 13885) and Chapter 10 (commencing  
5 with Section 13890) of Title 6 of Part 4, and the DNA and  
6 Forensic Identification Data Base and Data Bank Act of 1998  
7 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),  
8 and for maintenance and improvements to the statewide Sexual  
9 Habitual Offender Program and the DNA offender identification  
10 file (CAL-DNA) authorized by Chapter 9.5 (commencing with  
11 Section 13885) of Title 6 of Part 4 and the DNA and Forensic  
12 Identification Data Base and Data Bank Act of 1998 (Chapter 6  
13 (commencing with Section 295) of Title 9 of Part 1).

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

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

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

22 (e) (1) Any person may determine if he or she is listed in the  
23 Child Abuse Central Index by making a request in writing to the  
24 Department of Justice. The request shall be notarized and include  
25 the person's name, address, date of birth, and either a social  
26 security number or a California identification number. Upon  
27 receipt of a notarized request, the Department of Justice shall  
28 make available to the requesting person information identifying  
29 the date of the report and the submitting agency. The requesting  
30 person is responsible for obtaining the investigative report from  
31 the submitting agency pursuant to paragraph (11) of subdivision  
32 (b) of Section 11167.5.

33 (2) No person or agency shall require or request another  
34 person to furnish a copy of a record concerning himself or  
35 herself, or notification that a record concerning himself or herself  
36 exists or does not exist, pursuant to paragraph (1) of this  
37 subdivision.

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

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

4 ~~SEC. 7.~~

5 *SEC. 8.* If the Commission on State Mandates determines that  
6 this act contains costs mandated by the state, reimbursement to  
7 local agencies and school districts for those costs shall be made  
8 pursuant to Part 7 (commencing with Section 17500) of Division  
9 4 of Title 2 of the Government Code.