

AMENDED IN ASSEMBLY APRIL 5, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2938

**Introduced by Assembly Member ~~Sharon Runner~~ *Members
Sharon Runner and Bass*
(~~Coauthor: Assembly Member Bass~~)**

February 24, 2006

An act to amend Section 11174.34 of the Penal Code, and to amend Sections 827 and 10850 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2938, as amended, Sharon Runner. Juvenile case files.

Existing federal law, the Child Abuse Prevention and Treatment Act, provides grants to those states that enact state laws that, among other requirements, allow public disclosure of information regarding cases of child abuse or neglect that result in a child fatality or near fatality. Existing state law requires county child welfare agencies to create a record in the Child Welfare Services/Case Management System on all cases of child death suspected to be related to child abuse or neglect. Existing state law also generally provides for the confidentiality of juvenile case files. However, state law requires the release to the public, under specified conditions, of juvenile case files that pertain to a deceased child who was a dependent child of the juvenile court.

This bill would instead require county child welfare agencies to create a record in the Child Welfare Services/Case Management System on all cases of child fatality or near fatality, as defined, suspected to be related to child abuse or neglect. The bill would

expand the above provision requiring the release of juvenile case files in the case of a child death to additionally require the release of juvenile court records and both county and state case files, as specified, pertaining to a case of child abuse or neglect that resulted in a child fatality or near fatality. The bill would also require that certain information be redacted. *The bill would require the Judicial Council to adopt a rule of court by January 1, 2008, to establish the procedures for the release of information and redaction of court records pursuant to these provisions.* By imposing additional duties on local agencies, the 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. (a) The Legislature hereby finds and declares
- 2 the following:
- 3 (1) A provision of the federal Child Abuse Prevention and
- 4 Treatment Act, hereafter CAPTA, provides grants to states
- 5 whose laws allow for public disclosure of the findings or
- 6 information in cases of child abuse or neglect that resulted in a
- 7 child fatality or near fatality (42 U.S.C. Sec. 5106a). The CAPTA
- 8 disclosure requirements are an exception to general
- 9 confidentiality laws and are intended to ensure that the public has
- 10 access to information in order to prevent tragedies from
- 11 recurring.
- 12 (2) Providing access to government records relating to
- 13 agencies charged with protecting children from abuse or neglect
- 14 provides the public with insight into the circumstances that led to
- 15 the fatality or near fatality so that other children will not suffer a
- 16 similar fate.

1 (3) The federal Department of Health and Human Services has
2 notified California that it is out of compliance with federal law
3 requiring the public disclosure of information about cases of
4 child abuse or neglect that have resulted in a child fatality or near
5 fatality, and that the state risks losing over three million dollars
6 (\$3,000,000) in federal CAPTA funds if it does not come into
7 compliance.

8 (4) Reports published by California’s Death Review Council
9 do not comply with CAPTA requirements.

10 (5) Paragraph (1) of subdivision (b) of Section 3 of Article I of
11 the California Constitution provides that the people have the right
12 of access to information concerning the conduct of the people’s
13 business, and, therefore, the meetings of public bodies and the
14 writings of public officials and agencies shall be open to public
15 scrutiny.

16 (b) Therefore, it is the intent of the Legislature to do all of the
17 following:

18 (1) Ensure that California is in compliance with CAPTA and
19 not jeopardize the receipt of over three million dollars
20 (\$3,000,000) in federal CAPTA funds.

21 (2) Allow for the public disclosure of case-specific facts and
22 information regarding child abuse or neglect that have resulted in
23 a child fatality or near fatality.

24 (3) Permit the broadest disclosure of government records
25 relating to child fatalities and near fatalities as possible while
26 protecting the confidentiality of siblings, half-siblings, and other
27 children, government employees, and mandatory and voluntary
28 reporters of child abuse, without jeopardizing a criminal
29 investigation or proceeding.

30 SEC. 2. Section 11174.34 of the Penal Code is amended to
31 read:

32 11174.34. (a) (1) The purpose of this section shall be to
33 coordinate and integrate state and local efforts to address fatal
34 child abuse or neglect, and to create a body of information to
35 prevent child deaths.

36 (2) It is the intent of the Legislature that the California State
37 Child Death Review Council, the Department of Justice, the State
38 Department of Social Services, the State Department of Health
39 Services, and state and local child death review teams shall share
40 data and other information necessary from the Department of

1 Justice Child Abuse Central Index and Supplemental Homicide
2 File, the State Department of Health Services Vital Statistics and
3 the Department of Social Services Child Welfare Services/Case
4 Management System files to establish accurate information on
5 the nature and extent of child abuse or neglect related fatalities in
6 California as those documents relate to child fatality cases.
7 Further, it is the intent of the Legislature to ensure that records of
8 child abuse or neglect related fatalities are entered into the State
9 Department of Social Services, Child Welfare Services/Case
10 Management System. It is also the intent that training and
11 technical assistance be provided to child death review teams and
12 professionals in the child protection system regarding
13 multiagency case review.

14 (b) (1) It shall be the duty of the California State Child Death
15 Review Council to oversee the statewide coordination and
16 integration of state and local efforts to address fatal child abuse
17 or neglect and to create a body of information to prevent child
18 deaths. The Department of Justice, the State Department of
19 Social Services, the State Department of Health Services, the
20 California Coroner's Association, the County Welfare Directors
21 Association, Prevent Child Abuse California, the California
22 Homicide Investigators Association, the agency or agencies
23 designated by the Director of Finance pursuant to Section 13820,
24 the Inter-Agency Council on Child Abuse and Neglect/National
25 Center on Child Fatality Review, the California Conference of
26 Local Health Officers, the California Conference of Local
27 Directors of Maternal, Child, and Adolescent Health, the
28 California Conference of Local Health Department Nursing
29 Directors, the California District Attorneys Association, and at
30 least three regional representatives, chosen by the other members
31 of the council, working collaboratively for the purposes of this
32 section, shall be known as the California State Child Death
33 Review Council. The council shall select a chairperson or
34 cochairpersons from the members.

35 (2) The Department of Justice is hereby authorized to carry out
36 the purposes of this section by coordinating council activities and
37 working collaboratively with the agencies and organizations in
38 paragraph (1), and may consult with other representatives of
39 other agencies and private organizations, to help accomplish the
40 purpose of this section.

1 (c) Meetings of the agencies and organizations involved shall
2 be convened by a representative of the Department of Justice. All
3 meetings convened between the Department of Justice and any
4 organizations required to carry out the purpose of this section
5 shall take place in this state. There shall be a minimum of four
6 meetings per calendar year.

7 (d) To accomplish the purpose of this section, the Department
8 of Justice and agencies and organizations involved shall engage
9 in the following activities:

10 (1) Analyze and interpret state and local data on child death in
11 an annual report to be submitted to local child death review
12 teams with copies to the Governor and the Legislature, no later
13 than July 1 of each year. Copies of the report shall also be
14 distributed to public officials in the state who deal with child
15 abuse issues and to those agencies responsible for child death
16 investigation in each county. The report shall contain, but not be
17 limited to, information provided by state agencies and the county
18 child death review teams for the preceding year.

19 The state data shall include the Department of Justice Child
20 Abuse Central Index and Supplemental Homicide File, the State
21 Department of Health Services Vital Statistics, and the State
22 Department of Social Services Child Welfare Services/Case
23 Management System.

24 (2) In conjunction with the agency or agencies designated by
25 the Director of Finance pursuant to Section 13820, coordinate
26 statewide and local training for county death review teams and
27 the members of the teams, including, but not limited to, training
28 in the application of the interagency child death investigation
29 protocols and procedures established under Sections 11174.32
30 and 11174.33 to identify child deaths associated with abuse or
31 neglect.

32 (e) The State Department of Health Services, in collaboration
33 with the California State Child Death Review Council, shall
34 design, test and implement a statewide child abuse or neglect
35 fatality tracking system incorporating information collected by
36 local child death review teams. The department shall:

37 (1) Establish a minimum case selection criteria and review
38 protocols of local child death review teams.

- 1 (2) Develop a standard child death review form with a
2 minimum core set of data elements to be used by local child
3 death review teams, and collect and analyze that data.
- 4 (3) Establish procedural safeguards in order to maintain
5 appropriate confidentiality and integrity of the data.
- 6 (4) Conduct annual reviews to reconcile data reported to the
7 State Department of Health Services Vital Statistics, Department
8 of Justice Homicide Files and Child Abuse Central Index, and the
9 State Department of Social Services Child Welfare Services/Case
10 Management System data systems, with data provided from local
11 child death review teams.
- 12 (5) Provide technical assistance to local child death review
13 teams in implementing and maintaining the tracking system.
- 14 (6) This subdivision shall become operative on July 1, 2000,
15 and shall be implemented only to the extent that funds are
16 appropriated for its purposes in the Budget Act.
- 17 (f) Local child death review teams shall participate in a
18 statewide child abuse or neglect fatalities monitoring system by:
- 19 (1) Meeting the minimum standard protocols set forth by the
20 State Department of Health Services in collaboration with the
21 California State Child Death Review Council.
- 22 (2) Using the standard data form to submit information on
23 child abuse or neglect fatalities in a timely manner established by
24 the State Department of Health Services.
- 25 (g) The California State Child Death Review Council shall
26 monitor the implementation of the monitoring system and
27 incorporate the results and findings of the system and review into
28 an annual report.
- 29 (h) The Department of Justice shall direct the creation,
30 maintenance, updating, and distribution electronically and by
31 paper, of a statewide child death review team directory, which
32 shall contain the names of the members of the agencies and
33 private organizations participating under this section, and the
34 members of local child death review teams and local liaisons to
35 those teams. The department shall work in collaboration with
36 members of the California State Child Death Review Council to
37 develop a directory of professional experts, resources, and
38 information from relevant agencies and organizations and local
39 child death review teams, and to facilitate regional working

1 relationships among teams. The Department of Justice shall
2 maintain and update these directories annually.

3 (i) The agencies or private organizations participating under
4 this section shall participate without reimbursement from the
5 state. Costs incurred by participants for travel or per diem shall
6 be borne by the participant agency or organization. The
7 participants shall be responsible for collecting and compiling
8 information to be included in the annual report. The Department
9 of Justice shall be responsible for printing and distributing the
10 annual report using available funds and existing resources.

11 (j) The agency or agencies designated by the Director of
12 Finance pursuant to Section 13820, in coordination with the State
13 Department of Social Services, the Department of Justice, and
14 the California State Child Death Review Council shall contract
15 with state or nationally recognized organizations in the area of
16 child death review to conduct statewide training and technical
17 assistance for local child death review teams and relevant
18 organizations, develop standardized definitions for fatal child
19 abuse or neglect, develop protocols for the investigation of fatal
20 child abuse or neglect, and address relevant issues such as grief
21 and mourning, data collection, training for medical personnel in
22 the identification of child abuse or neglect fatalities, domestic
23 violence fatality review, and other related topics and programs.
24 The provisions of this subdivision shall only be implemented to
25 the extent that the agency or agencies designated by the Director
26 of Finance pursuant to Section 13820 can absorb the costs of
27 implementation within its current funding, or to the extent that
28 funds are appropriated for its purposes in the Budget Act.

29 (k) Law enforcement and child welfare agencies shall
30 cross-report all cases of child death suspected to be related to
31 child abuse or neglect whether or not the deceased child has any
32 known surviving siblings.

33 (l) County child welfare agencies shall create a record in the
34 Child Welfare Services/Case Management System (CWS/CMS)
35 on all cases of child fatality or near fatality suspected to be
36 related to child abuse or neglect, whether or not the deceased
37 child has any known surviving siblings. Upon notification that
38 the fatality or near fatality was determined not to be related to
39 child abuse or neglect, the child welfare agency shall enter that
40 information into the Child Welfare Services/Case Management

1 System. For the purposes of this subdivision, a “near fatality”
2 means a severe childhood injury resulting in admission to a
3 critical care unit for greater than 24 hours following the injury.

4 SEC. 3. Section 827 of the Welfare and Institutions Code is
5 amended to read:

6 827. (a) (1) Except as provided in Section 828, a case file
7 may be inspected only by the following:

8 (A) Court personnel.

9 (B) The district attorney, a city attorney, or city prosecutor
10 authorized to prosecute criminal or juvenile cases under state
11 law.

12 (C) The minor who is the subject of the proceeding.

13 (D) His or her parents or guardian.

14 (E) The attorneys for the parties, judges, referees, other
15 hearing officers, probation officers, and law enforcement officers
16 who are actively participating in criminal or juvenile proceedings
17 involving the minor.

18 (F) The superintendent or designee of the school district where
19 the minor is enrolled or attending school.

20 (G) Members of the child protective agencies as defined in
21 Section 11165.9 of the Penal Code.

22 (H) The State Department of Social Services to carry out its
23 duties pursuant to Division 9 (commencing with Section 10000)
24 of this code, and Part 5 (commencing with Section 7900) of
25 Division 12 of the Family Code, to oversee and monitor county
26 child welfare agencies, children in foster care or receiving foster
27 care assistance, and out-of-state placements.

28 (I) Authorized legal staff or special investigators who are
29 peace officers who are employed by, or who are authorized
30 representatives of, the State Department of Social Services, as
31 necessary to the performance of their duties to inspect, license,
32 and investigate community care facilities, and to ensure that the
33 standards of care and services provided in those facilities are
34 adequate and appropriate and to ascertain compliance with the
35 rules and regulations to which the facilities are subject. The
36 confidential information shall remain confidential except for
37 purposes of inspection, licensing, or investigation pursuant to
38 Chapter 3 (commencing with Section 1500) and Chapter 3.4
39 (commencing with Section 1596.70) of Division 2 of the Health
40 and Safety Code, or a criminal, civil, or administrative

1 proceeding in relation thereto. The confidential information may
2 be used by the State Department of Social Services in a criminal,
3 civil, or administrative proceeding. The confidential information
4 shall be available only to the judge or hearing officer and to the
5 parties to the case. Names that are confidential shall be listed in
6 attachments separate to the general pleadings. The confidential
7 information shall be sealed after the conclusion of the criminal,
8 civil, or administrative hearings, and may not subsequently be
9 released except in accordance with this subdivision. If the
10 confidential information does not result in a criminal, civil, or
11 administrative proceeding, it shall be sealed after the State
12 Department of Social Services decides that no further action will
13 be taken in the matter of suspected licensing violations. Except as
14 otherwise provided in this subdivision, confidential information
15 in the possession of the State Department of Social Services may
16 not contain the name of the minor.

17 (J) Members of children’s multidisciplinary teams, persons, or
18 agencies providing treatment or supervision of the minor.

19 (K) A judge, commissioner, or other hearing officer assigned
20 to a family law case with issues concerning custody or visitation,
21 or both, involving the minor, and the following persons, if
22 actively participating in the family law case: a family court
23 mediator assigned to a case involving the minor pursuant to
24 Article 1 (commencing with Section 3160) of Chapter 11 of Part
25 2 of Division 8 of the Family Code, a court-appointed evaluator
26 or a person conducting a court-connected child custody
27 evaluation, investigation, or assessment pursuant to Section 3111
28 or 3118 of the Family Code, and counsel appointed for the minor
29 in the family law case pursuant to Section 3150 of the Family
30 Code. Prior to allowing counsel appointed for the minor in the
31 family law case to inspect the file, the court clerk may require
32 counsel to provide a certified copy of the court order appointing
33 him or her as the minor’s counsel.

34 (L) A court-appointed investigator who is actively
35 participating in a guardianship case involving a minor pursuant to
36 Part 2 (commencing with Section 1500) of Division 4 of the
37 Probate Code and acting within the scope of his or her duties in
38 that case.

1 (M) A local child support agency for the purpose of
2 establishing paternity and establishing and enforcing child
3 support orders.

4 (N) Juvenile justice commissions as established under Section
5 225. The confidentiality provisions of Section 10850 shall apply
6 to a juvenile justice commission and its members.

7 (O) Any other person who may be designated by court order
8 of the judge of the juvenile court upon filing a petition.

9 (2) Notwithstanding any other law, including paragraphs (3)
10 and (4), juvenile case files, any juvenile court records, and any
11 county welfare department and State Department of Social
12 Services case files, regardless of whether they are maintained
13 electronically or on paper, except those relating to matters within
14 the jurisdiction of the court pursuant to Section 601 or 602, that
15 pertain to a case of child abuse or neglect that has resulted in a
16 child fatality or near fatality of a child, shall be released to the
17 public and shall not be exempt from disclosure under any
18 provision of the California Public Records Act (Chapter 3.5
19 (commencing with Section 6250) of Division 7 of Title 1 of the
20 Government Code).

21 (A) Prior to releasing any record pursuant to this paragraph the
22 custodian of the records shall redact the following information:

23 (i) Any information relating to another child, or that could
24 identify another child, except for information about the deceased
25 child or the child who suffered a near fatality.

26 (ii) The names, addresses, telephone numbers, or any other
27 identifying information of any county or state personnel referred
28 to in the juvenile case file.

29 (iii) The names, addresses, telephone numbers, or any other
30 identifying information of any individual reporting abuse or
31 neglect of a child.

32 (iv) Any information that would jeopardize a criminal
33 investigation or proceeding.

34 (B) The custodian of any records required to be released
35 pursuant to this paragraph that contain redacted information shall
36 specify in a separate document the specific bases, as enumerated
37 in subparagraph (A), for each redaction.

38 (C) If the custodian of a juvenile case file required to be
39 released under this paragraph believes that, despite the permitted
40 redaction, disclosure of the case file, or any portion thereof,

1 would be seriously and unavoidably detrimental to the safety,
2 protection, or physical or mental and emotional well-being of
3 another child who is directly or indirectly connected to the
4 juvenile case file that is the subject of the petition, he or she may,
5 with notice to the requesting person, petition the presiding judge
6 of the juvenile court to issue an order prohibiting or limiting
7 access to the case file. If a person who requests a case file under
8 this paragraph believes that any redactions or limitations in
9 released case files do not comply with this paragraph, he or she
10 may, with notice to the custodian of the case file, petition the
11 presiding judge of the juvenile court to issue an order granting
12 access to all or a portion of the case file.

13 (D) For the purposes of this paragraph, a “near fatality” means
14 a severe childhood injury resulting in admission to a critical care
15 unit for greater than 24 hours following the injury.

16 (E) *The Judicial Council shall adopt a rule of court on or*
17 *before January 1, 2008, to establish the procedures for the*
18 *release of information and redaction of court records as required*
19 *in this paragraph.*

20 (3) Access to juvenile case files pertaining to matters within
21 the jurisdiction of the juvenile court pursuant to Section 300 shall
22 be limited as follows:

23 (A) If a juvenile case file, or any portion thereof, is privileged
24 or confidential pursuant to any other state law or federal law or
25 regulation, the requirements of that state law or federal law or
26 regulation prohibiting or limiting release of the juvenile case file
27 or any portions thereof shall prevail. Unless a person is listed in
28 subparagraphs (A) to (N), inclusive, of paragraph (1) and is
29 entitled to access under the other state law or federal law or
30 regulation without a court order, all those seeking access,
31 pursuant to other authorization, to portions of, or information
32 relating to the contents of, juvenile case files protected under
33 another state law or federal law or regulation, shall petition the
34 juvenile court. The juvenile court may only release the portion
35 of, or information relating to the contents of, juvenile case files
36 protected by another state law or federal law or regulation if
37 disclosure is not detrimental to the safety, protection, or physical
38 or emotional well-being of a child who is directly or indirectly
39 connected to the juvenile case that is the subject of the petition.
40 This paragraph shall not be construed to limit the ability of the

1 juvenile court to carry out its duties in conducting juvenile court
2 proceedings.

3 (B) Prior to the release of the juvenile case file or any portion
4 thereof, the court shall afford due process, including a notice of
5 and an opportunity to file an objection to the release of the record
6 or report to all interested parties.

7 (4) A juvenile case file, any portion thereof, and information
8 relating to the content of the juvenile case file, may not be
9 disseminated by the receiving agencies to any persons or
10 agencies, other than those persons or agencies authorized to
11 receive documents pursuant to this section. Further, a juvenile
12 case file, any portion thereof, and information relating to the
13 content of the juvenile case file, may not be made as an
14 attachment to any other documents without the prior approval of
15 the presiding judge of the juvenile court, unless it is used in
16 connection with and in the course of a criminal investigation or a
17 proceeding brought to declare a person a dependent child or ward
18 of the juvenile court.

19 (b) (1) While the Legislature reaffirms its belief that juvenile
20 court records, in general, should be confidential, it is the intent of
21 the Legislature in enacting this subdivision to provide for a
22 limited exception to juvenile court record confidentiality to
23 promote more effective communication among juvenile courts,
24 family courts, law enforcement agencies, and schools to ensure
25 the rehabilitation of juvenile criminal offenders as well as to
26 lessen the potential for drug use, violence, other forms of
27 delinquency, and child abuse.

28 (2) Notwithstanding subdivision (a), written notice that a
29 minor enrolled in a public school, kindergarten to grade 12,
30 inclusive, has been found by a court of competent jurisdiction to
31 have committed any felony or any misdemeanor involving
32 curfew, gambling, alcohol, drugs, tobacco products, carrying of
33 weapons, a sex offense listed in Section 290 of the Penal Code,
34 assault or battery, larceny, vandalism, or graffiti shall be
35 provided by the court, within seven days, to the superintendent of
36 the school district of attendance. Written notice shall include
37 only the offense found to have been committed by the minor and
38 the disposition of the minor's case. This notice shall be
39 expeditiously transmitted by the district superintendent to the
40 principal at the school of attendance. The principal shall

1 expeditiously disseminate the information to those counselors
2 directly supervising or reporting on the behavior or progress of
3 the minor. In addition, the principal shall disseminate the
4 information to any teacher or administrator directly supervising
5 or reporting on the behavior or progress of the minor whom the
6 principal believes needs the information to work with the pupil in
7 an appropriate fashion, to avoid being needlessly vulnerable or to
8 protect other persons from needless vulnerability.

9 Any information received by a teacher, counselor, or
10 administrator under this subdivision shall be received in
11 confidence for the limited purpose of rehabilitating the minor and
12 protecting students and staff, and shall not be further
13 disseminated by the teacher, counselor, or administrator, except
14 insofar as communication with the juvenile, his or her parents or
15 guardians, law enforcement personnel, and the juvenile's
16 probation officer is necessary to effectuate the juvenile's
17 rehabilitation or to protect students and staff.

18 An intentional violation of the confidentiality provisions of this
19 paragraph is a misdemeanor punishable by a fine not to exceed
20 five hundred dollars (\$500).

21 (3) If a minor is removed from public school as a result of the
22 court's finding described in subdivision (b), the superintendent
23 shall maintain the information in a confidential file and shall
24 defer transmittal of the information received from the court until
25 the minor is returned to public school. If the minor is returned to
26 a school district other than the one from which the minor came,
27 the parole or probation officer having jurisdiction over the minor
28 shall so notify the superintendent of the last district of
29 attendance, who shall transmit the notice received from the court
30 to the superintendent of the new district of attendance.

31 (c) Each probation report filed with the court concerning a
32 minor whose record is subject to dissemination pursuant to
33 subdivision (b) shall include on the face sheet the school at which
34 the minor is currently enrolled. The county superintendent shall
35 provide the court with a listing of all of the schools within each
36 school district, within the county, along with the name and
37 mailing address of each district superintendent.

38 (d) Each notice sent by the court pursuant to subdivision (b)
39 shall be stamped with the instruction: "Unlawful Dissemination
40 Of This Information Is A Misdemeanor." Any information

1 received from the court shall be kept in a separate confidential
2 file at the school of attendance and shall be transferred to the
3 minor's subsequent schools of attendance and maintained until
4 the minor graduates from high school, is released from juvenile
5 court jurisdiction, or reaches 18 years of age, whichever occurs
6 first. After that time the confidential record shall be destroyed. At
7 any time after the date by which a record required to be
8 destroyed by this section should have been destroyed, the minor
9 or his or her parent or guardian shall have the right to make a
10 written request to the principal of the school that the minor's
11 school records be reviewed to ensure that the record has been
12 destroyed. Upon completion of any requested review and no later
13 than 30 days after the request for the review was received, the
14 principal or his or her designee shall respond in writing to the
15 written request and either shall confirm that the record has been
16 destroyed or, if the record has not been destroyed, shall explain
17 why destruction has not yet occurred.

18 Except as provided in paragraph (2) of subdivision (b), no
19 liability shall attach to any person who transmits or fails to
20 transmit any notice or information required under subdivision
21 (b).

22 (e) For purposes of this section, a "juvenile case file" means a
23 petition filed in any juvenile court proceeding, reports of the
24 probation officer, and all other documents filed in that case or
25 made available to the probation officer in making his or her
26 report, or to the judge, referee, or other hearing officer, and
27 thereafter retained by the probation officer, judge, referee, or
28 other hearing officer.

29 SEC. 4. Section 10850 of the Welfare and Institutions Code is
30 amended to read:

31 10850. (a) Except as otherwise provided in this section, all
32 applications and records concerning any individual made or kept
33 by any public officer or agency in connection with the
34 administration of any provision of this code relating to any form
35 of public social services for which grants-in-aid are received by
36 this state from the United States government shall be
37 confidential, and shall not be open to examination for any
38 purpose not directly connected with the administration of that
39 program, or any investigation, prosecution, or criminal or civil
40 proceeding conducted in connection with the administration of

1 ~~any such~~ *that* program. The disclosure of any information that
2 identifies by name or address any applicant for or recipient of
3 these grants-in-aid to any committee or legislative body is
4 prohibited, except as provided in subdivision (b).

5 (b) Except as otherwise provided in this section, no person
6 shall publish or disclose or permit or cause to be published or
7 disclosed any list of persons receiving public social services. Any
8 county welfare department in this state may release lists of
9 applicants for, or recipients of, public social services, to any
10 other county welfare department or the State Department of
11 Social Services, and these lists or any other records shall be
12 released when requested by any county welfare department or the
13 State Department of Social Services. These lists or other records
14 shall only be used for purposes directly connected with the
15 administration of public social services. Except for those
16 purposes, no person shall publish, disclose, or use or permit or
17 cause to be published, disclosed, or used any confidential
18 information pertaining to an applicant or recipient.

19 Any county welfare department and the State Department of
20 Social Services shall provide any governmental entity that is
21 authorized by law to conduct an audit or similar activity in
22 connection with the administration of public social services,
23 including any committee or legislative body so authorized, with
24 access to any public social service applications and records
25 described in subdivision (a) to the extent of the authorization.
26 Those committees, legislative bodies and other entities may only
27 request or use these records for the purpose of investigating the
28 administration of public social services, and shall not disclose the
29 identity of any applicant or recipient except in the case of a
30 criminal or civil proceeding conducted in connection with the
31 administration of public social services.

32 However, this section shall not prohibit the furnishing of this
33 information to other public agencies to the extent required for
34 verifying eligibility or for other purposes directly connected with
35 the administration of public social services, or to county
36 superintendents of schools or superintendents of school districts
37 only as necessary for the administration of federally assisted
38 programs providing assistance in cash or in-kind or services
39 directly to individuals on the basis of need. Any person

1 knowingly and intentionally violating this subdivision is guilty of
2 a misdemeanor.

3 Further, in the context of a petition for the appointment of a
4 conservator for a person who is receiving or has received aid
5 from a public agency, as indicated above, or in the context of a
6 criminal prosecution for a violation of Section 368 of the Penal
7 Code, both of the following shall apply:

8 (1) An Adult Protective Services employee or Ombudsman
9 may answer truthfully at any proceeding related to the petition or
10 prosecution, when asked if he or she is aware of information that
11 he or she believes is related to the legal mental capacity of that
12 aid recipient or the need for a conservatorship for that aid
13 recipient. If the Adult Protective Services employee or
14 Ombudsman states that he or she is aware of that information, the
15 court may order the Adult Protective Services employee or
16 Ombudsman to testify about his or her observations and to
17 disclose all relevant agency records.

18 (2) The court may order the Adult Protective Services
19 employee or Ombudsman to testify about his or her observations
20 and to disclose any relevant agency records if the court has other
21 independent reason to believe that the Adult Protective Services
22 employee or Ombudsman has information that would facilitate
23 the resolution of the matter.

24 (c) The State Department of Social Services may make rules
25 and regulations governing the custody, use, and preservation of
26 all records, papers, files, and communications pertaining to the
27 administration of the laws relating to public social services under
28 their jurisdiction. The rules and regulations shall be binding on
29 all departments, officials and employees of the state, or of any
30 political subdivision of the state and may provide for giving
31 information to or exchanging information with agencies, public
32 or political subdivisions of the state, and may provide for giving
33 information to or exchanging information with agencies, public
34 or private, that are engaged in planning, providing, or securing
35 social services for or in behalf of recipients or applicants; and for
36 making case records available for research purposes, provided
37 that making these case records available will not result in the
38 disclosure of the identity of applicants for or recipients of public
39 social services and will not disclose any personal information in
40 a manner that would link the information disclosed to the

1 individual to whom it pertains, unless the department has
2 complied with subdivision (t) of Section 1798.24 of the Civil
3 Code.

4 (d) Any person, including every public officer and employee,
5 who knowingly secures or possesses, other than in the course of
6 official duty, an official list or a list compiled from official
7 sources, published or disclosed in violation of this section, of
8 persons who have applied for or who have been granted any form
9 of public social services for which state or federal funds are made
10 available to the counties is guilty of a misdemeanor.

11 (e) This section shall not be construed to prohibit an employee
12 of a county welfare department from disclosing confidential
13 information concerning a public social services applicant or
14 recipient to a state or local law enforcement agency investigating
15 or gathering information regarding a criminal act committed in a
16 welfare department office, a criminal act against any county or
17 state welfare worker, or any criminal act witnessed by any county
18 or state welfare worker while involved in the administration of
19 public social services at any location. Further, this section shall
20 not be construed to prohibit an employee of a county welfare
21 department from disclosing confidential information concerning
22 a public social services applicant or recipient to a state or local
23 law enforcement agency investigating or gathering information
24 regarding a criminal act intentionally committed by the applicant
25 or recipient against any off-duty county or state welfare worker
26 in retaliation for an act performed in the course of the welfare
27 worker's duty when the person committing the offense knows or
28 reasonably should know that the victim is a state or county
29 welfare worker. These criminal acts shall include only those that
30 are in violation of state or local law. Disclosure of confidential
31 information pursuant to this subdivision shall be limited to the
32 applicant's or recipient's name, physical description, and
33 address.

34 (f) The provisions of this section shall be operative only to the
35 extent permitted by federal law and shall not apply to, but
36 exclude, Chapter 7 (commencing with Section 14000) of this
37 division, entitled "Basic Health Care", and for which a
38 grant-in-aid is received by the state under Title XIX of the Social
39 Security Act.

1 (g) This section shall not be construed to limit any release to
2 the public of juvenile case files required to be released pursuant
3 to paragraph (2) of subdivision (a) of Section 827.

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

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