

Introduced by Senator PoochigianFebruary 24, 2006

An act to add Section 13974.6 to, and to add and repeal Section 13969.7 of, the Government Code, and to amend Section 1464 of, and to add Sections 11166.6 and 11166.7 to, the Penal Code, relating to victim services.

LEGISLATIVE COUNSEL'S DIGEST

SB 1761, as introduced, Poochigian. Victim services.

Existing law, the Child Abuse and Neglect Reporting Act, requires specified persons to report suspected child abuse or neglect.

This bill would provide that, until July 1, 2011, a county may enter into grants for interview services with the Office of Emergency Services for the recovery of costs associated with the provision of child victim forensic evidentiary interviews conducted by child advocacy centers. The bill would authorize counties to establish child advocacy centers to coordinate the activities of the various agencies involved in the investigation and prosecution of alleged child abuse and mitigation of family violence. The bill would require each county that establishes a child advocacy center to develop an interagency protocol agreement, as specified. The bill would also establish the Victim Trauma Recovery Fund for the purpose of supporting victim recovery programs, and direct the Office of Emergency Services to use the fund to award grants for those purposes as specified.

Existing law creates the State Penalty Fund into which moneys collected by the courts for the imposition of fines, forfeitures, or penalties on criminal offenses are deposited. Once a month, certain percentages of money in that fund are transferred into other funds, including the Peace Officers' Training Fund, the Driver Training Penalty Assessment Fund, and the Victim Witness Assistance Fund.

This bill would change the percentage of money that is deposited into each of the above-mentioned funds from the State Penalty Fund, and would create the Child Advocacy Center Fund, into which 4.97% of state penalty funds in the State Penalty Fund would be deposited monthly. Money in the fund would be used to support county child advocacy centers. Additionally, 2% of the state penalty fund would be transferred monthly to the Victim Trauma Recovery Fund, and 2% monthly would be transferred to the Office of Emergency Services to be used to support the California Witness Protection program.

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

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

1 SECTION 1. Section 13969.7 is added to the Government
2 Code, to read:

3 13969.7. (a) Notwithstanding Sections 13960 to 13966,
4 inclusive, a county may enter into grants for interview services
5 with the Office of Emergency Services for the recovery of costs
6 associated with the provision of child victim forensic evidentiary
7 interviews conducted by child advocacy centers as described in
8 Section 11166.6 of the Penal Code, and in accordance with its
9 adopted interagency protocol agreement described in Section
10 11166.7 of the Penal Code.

11 (b) The grants for interview services shall provide funding for
12 capacity building expenditures and training related to conducting
13 a forensic evidentiary interview.

14 (c) Personnel costs of child advocacy centers that are incurred
15 by the representatives of the various participating county
16 departments are not eligible within the scope of the grants.

17 (d) For purposes of this section, “child victim” means a person
18 under 18 years of age who has been reported to an agency
19 specified in Section 11165.9 of the Penal Code to be a known or
20 suspected victim of child abuse as described in Section 11165.6
21 of the Penal Code.

22 (e) The amount of the grants shall be determined by the Office
23 of Emergency Services, in consultation with an advisory group
24 established by that office, comprised of representatives from the
25 following disciplines: prosecutors, law enforcement, victims
26 services, pediatric medicine, and child protective services.

1 (f) The Office of Emergency Services shall draw funds from
2 the Child Advocacy Center Fund for purposes of entering into
3 grants for interview services.

4 (g) The Office of Emergency Services shall develop grant
5 requirements and award those grants beginning on July 1, 2007.

6 (h) The Office of Emergency Services may retain up to 7
7 percent of those funds for purposes of administering those grants.

8 (i) This section shall become inoperative on July 1, 2011, and,
9 as of January 1, 2012, is repealed, unless a later enacted statute,
10 that becomes operative on or before January 1, 2011, deletes or
11 extends the dates on which it becomes inoperative and is
12 repealed.

13 SEC. 2. Section 13974.6 is added to the Government Code, to
14 read:

15 13974.6. (a) The Victim Trauma Recovery Fund is hereby
16 created for the purpose of supporting victim recovery, resource,
17 and treatment programs to provide comprehensive recovery
18 services to victims of crime.

19 (b) The Office of Emergency Services shall select up to five
20 sites to award grants to pursuant to this section. The sites shall
21 include, but need not be limited to, all of the following
22 programmatic components:

23 (1) Establishment of a victim recovery, resource, and
24 treatment center.

25 (2) Implementation of a crime scene mobile outreach team to
26 provide comprehensive intervention and debriefing for children
27 and families.

28 (3) Community-based outreach.

29 (4) Services to family members and loved ones of homicide
30 victims.

31 (c) Victim recovery, resource, and treatment programs
32 selected by the Office of Emergency Services shall serve
33 populations of crime victims whose needs are not currently being
34 met, shall be distributed geographically to serve the state's
35 population, and shall include services to all of the following:

36 (1) Individuals who are not aware of the breadth and range of
37 services provided to victims of crime.

38 (2) Individuals residing in communities with limited services.

39 (3) Individuals who cannot access services due to disability.

40 (4) Family members and loved ones of homicide victims.

1 (d) The Office of Emergency Service shall award those grants
2 beginning on July 1, 2007.

3 (e) The Office of Emergency Service may retain up to 7
4 percent of those funds for the purposes of administering those
5 grants.

6 SEC. 3. Section 1464 of the Penal Code is amended to read:

7 1464. (a) Subject to Chapter 12 (commencing with Section
8 76000) of Title 8 of the Government Code, there shall be levied a
9 state penalty, in an amount equal to ten dollars (\$10) for every
10 ten dollars (\$10) or fraction thereof, upon every fine, penalty, or
11 forfeiture imposed and collected by the courts for criminal
12 offenses, including all offenses, except parking offenses as
13 defined in subdivision (i) of Section 1463, involving a violation
14 of a section of the Vehicle Code or any local ordinance adopted
15 pursuant to the Vehicle Code. Any bail schedule adopted
16 pursuant to Section 1269b may include the necessary amount to
17 pay the state penalties established by this section and Chapter 12
18 (commencing with Section 76000) of Title 8 of the Government
19 Code for all matters where a personal appearance is not
20 mandatory and the bail is posted primarily to guarantee payment
21 of the fine.

22 (b) Where multiple offenses are involved, the state penalty
23 shall be based upon the total fine or bail for each case. When a
24 fine is suspended, in whole or in part, the state penalty shall be
25 reduced in proportion to the suspension.

26 (c) When any deposited bail is made for an offense to which
27 this section applies, and for which a court appearance is not
28 mandatory, the person making the deposit shall also deposit a
29 sufficient amount to include the state penalty prescribed by this
30 section for forfeited bail. If bail is returned, the state penalty paid
31 thereon pursuant to this section shall also be returned.

32 (d) In any case where a person convicted of any offense, to
33 which this section applies, is in prison until the fine is satisfied,
34 the judge may waive all or any part of the state penalty, the
35 payment of which would work a hardship on the person
36 convicted or his or her immediate family.

37 (e) After a determination by the court of the amount due, the
38 clerk of the court shall collect the penalty and transmit it to the
39 county treasury. The portion thereof attributable to Chapter 12
40 (commencing with Section 76000) of Title 8 of the Government

1 Code shall be deposited in the appropriate county fund and 70
2 percent of the balance shall then be transmitted to the State
3 Treasury, to be deposited in the State Penalty Fund, which is
4 hereby created, and 30 percent to remain on deposit in the county
5 general fund. The transmission to the State Treasury shall be
6 carried out in the same manner as fines collected for the state by
7 a county.

8 (f) The moneys so deposited in the State Penalty Fund shall be
9 distributed as follows:

10 (1) Once a month there shall be transferred into the Fish and
11 Game Preservation Fund an amount equal to 0.33 percent of the
12 state penalty funds deposited in the State Penalty Fund during the
13 preceding month, except that the total amount shall not be less
14 than the state penalty levied on fines or forfeitures for violation
15 of state laws relating to the protection or propagation of fish and
16 game. These moneys shall be used for the education or training
17 of department employees which fulfills a need consistent with the
18 objectives of the Department of Fish and Game.

19 (2) Once a month there shall be transferred into the Restitution
20 Fund an amount equal to 32.02 percent of the state penalty funds
21 deposited in the State Penalty Fund during the preceding month.
22 Those funds shall be made available in accordance with Section
23 13967 of the Government Code.

24 (3) Once a month there shall be transferred into the Peace
25 Officers' Training Fund an amount equal to ~~23.99~~ 33.49 percent
26 of the state penalty funds deposited in the State Penalty Fund
27 during the preceding month.

28 (4) Once a month there shall be transferred into the Driver
29 Training Penalty Assessment Fund an amount equal to ~~25.70~~ 1
30 percent of the state penalty funds deposited in the State Penalty
31 Fund during the preceding month.

32 (5) Once a month there shall be transferred into the
33 Corrections Training Fund an amount equal to 7.88 percent of the
34 state penalty funds deposited in the State Penalty Fund during the
35 preceding month. Money in the Corrections Training Fund is not
36 continuously appropriated and shall be appropriated in the
37 Budget Act.

38 (6) Once a month there shall be transferred into the Local
39 Public Prosecutors and Public Defenders Training Fund
40 established pursuant to Section 11503 an amount equal to ~~0.78~~

1 1.25 percent of the state penalty funds deposited in the State
2 Penalty Fund during the preceding month. ~~The amount so~~
3 ~~transferred shall not exceed the sum of eight hundred fifty~~
4 ~~thousand dollars (\$850,000) in any fiscal year. The remainder in~~
5 ~~excess of eight hundred fifty thousand dollars (\$850,000) shall be~~
6 ~~transferred to the Restitution Fund.~~

7 (7) Once a month there shall be transferred into the
8 Victim-Witness Assistance Fund an amount equal to ~~8.64~~ 14.4
9 percent of the state penalty funds deposited in the State Penalty
10 Fund during the preceding month.

11 (8) (A) Once a month there shall be transferred into the
12 Traumatic Brain Injury Fund, created pursuant to Section 4358 of
13 the Welfare and Institutions Code, an amount equal to 0.66
14 percent of the state penalty funds deposited into the State Penalty
15 Fund during the preceding month. However, the amount of funds
16 transferred into the Traumatic Brain Injury Fund for the 1996–97
17 fiscal year shall not exceed the amount of five hundred thousand
18 dollars (\$500,000). Thereafter, funds shall be transferred
19 pursuant to the requirements of this section. Notwithstanding any
20 other provision of law, the funds transferred into the Traumatic
21 Brain Injury Fund for the 1997–98, 1998–99, and 1999–2000
22 fiscal years, may be expended by the State Department of Mental
23 Health, in the current fiscal year or a subsequent fiscal year, to
24 provide additional funding to the existing projects funded by the
25 Traumatic Brain Injury Fund, to support new projects, or to do
26 both.

27 (9) *Once a month there shall be transferred into the Child*
28 *Advocacy Center Fund created pursuant to subdivision (c) of*
29 *Section 11166.6, an amount equal to 4.97 percent of the state*
30 *penalty funds deposited into the State Penalty Fund during the*
31 *preceding month.*

32 (10) *Once a month there shall be transferred into the Victim*
33 *Trauma Recovery Fund created pursuant to subdivision (a) of*
34 *Section 13974.6, an amount equal to 2 percent of the state*
35 *penalty funds deposited into the State Penalty Fund during the*
36 *preceding month.*

37 (11) *Two percent of the State Penalty Fund shall be allocated*
38 *to the Office of Emergency Services to be used to support the*
39 *California Witness Protection Program created pursuant to*
40 *Section 14020 of the Penal Code.*

1 (B) Any moneys deposited in the State Penalty Fund
2 attributable to the assessments made pursuant to subdivision (i)
3 of Section 27315 of the Vehicle Code on or after the date that
4 Chapter 6.6 (commencing with Section 5564) of Part 1 of
5 Division 5 of the Welfare and Institutions Code is repealed shall
6 be utilized in accordance with paragraphs (1) to (8), inclusive, of
7 this subdivision.

8 SEC. 4. Section 11166.6 is added to the Penal Code, to read:

9 11166.6. (a) Each county may establish child advocacy
10 centers to coordinate the activities of the various agencies
11 involved in the investigation and prosecution of alleged child
12 abuse and mitigation of family violence, including those that
13 provide medical services and follow-up treatment to victims of
14 child abuse or family violence, or both. The purpose of these
15 centers is to protect victims of child abuse by minimizing
16 traumatizing interviews through the coordination of efforts of
17 district attorneys, child welfare social workers, law enforcement,
18 and medical personnel, among others, and to assist prosecution
19 by reducing the chances of conflicting or inaccurate information
20 by asking age-appropriate questions to help procure information
21 that is admissible in court.

22 (b) (1) Members of the child advocacy center shall, at a
23 minimum, consist of a representative from the district attorney's
24 office, the sheriff's department, a police department, child
25 protective services, and may include medical and mental health
26 professionals.

27 (2) Members of the local child advocacy center shall be
28 trained to conduct child forensic interviews. The training shall
29 include instruction in risk assessment, the dynamics of child
30 abuse, including the abuse of children with special needs, child
31 sexual abuse and rape of children, and legally sound and
32 age-appropriate interview and investigation techniques.

33 (c) The Child Advocacy Center Fund is hereby created for the
34 purposes of supporting county child advocacy centers. Money
35 appropriated from the fund shall be made available through the
36 Office of Emergency Services to any public or private nonprofit
37 agency for the establishment or maintenance, or both, of child
38 advocacy centers that provide comprehensive child advocacy
39 services, as specified in this section.

40 SEC. 5. Section 11166.7 is added to the Penal Code, to read:

1 11166.7. To qualify for state funding pursuant to Section
2 13969.7 of the Government Code, each county that establishes a
3 multidisciplinary team or center pursuant to Section 11166.6
4 shall adopt a written protocol as follows:

5 (a) Each county shall develop an interagency protocol
6 agreement for the investigation of child abuse and neglect that
7 shall be signed by appropriate persons from the office of the
8 district attorney, the sheriff’s department, the police department,
9 child protective services or an equivalent agency administering
10 child welfare, and public health and medical examiners.

11 (b) The protocol agreement may include, but is not limited to,
12 the following additional entities:

- 13 (1) School districts.
- 14 (2) Probation departments.
- 15 (3) Courts.
- 16 (4) County counsel.
- 17 (5) Tribal council representatives.
- 18 (6) Clergy.
- 19 (7) Regional centers.
- 20 (8) Mental health.
- 21 (9) Counsel for children.
- 22 (10) CASA(Court Appointed Special Advocates).
- 23 (11) Ancillary law enforcement agencies, including the federal
24 government and the military.
- 25 (12) Victim witness programs.
- 26 (13) Child abuse councils.

27 (c) Each protocol agreement shall include the following:

- 28 (1) A mission goal and mission statement.
- 29 (2) Written standards and procedures.
- 30 (3) A procedure for periodic review by all agencies involved.
- 31 (4) A procedure for dissemination to all parties involved.
- 32 (5) A procedure for training about the requirements of the
33 protocol agreement.
- 34 (6) Recognition of the need for ongoing training procedures
35 for professionals involved in the investigation of child abuse.
- 36 (7) Hiring requirements that specify that staff shall have
37 knowledge of the language and cultural needs of the victims of
38 child abuse.

1 (d) The protocol agreement shall address all children,
2 including children with special needs, suspected of being abused
3 or neglected in the following situations:

- 4 (1) Intrafamily or in the home.
- 5 (2) Out-of-home care facilities, including, but not limited to,
6 day care, group homes, public or private schools, foster care, and
7 licensed facilities.
- 8 (3) Perpetration by a stranger.
- 9 (4) Siblings of a child abuse fatality victim.
- 10 (5) Homes with domestic violence.

11 (e) The protocol agreement shall address the following
12 sequence of responses that takes into account the emotional and
13 physical well-being of the child victim:

- 14 (1) The initial response following a referral shall be
15 coordinated among first responders to reduce repetitive
16 interviews with or questions to the child. Specifically, the
17 protocol agreement shall outline the procedures by which first
18 responders share information with each other. For the purposes
19 of this section, “first responders” means officials from a child
20 protective service agency or a law enforcement agency.
- 21 (2) Investigative procedures for forensic evidence gathering.
- 22 (3) Child abuse reporting procedures and cross-reporting
23 procedures.
- 24 (4) Minimum standards for levels of professional competency.
- 25 (5) Knowledge of legal authority.
- 26 (6) Procedures for sharing information with all the parties
27 involved in the investigation.
- 28 (7) Procedures for getting information about the child victim
29 back to reporters.
- 30 (8) Procedures for transporting a child, specifying who may
31 take the child, where the child may be taken, and under what
32 conditions the child may be taken. In addition, there shall also be
33 procedures for transporting family members if the need arises.
- 34 (9) Procedures to ensure that a child with special needs
35 receives prescribed medication or has special equipment, such as
36 a wheelchair.

37 (f) Procedures shall also include the following considerations
38 for forensic evidentiary interviews and medical examinations:

- 39 (1) The qualification of personnel conducting the interview or
40 examination.

- 1 (2) The location of the interview or examination.
- 2 (3) The procedures for documentation.
- 3 (4) The guidelines for deciding which agency budget will
- 4 cover the cost of examinations and interviews.
- 5 (5) The definition or criteria under which a child qualifies for
- 6 an examination or interview.
- 7 (g) The protocol agreement shall address the following issues:
- 8 (1) Procedures for dealing with the denial of entry to any of
- 9 the responders to a referral for child abuse or neglect.
- 10 (2) Procedures for obtaining the necessary consent for medical
- 11 examinations and forensic interviews.
- 12 (3) Procedures for sharing information among mandated
- 13 reporters, first responders, professionals, and follow-up
- 14 investigations.
- 15 (4) Procedures for sharing information among professional
- 16 child abuse investigators that address issues of confidentiality.
- 17 (5) Procedures for providing information about protective
- 18 orders, prior history criminal background checks, court actions,
- 19 and placement orders.
- 20 (6) Procedures for emergency situations or professional
- 21 judgment that allow for deviation from the protocols.
- 22 (7) Procedures to develop a tracking system to receive and
- 23 coordinate all information relating to a case of child abuse that is
- 24 in the possession of any agency involved in the investigation or
- 25 prosecution of child abuse, including law enforcement agencies,
- 26 child protective service agencies, county welfare agencies, and
- 27 licensing agencies.
- 28 (h) The protocol agreement shall explain how the interagency
- 29 protocol for child abuse investigation interfaces with or
- 30 acknowledges the protocols of individual agencies involved and
- 31 shall include procedures for resolving any conflicts among those
- 32 protocols.

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