

AMENDED IN SENATE MAY 22, 2007

AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 1022

Introduced by Senator Steinberg

February 23, 2007

An act to amend Sections 11169 and 11170 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

SB 1022, as amended, Steinberg. Child abuse: central index.

Existing law requires the Department of Justice to maintain the Child Abuse Central Index as a repository for reports regarding suspected child abuse or severe neglect.

This bill would require the department to remove ~~all~~ information relating to a person who's name ~~was~~ is listed in the Child Abuse Central Index as a ~~perpetrator of child abuse~~ *suspect in a child abuse or neglect investigation* due to an incident that occurred when the person was ~~younger than 18 years old~~ *under 18 years of age* if the incident did not result in a delinquency adjudication or criminal conviction, *and he or she makes a notarized written request to the department to have his or her name removed as a suspect with respect to that incident*, as specified.

Existing law also requires specified persons to forward reports of suspected child abuse to the Department of Justice and requires the department to notify the person specified as the suspected abuser that he or she has been reported to the Child Abuse Central Index.

This bill would, in addition, require the department to notify the current caregiver, the parents or legal guardian, the attorney, and the guardian ad litem of a minor if the minor is the suspected abuser.

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 11169 of the Penal Code is amended to
2 read:
3 11169. (a) An agency specified in Section 11165.9 shall
4 forward to the Department of Justice a report in writing of every
5 case it investigates of known or suspected child abuse or severe
6 neglect which is determined not to be unfounded, other than cases
7 coming within subdivision (b) of Section 11165.2. An agency shall
8 not forward a report to the Department of Justice unless it has
9 conducted an active investigation and determined that the report
10 is not unfounded, as defined in Section 11165.12. If a report has
11 previously been filed which subsequently proves to be unfounded,
12 the Department of Justice shall be notified in writing of that fact
13 and shall not retain the report. The reports required by this section
14 shall be in a form approved by the Department of Justice and may
15 be sent by fax or electronic transmission. An agency specified in
16 Section 11165.9 receiving a written report from another agency
17 specified in Section 11165.9 shall not send that report to the
18 Department of Justice.
19 (b) At the time an agency specified in Section 11165.9 forwards
20 a report in writing to the Department of Justice pursuant to
21 subdivision (a), the agency shall also notify in writing the known
22 or suspected child abuser that he or she has been reported to the
23 Child Abuse Central Index. If the known or suspected child abuser
24 is a minor, the agency shall notify the minor's current caregiver,
25 the minor's parents or legal guardian, the minor's attorney, and
26 the minor's guardian ad litem, if any. The notice required by this
27 section shall be in a form approved by the Department of Justice.
28 The requirements of this subdivision shall apply with respect to
29 reports forwarded to the department on or after the date on which
30 this subdivision becomes operative.
31 (c) Agencies shall retain child abuse or neglect investigative
32 reports that result in a report filed with the Department of Justice
33 pursuant to subdivision (a) for the same period of time that the
34 information is required to be maintained on the Child Abuse
35 Central Index pursuant to this section and subdivision (a) of Section

1 11170. Nothing in this section precludes an agency from retaining
2 the reports for a longer period of time if required by law.

3 (d) The immunity provisions of Section 11172 shall not apply
4 to the submission of a report by an agency pursuant to this section.
5 However, nothing in this section shall be construed to alter or
6 diminish any other immunity provisions of state or federal law.

7 SEC. 2. Section 11170 of the Penal Code is amended to read:

8 11170. (a) (1) The Department of Justice shall maintain an
9 index of all reports of child abuse and severe neglect submitted
10 pursuant to Section 11169. The index shall be continually updated
11 by the department and shall not contain any reports that are
12 determined to be unfounded. The department may adopt rules
13 governing recordkeeping and reporting pursuant to this article.

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

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

31 (b) (1) The Department of Justice shall immediately notify an
32 agency that submits a report pursuant to Section 11169, or a
33 prosecutor who requests notification, of any information maintained
34 pursuant to subdivision (a) that is relevant to the known or
35 suspected instance of child abuse or severe neglect reported by the
36 agency. The agency shall make that information available to the
37 reporting medical practitioner, child custodian, guardian ad litem
38 appointed under Section 326, or counsel appointed under Section
39 317 or 318 of the Welfare and Institutions Code, or the appropriate

1 licensing agency, if he or she is treating or investigating a case of
2 known or suspected child abuse or severe neglect.

3 (2) When a report is made pursuant to subdivision (a) of Section
4 11166, or Section 11166.05, the investigating agency, upon
5 completion of the investigation or after there has been a final
6 disposition in the matter, shall inform the person required or
7 authorized to report of the results of the investigation and of any
8 action the agency is taking with regard to the child or family.

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

13 (4) The department shall make available to the State Department
14 of Social Services or to any county licensing agency that has
15 contracted with the state for the performance of licensing duties
16 information regarding a known or suspected child abuser
17 maintained pursuant to this section and subdivision (a) of Section
18 11169 concerning any person who is an applicant for licensure or
19 any adult who resides or is employed in the home of an applicant
20 for licensure or who is an applicant for employment in a position
21 having supervisory or disciplinary power over a child or children,
22 or who will provide 24-hour care for a child or children in a
23 residential home or facility, pursuant to Section 1522.1 or 1596.877
24 of the Health and Safety Code, or Section 8714, 8802, 8912, or
25 9000 of the Family Code.

26 (5) For purposes of child death review, the Department of Justice
27 shall make available to the chairperson, or the chairperson's
28 designee, for each county child death review team, or the State
29 Child Death Review Council, information maintained in the Child
30 Abuse Central Index pursuant to subdivision (a) of Section 11170
31 relating to the death of one or more children and any prior child
32 abuse or neglect investigation reports maintained involving the
33 same victims, siblings, or suspects. Local child death review teams
34 may share any relevant information regarding case reviews
35 involving child death with other child death review teams.

36 (6) The department shall make available to investigative
37 agencies or probation officers, or court investigators acting
38 pursuant to Section 1513 of the Probate Code, responsible for
39 placing children or assessing the possible placement of children
40 pursuant to Article 6 (commencing with Section 300), Article 7

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

17 (7) The Department of Justice shall make available to a
18 government agency conducting a background investigation
19 pursuant to Section 1031 of the Government Code of an applicant
20 seeking employment as a peace officer, as defined in Section 830,
21 information regarding a known or suspected child abuser
22 maintained pursuant to this section concerning the applicant.

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

38 (B) If Child Abuse Central Index information is requested by
39 an agency for the temporary placement of a child in an emergency
40 situation pursuant to Article 7 (commencing with Section 305) of

Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

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

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

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

1 of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of
2 Part 1).

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

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

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

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

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

19 (2) No person or agency shall require or request another person
20 to furnish a copy of a record concerning himself or herself, or
21 notification that a record concerning himself or herself exists or
22 does not exist, pursuant to paragraph (1) of this subdivision.

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

29 (g) (1) If a person is listed in the Child Abuse Central Index
30 as a ~~perpetrator of child abuse~~ *suspect in a child abuse or neglect*
31 *investigation* due to an incident that occurred when the person was
32 ~~less than 18 years of age~~ *under the age of 18 years*, and the incident
33 did not result in a delinquency adjudication or criminal conviction,
34 ~~the person's name and all other information concerning the reported~~
35 ~~incident shall be removed from the index no later than 30 days~~
36 ~~after the person's 18th birthday.~~ *that person may make a written*
37 *request to the Department of Justice to have his or her name*
38 *removed from the index as a suspect with respect to that incident.*
39 *The request shall be notarized and include the person's name,*
40 *address, social security number, and date of birth. Upon receipt*

1 of the request, the department shall inquire of the submitting
2 agency whether the incident resulted in a delinquency adjudication
3 or criminal conviction. Unless the submitting agency responds to
4 the department in the affirmative within 30 days, the department
5 shall remove the person's name from the index as the person
6 suspected in that incident.

7 (2) If a person is listed in the index as a suspect with respect to
8 more than one reported incident, the process set forth in paragraph
9 (1) shall be followed with respect to each incident for which the
10 person wishes to have his or her name removed from the index.