

ASSEMBLY BILL

No. 886

**Introduced by Assembly Member Garrick
(Coauthor: Assembly Member Galgiani)**

February 26, 2009

An act to amend Section 11165.7 of the Penal Code, relating to mandated child abuse reporting.

LEGISLATIVE COUNSEL'S DIGEST

AB 886, as introduced, Garrick. Mandated child abuse reporting: library employees.

Existing law requires certain persons specified as “mandated reporters” to report suspected child abuse or child neglect, as specified, and provides that failure to report as required is an offense.

This bill would include employees in public libraries as mandated reporters, for purposes of reporting the use of computers in public libraries, discovered in the course of their duties, to access, on the Internet or from other sources, any material that would constitute depictions of sexual exploitation, as described.

By expanding the list of mandated reporters, for whom the failure to report specified conduct is a crime, 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 no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 11165.7 of the Penal Code is amended
2 to read:
3 11165.7. (a) As used in this article, “mandated reporter” is
4 defined as any of the following:
5 (1) A teacher.
6 (2) An instructional aide.
7 (3) A teacher’s aide or teacher’s assistant employed by any
8 public or private school.
9 (4) A classified employee of any public school.
10 (5) An administrative officer or supervisor of child welfare and
11 attendance, or a certificated pupil personnel employee of any public
12 or private school.
13 (6) An administrator of a public or private day camp.
14 (7) An administrator or employee of a public or private youth
15 center, youth recreation program, or youth organization.
16 (8) An administrator or employee of a public or private
17 organization whose duties require direct contact and supervision
18 of children.
19 (9) Any employee of a county office of education or the State
20 Department of Education, whose duties bring the employee into
21 contact with children on a regular basis.
22 (10) A licensee, an administrator, or an employee of a licensed
23 community care or child day care facility.
24 (11) A Head Start program teacher.
25 (12) A licensing worker or licensing evaluator employed by a
26 licensing agency as defined in Section 11165.11.
27 (13) A public assistance worker.
28 (14) An employee of a child care institution, including, but not
29 limited to, foster parents, group home personnel, and personnel of
30 residential care facilities.
31 (15) A social worker, probation officer, or parole officer.
32 (16) An employee of a school district police or security
33 department.
34 (17) Any person who is an administrator or presenter of, or a
35 counselor in, a child abuse prevention program in any public or
36 private school.
37 (18) A district attorney investigator, inspector, or local child
38 support agency caseworker unless the investigator, inspector, or

caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(24) A marriage, family, and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.

(26) A state or county public health employee who treats a minor for venereal disease or any other condition.

(27) A coroner.

(28) A medical examiner, or any other person who performs autopsies.

(29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print processor” means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

(30) A child visitation monitor. As used in this article, “child visitation monitor” means any person who, for financial compensation, acts as monitor of a visit between a child and any

1 other person when the monitoring of that visit has been ordered
2 by a court of law.

3 (31) An animal control officer or humane society officer. For
4 the purposes of this article, the following terms have the following
5 meanings:

6 (A) “Animal control officer” means any person employed by a
7 city, county, or city and county for the purpose of enforcing animal
8 control laws or regulations.

9 (B) “Humane society officer” means any person appointed or
10 employed by a public or private entity as a humane officer who is
11 qualified pursuant to Section 14502 or 14503 of the Corporations
12 Code.

13 (32) A clergy member, as specified in subdivision (d) of Section
14 11166. As used in this article, “clergy member” means a priest,
15 minister, rabbi, religious practitioner, or similar functionary of a
16 church, temple, or recognized denomination or organization.

17 (33) Any custodian of records of a clergy member, as specified
18 in this section and subdivision (d) of Section 11166.

19 (34) Any employee of any police department, county sheriff’s
20 department, county probation department, or county welfare
21 department.

22 (35) An employee or volunteer of a Court Appointed Special
23 Advocate program, as defined in Rule 1424 of the California Rules
24 of Court.

25 (36) A custodial officer as defined in Section 831.5.

26 (37) Any person providing services to a minor child under
27 Section 12300 or 12300.1 of the Welfare and Institutions Code.

28 (38) An alcohol and drug counselor. As used in this article, an
29 “alcohol and drug counselor” is a person providing counseling,
30 therapy, or other clinical services for a state licensed or certified
31 drug, alcohol, or drug and alcohol treatment program. However,
32 alcohol or drug abuse, or both alcohol and drug abuse, is not in
33 and of itself a sufficient basis for reporting child abuse or neglect.

34 (39) *Employees of public libraries, provided, however, that*
35 *reporting duties for these employees shall be limited to reporting*
36 *the use of computers in public libraries, discovered in the course*
37 *of their duties, to access, on the Internet or from other sources,*
38 *any material that would constitute depictions of sexual exploitation*
39 *as described in subdivision (c) of Section 11165.1.*

1 (b) Except as provided in paragraph (35) of subdivision (a),
2 volunteers of public or private organizations whose duties require
3 direct contact with and supervision of children are not mandated
4 reporters but are encouraged to obtain training in the identification
5 and reporting of child abuse and neglect and are further encouraged
6 to report known or suspected instances of child abuse or neglect
7 to an agency specified in Section 11165.9.

8 (c) Employers are strongly encouraged to provide their
9 employees who are mandated reporters with training in the duties
10 imposed by this article. This training shall include training in child
11 abuse and neglect identification and training in child abuse and
12 neglect reporting. Whether or not employers provide their
13 employees with training in child abuse and neglect identification
14 and reporting, the employers shall provide their employees who
15 are mandated reporters with the statement required pursuant to
16 subdivision (a) of Section 11166.5.

17 (d) School districts that do not train their employees specified
18 in subdivision (a) in the duties of mandated reporters under the
19 child abuse reporting laws shall report to the State Department of
20 Education the reasons why this training is not provided.

21 (e) Unless otherwise specifically provided, the absence of
22 training shall not excuse a mandated reporter from the duties
23 imposed by this article.

24 (f) Public and private organizations are encouraged to provide
25 their volunteers whose duties require direct contact with and
26 supervision of children with training in the identification and
27 reporting of child abuse and neglect.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.