

ASSEMBLY BILL

No. 1440

**Introduced by Assembly Member Perea
(Coauthors: Assembly Members Allen, Hueso, and Lara)**

January 4, 2012

An act to amend Section 10850.4 of, and to add Section 10850.45 to, the Welfare and Institutions Code, relating to child abuse and neglect.

LEGISLATIVE COUNSEL'S DIGEST

AB 1440, as introduced, Perea. Child abuse and neglect: reports.

(1) Existing law requires the custodian of records within a county child welfare agency, within 5 business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, to release upon request specified records, subject to the redaction of certain identifying personal information, of child abuse or neglect that results in the death of a child. Existing law requires each county welfare agency or department to notify the State Department of Social Services, as provided, of all child fatalities that occurred within its jurisdiction that were the result of child abuse or neglect.

This bill would require each county child welfare agency, within 60 calendar days of determining that abuse or neglect led to a child's death in the county, as described, to review the child's death and prepare a written report containing specified information. The bill would require the county child welfare agency to submit this report to the State Department of Social Services within 10 days of its completion. By increasing the duties of local agencies, this bill would impose a state-mandated local program.

(2) Existing law requires the State Department of Social Services to annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices submitted by county welfare services departments or agencies and other relevant information.

This bill, commencing January 1, 2013, would require this report to include additional information provided to the department pursuant to the above-described reports prepared by county child welfare agencies.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 10850.4 of the Welfare and Institutions
2 Code is amended to read:
3 10850.4. (a) Within five business days of learning that a child
4 fatality has occurred in the county and that there is a reasonable
5 suspicion that the fatality was caused by abuse or neglect, the
6 custodian of records for the county child welfare agency, upon
7 request, shall release the following information:
8 (1) The age and gender of the child.
9 (2) The date of death.
10 (3) Whether the child was in foster care or in the home of his
11 or her parent or guardian at the time of death.
12 (4) Whether an investigation is being conducted by a law
13 enforcement agency or the county child welfare agency.
14 (b) All cases in which abuse or neglect leads to a child's death
15 shall be subject to the disclosures required in subdivision (c). Abuse
16 or neglect is determined to have led to a child's death if one or
17 more of the following conditions are met:
18 (1) A county child protective services agency determines that
19 the abuse or neglect was substantiated.
20 (2) A law enforcement investigation concludes that abuse or
21 neglect occurred.

1 (3) A coroner or medical examiner concludes that the child who
2 died had suffered abuse or neglect.

3 (c) Upon completion of the child abuse or neglect investigation
4 into the child's death, as described in subdivision (b), the following
5 documents from the juvenile case file shall be released by the
6 custodian of records upon request, subject to the redactions set
7 forth in subdivision (e):

8 (1) All of the information in subdivision (a).

9 (2) For cases in which the child's death occurred while living
10 with a parent or guardian, all previous referrals of abuse or neglect
11 of the deceased child while living with that parent or guardian
12 shall be disclosed along with the following documents:

13 (A) The emergency response referral information form and the
14 emergency response notice of referral disposition form completed
15 by the county child welfare agency relating to the abuse or neglect
16 that caused the death of the child.

17 (B) Any cross reports completed by the county child welfare
18 agency to law enforcement relating to the deceased child.

19 (C) All risk and safety assessments completed by the county
20 child welfare services agency relating to the deceased child.

21 (D) All health care records of the deceased child, excluding
22 mental health records, related to the child's death and previous
23 injuries reflective of a pattern of abuse or neglect.

24 (E) Copies of police reports about the person against whom the
25 child abuse or neglect was substantiated.

26 (3) For cases in which the child's death occurred while the child
27 was in foster care, the following documents in addition to those
28 specified in paragraphs (1) and (2) generated while the child was
29 living in the foster care placement that was the placement at the
30 time of the child's death:

31 (A) Records pertaining to the foster parents' initial licensing
32 and renewals and type of license or licenses held, if in the case
33 file.

34 (B) All reported licensing violations, including notices of action,
35 if in the case file.

36 (C) Records of the training completed by the foster parents, if
37 in the case file.

38 (d) The documents listed in subdivision (c) shall be released to
39 the public by the custodian of records within 10 business days of

1 the request or the disposition of the investigation, whichever is
2 later.

3 (e) (1) Prior to releasing any document pursuant to subdivision
4 (c), the custodian of records shall redact the following information:

5 (A) The names, addresses, telephone numbers, ethnicity,
6 religion, or any other identifying information of any person or
7 institution, other than the county or the State Department of Social
8 Services, that is mentioned in the documents listed in paragraphs
9 (2) and (3) of subdivision (c).

10 (B) Any information that would, after consultation with the
11 district attorney, jeopardize a criminal investigation or proceeding.

12 (C) Any information that is privileged, confidential, or not
13 subject to disclosure pursuant to any other state or federal law.

14 (2) (A) The State Department of Social Services shall
15 promulgate a regulation listing the laws described in subparagraph
16 (C) of paragraph (1) and setting forth standards governing
17 redactions.

18 (B) Notwithstanding the rulemaking provisions of the
19 Administrative—~~Procedures~~ *Procedure* Act (Chapter 3.5
20 (commencing with Section 11340) of Part 1 of Division 3 of Title
21 2 of the Government Code), until emergency regulations are filed
22 with the Secretary of State, the State Department of Social Services
23 may implement the changes made to Section 827 and this section
24 at the 2007–08 Regular Session of the Legislature through ~~all~~
25 ~~county~~ *all-county* letters or similar instructions from the director.
26 The department shall adopt as emergency regulations, as necessary
27 to implement those changes, no later than January 1, 2009.

28 (C) The adoption of regulations pursuant to this paragraph shall
29 be deemed to be an emergency necessary for the immediate
30 preservation of the public peace, health, safety, or general welfare.
31 The emergency regulations authorized by this section shall be
32 exempt from review by the Office of Administrative Law. The
33 emergency regulations authorized by this section shall be submitted
34 for filing with the Secretary of State and shall remain in effect for
35 no more than 180 days, by which time the final regulations shall
36 be adopted.

37 (f) Upon receiving a request for the documents listed in
38 subdivision (c), the custodian of records shall notify and provide
39 a copy of the request upon counsel for any child who is directly
40 or indirectly connected to the juvenile case file. If counsel for a

1 child, including the deceased child or any sibling of the deceased
2 child, objects to the release of any part of the documents listed in
3 paragraphs (2) and (3) of subdivision (c), they may petition the
4 juvenile court for relief to prevent the release of any document or
5 part of a document requested pursuant to paragraph (2) of
6 subdivision (a) of Section 827.

7 (g) Documents from the juvenile case file, other than those listed
8 in paragraphs (2) and (3) of subdivision (c), shall only be disclosed
9 upon an order by the juvenile court pursuant to Section 827.

10 (h) Once documents pursuant to this section have been released
11 by the custodian of records, the State Department of Social Services
12 or the county welfare department or agency may comment on the
13 case within the scope of the release.

14 (i) Information released by a custodian of records consistent
15 with the requirements of this section does not require prior notice
16 to any other individual.

17 (j) (1) Each county welfare department or agency shall notify
18 the State Department of Social Services of every child fatality that
19 occurred within its jurisdiction that was the result of child abuse
20 or neglect. Based on these notices and any other relevant
21 information in the State Department of Social Services' possession,
22 the department shall annually issue a report identifying the child
23 fatalities and any systemic issues or patterns revealed by the notices
24 and other relevant information. The State Department of Social
25 Services, after consultation with interested stakeholders, shall
26 provide instructions by an ~~all-county~~ *all-county* letter regarding
27 the procedure for notification.

28 (2) *Commencing January 1, 2013, the report required under*
29 *paragraph (1) shall also be based upon the county child welfare*
30 *agency death review reports provided to the State Department of*
31 *Social Services pursuant to subdivision (b) of Section 10850.45,*
32 *and shall include the following additional information:*

33 (A) *Child death information stated separately for each county.*

34 (B) *Whether each county prepared and submitted to the State*
35 *Department of Social Services the child death review reports*
36 *required by Section 10850.45.*

37 (C) *A comparison of child death information over multiple years,*
38 *commencing with the 2013 calendar year up to the current year*
39 *in which the report is being prepared, and an analysis of whether*

1 *these deaths indicate any systemic issues or patterns that need*
2 *improvement.*

3 *(D) Of the number of all child deaths resulting from abuse or*
4 *neglect in each county, the percentage of these deaths that were*
5 *those of children who had previously received child welfare*
6 *services.*

7 (k) For purposes of this section, the following definitions apply:

8 (1) "Child abuse or neglect" has the same meaning as defined
9 in Section 11165.6 of the Penal Code.

10 (2) "Custodian of records," for the purposes of this section and
11 paragraph (2) of subdivision (a) of Section 827, means the county
12 welfare department or agency.

13 (3) "Juvenile case files" or "case files" include any juvenile
14 court files, as defined in Rule 5.552 of the California Rules of
15 Court, and any county child welfare department or agency or State
16 Department of Social Services records regardless of whether they
17 are maintained electronically or in paper form.

18 (4) "Substantiated" has the same meaning as defined in Section
19 11165.12 of the Penal Code.

20 (l) A person disclosing juvenile case file information as required
21 by this section shall not be subject to suit in civil or criminal
22 proceedings for complying with the requirements of this section.

23 (m) This section shall apply only to deaths that occur on or after
24 January 1, 2008.

25 (n) Nothing in this section shall require a custodian of records
26 to retain documents beyond any date otherwise required by law.

27 (o) Nothing in this section shall be construed as requiring a
28 custodian of records to obtain documents not in the case file.

29 SEC. 2. Section 10850.45 is added to the Welfare and
30 Institutions Code, to read:

31 10850.45. (a) A county child welfare agency shall, within 60
32 calendar days of determining that abuse or neglect led to a child's
33 death in the county as described in subdivision (b) of Section
34 10850.4, review the child's death and prepare a written report that
35 contains all of the following:

36 (1) An analysis of the circumstances leading to the child's death.

37 (2) An evaluation of whether child welfare services provided
38 to the child, if any, could have been improved.

39 (3) If the agency's evaluation under paragraph (2) determines
40 that child welfare services delivered to the child could have been

1 improved, recommendations regarding how to improve the delivery
2 of child welfare services for children in the future.

3 (b) (1) A county child welfare agency shall provide the State
4 Department of Social Services with a copy of each report prepared
5 pursuant to subdivision (a), within 10 calendar days of completing
6 the report.

7 (2) The State Department of Social Services shall review the
8 reports provided under paragraph (1) for any systemic issues or
9 patterns that need improvement.

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.