

ASSEMBLY BILL

No. 1697

Introduced by Assembly Member Perea

February 15, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as introduced, Perea. Child abuse and neglect.

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.

This bill would make a technical, nonsubstantive change to these provisions.

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

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:

1 (1) The age and gender of the child.

2 (2) The date of death.

3 (3) Whether the child was in foster care or in the home of his
4 or her parent or guardian at the time of death.

5 (4) Whether an investigation is being conducted by a law
6 enforcement agency or the county child welfare agency.

7 (b) All cases in which abuse or neglect leads to a child's death
8 shall be subject to the disclosures required in subdivision (c). Abuse
9 or neglect is determined to have led to a child's death if one or
10 more of the following conditions are met:

11 (1) A county child protective services agency determines that
12 the abuse or neglect was substantiated.

13 (2) A law enforcement investigation concludes that abuse or
14 neglect occurred.

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

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

22 (1) All of the information *specified* in subdivision (a).

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

27 (A) The emergency response referral information form and the
28 emergency response notice of referral disposition form completed
29 by the county child welfare agency relating to the abuse or neglect
30 that caused the death of the child.

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

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

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

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

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

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

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

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

13 (d) The documents listed in subdivision (c) shall be released to
14 the public by the custodian of records within 10 business days of
15 the request or the disposition of the investigation, whichever is
16 later.

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

19 (A) The names, addresses, telephone numbers, ethnicity,
20 religion, or any other identifying information of any person or
21 institution, other than the county or the State Department of Social
22 Services, that is mentioned in the documents listed in paragraphs
23 (2) and (3) of subdivision (c).

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

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

28 (2) (A) The State Department of Social Services shall
29 promulgate a regulation listing the laws described in subparagraph
30 (C) of paragraph (1) and setting forth standards governing
31 redactions.

32 (B) Notwithstanding the rulemaking provisions of the
33 Administrative Procedure Act (Chapter 3.5 (commencing with
34 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
35 Code), until emergency regulations are filed with the Secretary of
36 State, the State Department of Social Services may implement the
37 changes made to Section 827 and this section at the 2007–08
38 Regular Session of the Legislature through all-county letters or
39 similar instructions from the director. The department shall adopt

1 as emergency regulations, as necessary to implement those changes,
2 no later than January 1, 2009.

3 (C) The adoption of regulations pursuant to this paragraph shall
4 be deemed to be an emergency necessary for the immediate
5 preservation of the public peace, health, safety, or general welfare.
6 The emergency regulations authorized by this section shall be
7 exempt from review by the Office of Administrative Law. The
8 emergency regulations authorized by this section shall be submitted
9 for filing with the Secretary of State and shall remain in effect for
10 no more than 180 days, by which time the final regulations shall
11 be adopted.

12 (f) Upon receiving a request for the documents listed in
13 subdivision (c), the custodian of records shall notify and provide
14 a copy of the request upon counsel for any child who is directly
15 or indirectly connected to the juvenile case file. If counsel for a
16 child, including the deceased child or any sibling of the deceased
17 child, objects to the release of any part of the documents listed in
18 paragraphs (2) and (3) of subdivision (c), they may petition the
19 juvenile court for relief to prevent the release of any document or
20 part of a document requested pursuant to paragraph (2) of
21 subdivision (a) of Section 827.

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

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

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

32 (j) Each county welfare department or agency shall notify the
33 State Department of Social Services of every child fatality that
34 occurred within its jurisdiction that was the result of child abuse
35 or neglect. Based on these notices and any other relevant
36 information in the State Department of Social Services' possession,
37 the department shall annually issue a report identifying the child
38 fatalities and any systemic issues or patterns revealed by the notices
39 and other relevant information. The State Department of Social
40 Services, after consultation with interested stakeholders, shall

1 provide instructions by an all-county letter regarding the procedure
2 for notification.

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

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

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

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

14 (4) "Substantiated" has the same meaning as defined in Section
15 11165.12 of the Penal Code.

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

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

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

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