

AB 2380 (Lowenthal)- Child Abuse Reporting

Introduced February 19, 2010, Amended in Assembly March 24, 2010

This bill clarifies that a "reasonable suspicion" that a child has been a victim of child abuse or neglect does not require certainty that a child has been abused, and may be based on credible information from other individuals for the purpose of making a report under the Child Abuse and Neglect Reporting ACT (CANRA).

According to the author, "The Los Angeles City Attorney's office has discovered through their work with the Inter-Agency Council on Child Abuse and Neglect that many mandated reporters are unclear on constitutes 'reasonable suspicion'. Many have reported that they feel they have to wait until they have concrete evidence before they can notify the authorities."

"This lack of clarity has resulted in many mandated reporters failing to properly report their reasonable suspicions of child abuse or neglect. This is particularly evident among medical professionals, where reports are delayed by hours or even days while a specific medical diagnosis is determined, resulting in destruction of crime scene evidence and greater difficult for law enforcement in locating perpetrators."

"This bill clarifies that 'reasonable suspicion' does not require certainty that child abuse or neglect has occurred and that it may be based on any information considered credible by the reporter, including statements by others."

AMENDED IN ASSEMBLY MARCH 24, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2380

**Introduced by Assembly Member Bonnie Lowenthal
(Coauthor: Assembly Member Portantino)**

February 19, 2010

An act to amend Sections 11166, 11167.5, and 11170 Section 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2380, as amended, Bonnie Lowenthal. Child abuse ~~prevention reporting~~.

Existing law identifies specified persons as mandated reporters who must submit a report to law enforcement whenever in their professional capacity or within the scope of their employment, they have knowledge of or observe a child who is known or reasonably suspected to have been the victim of child abuse or neglect. Existing law defines the term "reasonable suspicion" for purposes of these child abuse reporting provisions.

This bill would provide that "reasonable suspicion" does not require ~~certain knowledge~~ *certainty* that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect. The bill would also provide that "reasonable suspicion" may be based on any information considered credible by the reporter, including ~~hearsay statements from other individuals~~.

Existing law requires the Department of Justice to maintain an index of all reports of child abuse and severe neglect submitted by agencies ~~mandated to make those reports~~.

~~This bill would require the department to make available to certain health care practitioners who have delivered or treated a newborn infant information regarding any known or suspected child abuser maintained on the index concerning any parent or primary care provider of the newborn infant. The bill would provide that the health care practitioner is responsible for obtaining the original investigative report from the reporting agency and for drawing independent conclusions on the evidence for purposes of evaluating the necessity for a child welfare risk assessment. The bill would require the health care practitioner to notify the local child protective services agency if it is determined that a child welfare risk assessment is appropriate.~~

~~Existing law requires a person convicted of any specified sex offenses to register as a sex offender and provide specified information to law enforcement agencies. That information is kept at the location where the offender registered and transmitted to the Department of Justice where it is electronically stored in the Violent Crime Information Network (VCIN), as specified.~~

~~This bill would require the Department of Justice to study the feasibility and value of requiring every person who must register as a sex offender to include in the information provided by the person all e-mail addresses and instant message addresses, all screen names and online pseudonyms, and all Internet protocol addresses he or she uses, or intends to use, to communicate over the Internet. The bill would require the department's study to include a determination of the value and feasibility of incorporating this information in the VCIN, and would require the department to complete and publish its report by December 31, 2011.~~

~~This bill would make technical and conforming changes.~~

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

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

1 SECTION 1. Section 11166 of the Penal Code is amended to
2 read:

3 11166. (a) Except as provided in subdivision (d), and in
4 Section 11166.05, a mandated reporter shall make a report to an
5 agency specified in Section 11165.9 whenever the mandated
6 reporter, in his or her professional capacity or within the scope of
7 his or her employment, has knowledge of or observes a child whom

1 the mandated reporter knows or reasonably suspects has been the
2 victim of child abuse or neglect. The mandated reporter shall make
3 an initial report to the agency immediately or as soon as is
4 practicably possible by telephone and the mandated reporter shall
5 prepare and send, fax, or electronically transmit a written followup
6 report thereof within 36 hours of receiving the information
7 concerning the incident. The mandated reporter may include with
8 the report any nonprivileged documentary evidence the mandated
9 reporter possesses relating to the incident.

10 (1) For purposes of this article, "reasonable suspicion" means
11 that it is objectively reasonable for a person to entertain a suspicion,
12 based upon facts that could cause a reasonable person in a like
13 position, drawing, when appropriate, on his or her training and
14 experience, to suspect child abuse or neglect. "Reasonable
15 suspicion" does not require ~~certain knowledge~~ *certainty* that child
16 abuse or neglect has occurred nor does it require a specific medical
17 indication of child abuse or neglect; any "reasonable suspicion"
18 is sufficient. "Reasonable suspicion" may be based on any
19 information considered credible by the reporter, including ~~hearsay~~
20 *statements from other individuals*. For the purpose of this article,
21 the pregnancy of a minor does not, in and of itself, constitute a
22 basis for a reasonable suspicion of sexual abuse.

23 (2) The agency shall be notified and a report shall be prepared
24 and sent, faxed, or electronically transmitted even if the child has
25 expired, regardless of whether or not the possible abuse was a
26 factor contributing to the death, and even if suspected child abuse
27 was discovered during an autopsy.

28 (3) Any report made by a mandated reporter pursuant to this
29 section shall be known as a mandated report.

30 (b) If after reasonable efforts a mandated reporter is unable to
31 submit an initial report by telephone, he or she shall immediately
32 or as soon as is practicably possible, by fax or electronic
33 transmission, make a one-time automated written report on the
34 form prescribed by the Department of Justice, and shall also be
35 available to respond to a telephone followup call by the agency
36 with which he or she filed the report. A mandated reporter who
37 files a one-time automated written report because he or she was
38 unable to submit an initial report by telephone is not required to
39 submit a written followup report.

1 (1) The one-time automated written report form prescribed by
2 the Department of Justice shall be clearly identifiable so that it is
3 not mistaken for a standard written followup report. In addition,
4 the automated one-time report shall contain a section that allows
5 the mandated reporter to state the reason the initial telephone call
6 was not able to be completed. The reason for the submission of
7 the one-time automated written report in lieu of the procedure
8 prescribed in subdivision (a) shall be captured in the Child Welfare
9 Services/Case Management System (CWS/CMS). The department
10 shall work with stakeholders to modify reporting forms and the
11 CWS/CMS as is necessary to accommodate the changes enacted
12 by these provisions.

13 (2) This subdivision shall not become operative until the
14 CWS/CMS is updated to capture the information prescribed in this
15 subdivision.

16 (3) This subdivision shall become inoperative three years after
17 this subdivision becomes operative or on January 1, 2009,
18 whichever occurs first.

19 (4) On the inoperative date of these provisions, a report shall
20 be submitted to the counties and the Legislature by the Department
21 of Social Services that reflects the data collected from automated
22 one-time reports indicating the reasons stated as to why the
23 automated one-time report was filed in lieu of the initial telephone
24 report.

25 (5) Nothing in this section shall supersede the requirement that
26 a mandated reporter first attempt to make a report via telephone,
27 or that agencies specified in Section 11165.9 accept reports from
28 mandated reporters and other persons as required.

29 (c) Any mandated reporter who fails to report an incident of
30 known or reasonably suspected child abuse or neglect as required
31 by this section is guilty of a misdemeanor punishable by up to six
32 months confinement in a county jail or by a fine of one thousand
33 dollars (\$1,000) or by both that imprisonment and fine. If a
34 mandated reporter intentionally conceals his or her failure to report
35 an incident known by the mandated reporter to be abuse or severe
36 neglect under this section, the failure to report is a continuing
37 offense until an agency specified in Section 11165.9 discovers the
38 offense.

39 (d) (1) A clergy member who acquires knowledge or a
40 reasonable suspicion of child abuse or neglect during a penitential

1 communication is not subject to subdivision (a). For the purposes
2 of this subdivision, "penitential communication" means a
3 communication, intended to be in confidence, including, but not
4 limited to, a sacramental confession, made to a clergy member
5 who, in the course of the discipline or practice of his or her church,
6 denomination, or organization, is authorized or accustomed to hear
7 those communications, and under the discipline, tenets, customs,
8 or practices of his or her church, denomination, or organization,
9 has a duty to keep those communications secret.

10 (2) Nothing in this subdivision shall be construed to modify or
11 limit a clergy member's duty to report known or suspected child
12 abuse or neglect when the clergy member is acting in some other
13 capacity that would otherwise make the clergy member a mandated
14 reporter.

15 (3) (A) On or before January 1, 2004, a clergy member or any
16 custodian of records for the clergy member may report to an agency
17 specified in Section 11165.9 that the clergy member or any
18 custodian of records for the clergy member, prior to January 1,
19 1997, in his or her professional capacity or within the scope of his
20 or her employment, other than during a penitential communication,
21 acquired knowledge or had a reasonable suspicion that a child had
22 been the victim of sexual abuse that the clergy member or any
23 custodian of records for the clergy member did not previously
24 report the abuse to an agency specified in Section 11165.9. The
25 provisions of Section 11172 shall apply to all reports made pursuant
26 to this paragraph.

27 (B) This paragraph shall apply even if the victim of the known
28 or suspected abuse has reached the age of majority by the time the
29 required report is made.

30 (C) The local law enforcement agency shall have jurisdiction
31 to investigate any report of child abuse made pursuant to this
32 paragraph even if the report is made after the victim has reached
33 the age of majority.

34 (e) Any commercial film and photographic print processor who
35 has knowledge of or observes, within the scope of his or her
36 professional capacity or employment, any film, photograph,
37 videotape, negative, or slide depicting a child under the age of 16
38 years engaged in an act of sexual conduct, shall report the instance
39 of suspected child abuse to the law enforcement agency having
40 jurisdiction over the case immediately, or as soon as practicably

1 possible, by telephone and shall prepare and send, fax, or
2 electronically transmit a written report of it with a copy of the film,
3 photograph, videotape, negative, or slide attached within 36 hours
4 of receiving the information concerning the incident. As used in
5 this subdivision, "sexual conduct" means any of the following:

6 (1) Sexual intercourse, including genital-genital, oral-genital,
7 anal-genital, or oral-anal, whether between persons of the same or
8 opposite sex or between humans and animals.

9 (2) Penetration of the vagina or rectum by any object.

10 (3) Masturbation for the purpose of sexual stimulation of the
11 viewer.

12 (4) Sadomasochistic abuse for the purpose of sexual stimulation
13 of the viewer.

14 (5) Exhibition of the genitals, pubic, or rectal areas of any person
15 for the purpose of sexual stimulation of the viewer.

16 (f) Any mandated reporter who knows or reasonably suspects
17 that the home or institution in which a child resides is unsuitable
18 for the child because of abuse or neglect of the child shall bring
19 the condition to the attention of the agency to which, and at the
20 same time as, he or she makes a report of the abuse or neglect
21 pursuant to subdivision (a).

22 (g) Any other person who has knowledge of or observes a child
23 whom he or she knows or reasonably suspects has been a victim
24 of child abuse or neglect may report the known or suspected
25 instance of child abuse or neglect to an agency specified in Section
26 11165.9. For purposes of this section, "any other person" includes
27 a mandated reporter who acts in his or her private capacity and
28 not in his or her professional capacity or within the scope of his
29 or her employment.

30 (h) When two or more persons, who are required to report,
31 jointly have knowledge of a known or suspected instance of child
32 abuse or neglect, and when there is agreement among them, the
33 telephone report may be made by a member of the team selected
34 by mutual agreement and a single report may be made and signed
35 by the selected member of the reporting team. Any member who
36 has knowledge that the member designated to report has failed to
37 do so shall thereafter make the report.

38 (i) (1) The reporting duties under this section are individual,
39 and no supervisor or administrator may impede or inhibit the
40 reporting duties, and no person making a report shall be subject

1 to any sanction for making the report. However, internal procedures
2 to facilitate reporting and apprise supervisors and administrators
3 of reports may be established provided that they are not inconsistent
4 with this article.

5 (2) The internal procedures shall not require any employee
6 required to make reports pursuant to this article to disclose his or
7 her identity to the employer.

8 (3) Reporting the information regarding a case of possible child
9 abuse or neglect to an employer, supervisor, school principal,
10 school counselor, coworker, or other person shall not be a substitute
11 for making a mandated report to an agency specified in Section
12 11165.9.

13 (j) A county probation or welfare department shall immediately,
14 or as soon as practicably possible, report by telephone, fax, or
15 electronic transmission to the law enforcement agency having
16 jurisdiction over the case, to the agency given the responsibility
17 for investigation of cases under Section 300 of the Welfare and
18 Institutions Code, and to the district attorney's office every known
19 or suspected instance of child abuse or neglect, as defined in
20 Section 11165.6, except acts or omissions coming within
21 subdivision (b) of Section 11165.2, or reports made pursuant to
22 Section 11165.13 based on risk to a child which relates solely to
23 the inability of the parent to provide the child with regular care
24 due to the parent's substance abuse, which shall be reported only
25 to the county welfare or probation department. A county probation
26 or welfare department also shall send, fax, or electronically transmit
27 a written report thereof within 36 hours of receiving the information
28 concerning the incident to any agency to which it makes a
29 telephone report under this subdivision.

30 (k) A law enforcement agency shall immediately, or as soon as
31 practicably possible, report by telephone, fax, or electronic
32 transmission to the agency given responsibility for investigation
33 of cases under Section 300 of the Welfare and Institutions Code
34 and to the district attorney's office every known or suspected
35 instance of child abuse or neglect reported to it, except acts or
36 omissions coming within subdivision (b) of Section 11165.2, which
37 shall be reported only to the county welfare or probation
38 department. A law enforcement agency shall report to the county
39 welfare or probation department every known or suspected instance
40 of child abuse or neglect reported to it which is alleged to have

1 occurred as a result of the action of a person responsible for the
2 child's welfare, or as the result of the failure of a person responsible
3 for the child's welfare to adequately protect the minor from abuse
4 when the person responsible for the child's welfare knew or
5 reasonably should have known that the minor was in danger of
6 abuse. A law enforcement agency also shall send, fax, or
7 electronically transmit a written report thereof within 36 hours of
8 receiving the information concerning the incident to any agency
9 to which it makes a telephone report under this subdivision.

10 SEC. 2. Section 11167.5 of the Penal Code is amended to read:

11 ~~11167.5. (a) The reports required by Sections 11166 and~~
12 ~~11166.2, or authorized by Section 11166.05, and child abuse or~~
13 ~~neglect investigative reports that result in a summary report being~~
14 ~~filed with the Department of Justice pursuant to subdivision (a) of~~
15 ~~Section 11169 shall be confidential and may be disclosed only as~~
16 ~~provided in subdivision (b). Any violation of the confidentiality~~
17 ~~provided by this article is a misdemeanor punishable by~~
18 ~~imprisonment in a county jail not to exceed six months, by a fine~~
19 ~~of five hundred dollars (\$500), or by both that imprisonment and~~
20 ~~fine.~~

21 (b) Reports of suspected child abuse or neglect and information
22 contained therein may be disclosed only to the following:

23 (1) Persons or agencies to whom disclosure of the identity of
24 the reporting party is permitted under Section 11167.

25 (2) Persons or agencies to whom disclosure of information is
26 permitted under subdivision (b) of Section 11170 or subdivision
27 (a) of Section 11170.5.

28 (3) Persons or agencies with whom investigations of child abuse
29 or neglect are coordinated under the regulations promulgated under
30 Section 11174.

31 (4) Multidisciplinary personnel teams as defined in subdivision
32 (d) of Section 18951 of the Welfare and Institutions Code.

33 (5) Persons or agencies responsible for the licensing of facilities
34 which care for children, as specified in Section 11165.7.

35 (6) The State Department of Social Services or any county
36 licensing agency which has contracted with the state, as specified
37 in paragraph (4) of subdivision (b) of Section 11170, when an
38 individual has applied for a community care license or child day
39 care license, or for employment in an out-of-home care facility;

1 or when a complaint alleges child abuse or neglect by an operator
2 or employee of an out-of-home care facility.

3 (7) Hospital scan teams. As used in this paragraph, “hospital
4 scan team” means a team of three or more persons established by
5 a hospital, or two or more hospitals in the same county, consisting
6 of health care professionals and representatives of law enforcement
7 and child protective services, the members of which are engaged
8 in the identification of child abuse or neglect. The disclosure
9 authorized by this section includes disclosure among all hospital
10 scan teams.

11 (8) Coroners and medical examiners when conducting a post
12 mortem examination of a child.

13 (9) The Board of Parole Hearings, which may subpoena an
14 employee of a county welfare department who can provide relevant
15 evidence and reports that both (A) are not unfounded, pursuant to
16 Section 11165.12, and (B) concern only the current incidents upon
17 which parole revocation proceedings are pending against a parolee
18 charged with child abuse or neglect. The reports and information
19 shall be confidential pursuant to subdivision (d) of Section 11167.

20 (10) Personnel from an agency responsible for making a
21 placement of a child pursuant to Section 361.3 of, and Article 7
22 (commencing with Section 305) of Chapter 2 of Part 1 of Division
23 2 of, the Welfare and Institutions Code.

24 (11) Persons who have been identified by the Department of
25 Justice as listed in the Child Abuse Central Index pursuant to
26 paragraph (7) of subdivision (b) of Section 11170 or subdivision
27 (e) of Section 11170, or persons who have verified with the
28 Department of Justice that they are listed in the Child Abuse
29 Central Index as provided in subdivision (g) of Section 11170.
30 Disclosure under this paragraph is required notwithstanding the
31 California Public Records Act, Chapter 3.5 (commencing with
32 Section 6250) of Division 7 of Title 1 of the Government Code.
33 Nothing in this paragraph shall preclude a submitting agency prior
34 to disclosure from redacting any information necessary to maintain
35 confidentiality as required by law.

36 (12) Out-of-state law enforcement agencies conducting an
37 investigation of child abuse or neglect only when an agency makes
38 the request for reports of suspected child abuse or neglect in writing
39 and on official letterhead, or as designated by the Department of
40 Justice, identifying the suspected abuser or victim by name and

1 date of birth or approximate age. The request shall be signed by
2 the department supervisor of the requesting law enforcement
3 agency. The written request shall cite the out-of-state statute or
4 interstate compact provision that requires that the information
5 contained within these reports is to be disclosed only to law
6 enforcement, prosecutorial entities, or multidisciplinary
7 investigative teams, and shall cite the safeguards in place to prevent
8 unlawful disclosure provided by the requesting state or the
9 applicable interstate compact provision.

10 (13) Out-of-state agencies responsible for approving prospective
11 foster or adoptive parents for placement of a child only when the
12 agency makes the request in compliance with the Adam Walsh
13 Child Protection and Safety Act of 2006 (Public Law 109-248).
14 The request shall also cite the safeguards in place to prevent
15 unlawful disclosure provided by the requesting state or the
16 applicable interstate compact provision and indicate that the
17 requesting state shall maintain continual compliance with the
18 requirement in paragraph (20) of subdivision (a) of Section 671
19 of Title 42 of the United States Code that requires the state have
20 in place safeguards to prevent the unauthorized disclosure of
21 information in any child abuse and neglect registry maintained by
22 the state and prevent the information from being used for a purpose
23 other than the conducting of background checks in foster or
24 adoptive placement cases.

25 (14) Each chairperson of a county child death review team, or
26 his or her designee, to whom disclosure of information is permitted
27 under this article, relating to the death of one or more children and
28 any prior child abuse or neglect investigation reports maintained
29 involving the same victim, siblings, or suspects. Local child death
30 review teams may share any relevant information regarding case
31 reviews involving child death with other child death review teams.

32 (e) Authorized persons within county health departments shall
33 be permitted to receive copies of any reports made by health
34 practitioners, as defined in paragraphs (21) to (28), inclusive, of
35 subdivision (a) of Section 11165.7, and pursuant to Section
36 11165.13, and copies of assessments completed pursuant to
37 Sections 123600 and 123605 of the Health and Safety Code, to
38 the extent permitted by federal law. Any information received
39 pursuant to this subdivision is protected by subdivision (e).

1 ~~(d) Nothing in this section requires the Department of Justice~~
2 ~~to disclose information contained in records maintained under~~
3 ~~Section 11170 or under the regulations promulgated pursuant to~~
4 ~~Section 11174, except as otherwise provided in this article.~~

5 ~~(e) This section shall not be interpreted to allow disclosure of~~
6 ~~any reports or records relevant to the reports of child abuse or~~
7 ~~neglect if the disclosure would be prohibited by any other~~
8 ~~provisions of state or federal law applicable to the reports or records~~
9 ~~relevant to the reports of child abuse or neglect.~~

10 ~~SEC. 3. Section 11170 of the Penal Code is amended to read:~~

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

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

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

34 ~~(b) (1) The Department of Justice shall immediately notify an~~
35 ~~agency that submits a report pursuant to Section 11169, or a~~
36 ~~prosecutor who requests notification, of any information maintained~~
37 ~~pursuant to subdivision (a) that is relevant to the known or~~
38 ~~suspected instance of child abuse or severe neglect reported by the~~
39 ~~agency. The agency shall make that information available to the~~
40 ~~reporting health care practitioner who is treating a person reported~~

1 as a possible victim of known or suspected child abuse. The agency
2 shall make that information available to the reporting child
3 custodian, guardian ad litem appointed under Section 326, or
4 counsel appointed under Section 317 or 318 of the Welfare and
5 Institutions Code, or the appropriate licensing agency, if he or she
6 or the licensing agency is handling or investigating a case of known
7 or suspected child abuse or severe neglect.

8 (2) When a report is made pursuant to subdivision (a) of Section
9 11166, or Section 11166.05, the investigating agency, upon
10 completion of the investigation or after there has been a final
11 disposition in the matter, shall inform the person required or
12 authorized to report of the results of the investigation and of any
13 action the agency is taking with regard to the child or family.

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

18 (4) The department shall make available to the State Department
19 of Social Services, or to any county licensing agency that has
20 contracted with the state for the performance of licensing duties;
21 or to a tribal court or tribal child welfare agency of a tribe or
22 consortium of tribes that has entered into an agreement with the
23 state pursuant to Section 10553.1 of the Welfare and Institutions
24 Code, information regarding a known or suspected child abuser
25 maintained pursuant to this section and subdivision (a) of Section
26 11169 concerning any person who is an applicant for licensure or
27 any adult who resides or is employed in the home of an applicant
28 for licensure or who is an applicant for employment in a position
29 having supervisory or disciplinary power over a child or children;
30 or who will provide 24-hour care for a child or children in a
31 residential home or facility, pursuant to Section 1522.1 or 1596.877
32 of the Health and Safety Code, or Section 8714, 8802, 8912, or
33 9000 of the Family Code.

34 (5) The Department of Justice shall make available to a Court
35 Appointed Special Advocate program that is conducting a
36 background investigation of an applicant seeking employment
37 with the program or a volunteer position as a Court Appointed
38 Special Advocate, as defined in Section 101 of the Welfare and
39 Institutions Code, information contained in the index regarding
40 known or suspected child abuse by the applicant.

1 ~~(6) For purposes of child death review, the Department of Justice~~
2 ~~shall make available to the chairperson, or the chairperson's~~
3 ~~designee, for each county child death review team, or the State~~
4 ~~Child Death Review Council, information maintained in the Child~~
5 ~~Abuse Central Index pursuant to subdivision (a) of Section 11170~~
6 ~~relating to the death of one or more children and any prior child~~
7 ~~abuse or neglect investigation reports maintained involving the~~
8 ~~same victims, siblings, or suspects. Local child death review teams~~
9 ~~may share any relevant information regarding case reviews~~
10 ~~involving child death with other child death review teams.~~

11 ~~(7) The department shall make available to investigative~~
12 ~~agencies or probation officers, or court investigators acting~~
13 ~~pursuant to Section 1513 of the Probate Code, responsible for~~
14 ~~placing children or assessing the possible placement of children~~
15 ~~pursuant to Article 6 (commencing with Section 300), Article 7~~
16 ~~(commencing with Section 305), Article 10 (commencing with~~
17 ~~Section 360), or Article 14 (commencing with Section 601) of~~
18 ~~Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions~~
19 ~~Code, Article 2 (commencing with Section 1510) or Article 3~~
20 ~~(commencing with Section 1540) of Chapter 1 of Part 2 of Division~~
21 ~~4 of the Probate Code, information regarding a known or suspected~~
22 ~~child abuser contained in the index concerning any adult residing~~
23 ~~in the home where the child may be placed, when this information~~
24 ~~is requested for purposes of ensuring that the placement is in the~~
25 ~~best interest of the child. Upon receipt of relevant information~~
26 ~~concerning child abuse or neglect investigation reports contained~~
27 ~~in the index from the Department of Justice pursuant to this~~
28 ~~subdivision, the agency or court investigator shall notify, in writing,~~
29 ~~the person listed in the Child Abuse Central Index that he or she~~
30 ~~is in the index. The notification shall include the name of the~~
31 ~~reporting agency and the date of the report.~~

32 ~~(8) The Department of Justice shall make available to a~~
33 ~~government agency conducting a background investigation~~
34 ~~pursuant to Section 1031 of the Government Code of an applicant~~
35 ~~seeking employment as a peace officer, as defined in Section 830,~~
36 ~~information regarding a known or suspected child abuser~~
37 ~~maintained pursuant to this section concerning the applicant.~~

38 ~~(9) The Department of Justice shall make available to a county~~
39 ~~child welfare agency or delegated county adoption agency, as~~
40 ~~defined in Section 8515 of the Family Code, conducting a~~

1 background investigation, or a government agency conducting a
2 background investigation on behalf of one of those agencies;
3 information regarding a known or suspected child abuser
4 maintained pursuant to this section and subdivision (a) of Section
5 11169 concerning any applicant seeking employment or volunteer
6 status with the agency who, in the course of his or her employment
7 or volunteer work, will have direct contact with children who are
8 alleged to have been, are at risk of, or have suffered, abuse or
9 neglect.

10 (10) (A) Persons or agencies, as specified in subdivision (b);
11 if investigating a case of known or suspected child abuse or neglect;
12 or the State Department of Social Services or any county licensing
13 agency pursuant to paragraph (4), or a Court Appointed Special
14 Advocate program conducting a background investigation for
15 employment or volunteer candidates pursuant to paragraph (5), or
16 an investigative agency, probation officer, or court investigator
17 responsible for placing children or assessing the possible placement
18 of children pursuant to paragraph (7), or a government agency
19 conducting a background investigation of an applicant seeking
20 employment as a peace officer pursuant to paragraph (8), or a
21 county child welfare agency or delegated county adoption agency
22 conducting a background investigation of an applicant seeking
23 employment or volunteer status who, in the course of his or her
24 employment or volunteer work, will have direct contact with
25 children who are alleged to have been, are at risk of, or have
26 suffered, abuse or neglect, pursuant to paragraph (9), to whom
27 disclosure of any information maintained pursuant to subdivision
28 (a) is authorized, are responsible for obtaining the original
29 investigative report from the reporting agency, and for drawing
30 independent conclusions regarding the quality of the evidence
31 disclosed, and its sufficiency for making decisions regarding
32 investigation, prosecution, licensing, placement of a child;
33 employment or volunteer positions with a CASA program, or
34 employment as a peace officer.

35 (B) If Child Abuse Central Index information is requested by
36 an agency for the temporary placement of a child in an emergency
37 situation pursuant to Article 7 (commencing with Section 305) of
38 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
39 Code, the department is exempt from the requirements of Section
40 1798.18 of the Civil Code if compliance would cause a delay in

1 providing an expedited response to the agency's inquiry and if
2 further delay in placement may be detrimental to the child.

3 (11) (A) Whenever information contained in the Department
4 of Justice files is furnished as the result of an application for
5 employment or licensing or volunteer status pursuant to paragraph
6 (4), (5), (8), or (9), the Department of Justice may charge the person
7 or entity making the request a fee. The fee shall not exceed the
8 reasonable costs to the department of providing the information.
9 The only increase shall be at a rate not to exceed the legislatively
10 approved cost-of-living adjustment for the department. In no case
11 shall the fee exceed fifteen dollars (\$15).

12 (B) All moneys received by the department pursuant to this
13 section to process trustline applications for purposes of Chapter
14 3.35 (commencing with Section 1596.60) of Division 2 of the
15 Health and Safety Code shall be deposited in a special account in
16 the General Fund that is hereby established and named the
17 Department of Justice Child Abuse Fund. Moneys in the fund shall
18 be available, upon appropriation by the Legislature, for expenditure
19 by the department to offset the costs incurred to process trustline
20 automated child abuse or neglect system checks pursuant to this
21 section.

22 (C) All moneys, other than that described in subparagraph (B),
23 received by the department pursuant to this paragraph shall be
24 deposited in a special account in the General Fund which is hereby
25 created and named the Department of Justice Sexual Habitual
26 Offender Fund. The funds shall be available, upon appropriation
27 by the Legislature, for expenditure by the department to offset the
28 costs incurred pursuant to Chapter 9.5 (commencing with Section
29 13885) and Chapter 10 (commencing with Section 13890) of Title
30 6 of Part 4, and the DNA and Forensic Identification Data Base
31 and Data Bank Act of 1998 (Chapter 6 (commencing with Section
32 295) of Title 9 of Part 1), and for maintenance and improvements
33 to the statewide Sexual Habitual Offender Program and the
34 California DNA offender identification file (CAL-DNA) authorized
35 by Chapter 9.5 (commencing with Section 13885) of Title 6 of
36 Part 4 and the DNA and Forensic Identification Data Base and
37 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)
38 of Title 9 of Part 1).

39 (e) The Department of Justice shall make available to any agency
40 responsible for placing children pursuant to Article 7 (commencing

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

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

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

39 (e) (1) The department shall make available to an out-of-state
40 agency, for purposes of approving a prospective foster or adoptive

1 parent in compliance with the Adam Walsh Child Protection and
2 Safety Act of 2006 (Public Law 109-248), information regarding
3 a known or suspected child abuser maintained pursuant to
4 subdivision (a) concerning the prospective foster or adoptive
5 parent, and any other adult living in the home of the prospective
6 foster or adoptive parent. The department shall make that
7 information available only when the out-of-state agency makes
8 the request indicating that continual compliance will be maintained
9 with the requirement in paragraph (20) of subdivision (a) of Section
10 671 of Title 42 of the United States Code that requires the state to
11 have in place safeguards to prevent the unauthorized disclosure of
12 information in any child abuse and neglect registry maintained by
13 the state and prevent the information from being used for a purpose
14 other than the conducting of background checks in foster or
15 adoption placement cases.

16 (2) With respect to any information provided by the department
17 in response to the out-of-state agency's request, the out-of-state
18 agency is responsible for obtaining the original investigative report
19 from the reporting agency, and for drawing independent
20 conclusions regarding the quality of the evidence disclosed and
21 its sufficiency for making decisions regarding the approval of
22 prospective foster or adoptive parents.

23 (3) (A) Whenever information contained in the index is
24 furnished pursuant to this subdivision, the department shall charge
25 the out-of-state agency making the request a fee. The fee shall not
26 exceed the reasonable costs to the department of providing the
27 information. The only increase shall be at a rate not to exceed the
28 legislatively approved cost-of-living adjustment for the department.
29 In no case shall the fee exceed fifteen dollars (\$15).

30 (B) All moneys received by the department pursuant to this
31 subdivision shall be deposited in the Department of Justice Child
32 Abuse Fund, established under subparagraph (B) of paragraph (11)
33 of subdivision (b). Moneys in the fund shall be available, upon
34 appropriation by the Legislature, for expenditure by the department
35 to offset the costs incurred to process requests for information
36 pursuant to this subdivision.

37 (f) The department shall make available to any public health
38 nurse, treating physician or agent thereof, or other health care
39 practitioner who has delivered or treated a newborn infant,
40 information regarding any known or suspected child abuser

1 maintained pursuant to subdivision (a) concerning any parent or
2 primary care provider of the newborn infant. The public health
3 nurse, treating physician or agent thereof, or other health care
4 practitioner is responsible for obtaining the original investigative
5 report from the reporting agency, and for drawing independent
6 conclusions regarding the quality of the evidence disclosed and
7 the sufficiency of the evidence for the purpose of making decisions
8 when evaluating the necessity for a child welfare risk assessment.
9 If it is determined that a child welfare risk assessment is
10 appropriate, the public health nurse, treating physician or agent
11 thereof, or other health care practitioner shall notify the local child
12 protective services agency so that a child welfare risk assessment
13 can be conducted.

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

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

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

35 SEC. 4. The Department of Justice shall study the feasibility
36 and value of requiring every person who must register pursuant to
37 the Sex Offender Registration Act (Chapter 5.5 (commencing with
38 Section 290) of Title 9 of Part 1 of the Penal Code) to include in
39 the information provided by the person all e-mail addresses and
40 instant message addresses, all screen names and online

1 pseudonyms, and all Internet protocol addresses he or she uses, or
2 intends to use, to communicate over the Internet. The Department
3 of Justice study shall include a determination of the value and
4 feasibility of incorporating this information in the Violent Crime
5 Information Network (VCIN). The Department of Justice shall
6 complete and publish its report by December 31, 2011.

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