

AB 2339 (Smyth)- Child Abuse Reporting

Introduced February 19, 2010, Chaptered July 15, 2010

This bill provides that information relevant to a report made relating to a child suffering from serious emotional damage or in substantial risk thereof, may be given to an investigating and licensing agency that is investigating known or suspected child abuse.

According to the author, "AB 2339 strengthens existing legal protections currently offered to mandated reporters of child abuse and emotional damage. In short, reporters of emotional damage are authorized to make reports of abuse, but not legally protected to share those reports with investigating state agencies. This bill guarantees those critical legal protections, which are already offered to other kinds of mandated reports. This bill is important because it enhances the state's ability to thoroughly investigate claims of emotional damage, therefore helping to ensure their veracity and protect children from future abuse."

According to the background information provided by the author:

"In California, mandated reporters are required to make reports of suspected child abuse or neglect. These mandated reporters, such as school teachers, health care professionals and social workers, are therefore immune from liability as a result of providing the information to the investigating agency. "

"Another Penal Code section 11166.05, authorizes, but does not require, a mandated reporter to report instances where a child is suspected of suffering serious emotional damage."

"Due to the difference in language, a mandated reporter who cooperates with an investigator may be subject to discipline because the reports of emotional damage made pursuant to Section 11166.05 are not categorized or referred to as child abuse reports."

"In short, reporters of emotional damage are authorized to make reports, but not legally protected to share the reports with investigatory agencies."

"AB 2339 will protect reporters of emotional abuse from threats of liability or discipline. The bill simply changes Penal Code 11167(b) to include "information relevant to a report made pursuant to Section 11166.05" and thus allows mandated reporters to discuss cases with investigators without fear of violating the law."

Assembly Bill No. 2339

CHAPTER 95

An act to amend Section 11167 of the Penal Code, relating to child abuse reporting.

[Approved by Governor July 15, 2010. Filed with
Secretary of State July 15, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2339, Smyth. Child abuse reporting.

Existing law requires reports made by mandated reporters of suspected child abuse or neglect to include specified information. Existing law also provides that information relevant to the incident of child abuse or neglect may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect and to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

This bill would provide, in addition, that information relevant to a report made relating to a child suffering, or in substantial risk of suffering, serious emotional damage may be given to that investigator and licensing agency.

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

SECTION 1. Section 11167 of the Penal Code is amended to read:

11167. (a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her.

(b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

(d) (1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names.