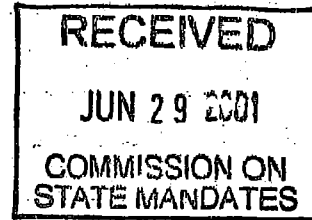




J. TYLER McCAULEY
AUDITOR-CONTROLLER

COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427



June 28, 2001

10:15am

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

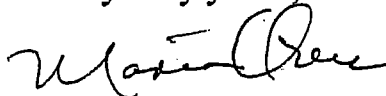
County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

The County of Los Angeles submits and encloses herewith a test claim to obtain timely and complete reimbursement for the State-mandated local program, in the captioned law.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,


For J. Tyler McCauley
Auditor-Controller

JTM:JN:LK-HY
Enclosures

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

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County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
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County of Los Angeles Test Claim
Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

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Volume 1

| | | | |
|----|--------------------------------|---------|---|
| A. | Betsy Azariah Declaration | Exhibit | A |
| B. | Olivia Jones Declaration | Exhibit | B |
| C. | David M. Diamond Declaration | Exhibit | C |
| D. | Susan F. Steinfeld Declaration | Exhibit | D |
| E. | Simon C. Wei Declaration | Exhibit | E |
| F. | Christopher Minor Declaration | Exhibit | F |
| G. | Leonard Kaye Declaration | Exhibit | G |
| H. | Redirected Effort Letter | Exhibit | H |

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

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|----|---------------------------------------|---------|---|
| I. | Child Abuse and Neglect Reporting Act | Exhibit | I |
| J. | California Code of Regulations | Exhibit | J |
| K. | DOJ Forms, SS8583, SS8572 | Exhibit | K |
| L. | Chapter 1071, Statutes of 1980 | Exhibit | L |
| M. | Chapter 958, Statutes of 1977 | Exhibit | M |
| N. | Chapter 348, Statutes of 1974 | Exhibit | N |
| O. | Chapter 836, Statutes of 1974 | Exhibit | O |

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

page a

State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916)323-3562
CSM 1 (12/89)

| |
|---|
| For Official Use Only |
| RECEIVED JUN 29 2001 COMMISSION ON STATE MANDATES |
| 10:15am |
| Claim No. 00-77-22 |

TEST CLAIM FORM

Local Agency or School District Submitting Claim

Los Angeles County

Contact Person

Telephone No.

Leonard Kaye

(213) 974-8564

Address

500 West Temple Street, Room 603
Los Angeles, CA 90012

Representative Organization to be Notified

California State Association of Counties

This test claim alleges the existence of "costs mandated by the state" within the meaning of section 17514 of the Government Code and section 6, article, XIII B of the California Constitution. This test claim is filed pursuant to section 17551(a) of the Government Code. Identify specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the particular statutory code section(s) within the chaptered bill, if applicable.

See page a

IMPORTANT: PLEASE SEE INSTRUCTIONS AND FILING REQUIREMENTS FOR COMPLETING A TEST CLAIM ON THE REVERSE SIDE.

Name and Title of Authorized Representative

Telephone No.

J. Tyler McCauley
Auditor-Controller

(213) 974-8301

Signature of Authorized Representative

Date

Wesley Deas For J.T. McCauley

6/28/01

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Notice of Filing

The County of Los Angeles filed the reference test claim on June 28, 2001 with the Commission on State Mandates of the State of California at the Commission's Office, 980 Ninth Street, Suite 300, Sacramento, California 95814.

Los Angeles County does herein claim full and prompt payment from the State in implementing the State-mandated local program found in the subject law.

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Interagency Child Abuse and Neglect [ICAN] Investigative Reporting

The beginning of ICAN investigative reporting in California can be traced back to Chapter 1071, Statutes of 1980 [1071/80], the Child Abuse and Neglect Reporting Act. As the Legislature stated, in Section 5 of Chapter 1071/80:

"In reenacting the child abuse reporting law, it is the intent of the Legislature to clarify the duties and responsibilities of those who are required to report child abuse. The new provisions are designed to foster cooperation between child protective agencies and other persons required to report. Such cooperation will insure that children will receive the collective judgment of all such agencies and persons regarding the course to be taken to protect the child's interest.

"In enacting Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, the Legislature recognizes that the reporting of child abuse and any subsequent action by a child protective agency involves a delicate balance between the right of parents to control and raise their own children by imposing reasonable discipline and the social interest in the protection and safety of the child. Therefore, it is the intent of the Legislature to require the reporting of child abuse which is of a serious nature and is not conduct which constitutes reasonable parental discipline.

"It is the intent of the Legislature to encourage each county welfare department to establish within the department a toll-free number for receiving reports of child abuse 24 hours a day, seven days a week.

"It is the intent of the Legislature to encourage the board of supervisors of each county to establish a committee composed of representatives from the county welfare department, local law enforcement agencies, county probation department, county health department and other persons representative of the population to be served, and any other person the board of

persons representative of the population to be served, and any other person the board of supervisors deems appropriate, which would establish guidelines for the sharing of information and the coordination of the investigation of cases of child abuse."

"It is the intent of the Legislature to encourage the county welfare or probation departments to promptly perform for each mandated report they receive and each report received pursuant to subdivision (b) of Section 11166 a thorough assessment to determine all of the following:"

"(a) The composition of the family or household, including the name, address, age, sex, and race of each child named in the report, and any siblings or other children in the same household or in the care of the same adults."

"(b) Whether there is reasonable suspicion to believe that any child in the family, household, or child-care facility is being abused or neglected and a determination of the person or persons apparently responsible for the abuse or neglect."

"(c) The immediate and long-term risk to each child if he or she remains in the existing environment."

"(d) The protective treatment and ameliorative services that appear necessary to help prevent further child abuse or neglect."

Over the past twenty years, the ICAN investigative reporting program has grown. Now, it is a complex mandatory program carried out by local governments' child protective agencies under statutory provisions set forth in Exhibit I [Ex. I] and regulatory requirements detailed in Ex. J, not found in prior law.

Test Claim Legislation

The test claim legislation claimed herein pertains to ICAN investigative reporting statutory provisions, definitions and citations included in Ex. I and regulatory provisions, definitions, citations and forms contained in Ex. J. The resulting statutory scheme, as will be shown, imposed many complex mandates

upon local government, including 'child protective agencies' as defined in Penal Code Section 11165.9.

In particular, as noted by the California Department of Justice [DOJ], on their Child Abuse Investigation Report SS 8583, attached in Ex. K, "specific requirements [for completion of investigation reports] refer to the Child Abuse Reporting Law, California Penal Code Section[s] 11165 through 11174.5".

The test claim legislation, therefore, includes the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583 and Penal Code Sections 11165 through 11174.5 as added or amended by Chapter 1071, Statutes of 1980 and subsequent Statutes; and, is further specified, by Section, as follows:

Child Protective Agencies

Penal Code Section 11165.9 as amended by Chapter 916, Statutes of 2000 [916/00] sets forth the types of local government agencies, referred herein to as child protective agencies, which are mandated to accept and refer reports of suspected child abuse or neglect, as follows:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper

jurisdiction."¹ [Emphasis added.]

Under prior law, Penal Code Section 11161.5(a), as amended by Chapter 348, Statutes of 1974, provided that specified persons should report unexplained physical injury, sexually molestation, and Penal Code Section 273a injury to "both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department" [Ex. O, page 2]; and, whenever it was "...brought to the attention of a director of a county welfare department or health department that a minor has..." such injuries, the county director shall file a report without delay "...with the local police authority having jurisdiction and to the juvenile probation department" [Ex. O, page 2].

In addition, under prior law, Penal Code Section 11161.5(a), as amended by Chapter 348, Statutes of 1974, provided that "... copies of all written reports received by the local police authority shall be forwarded to the Department of Justice". [Ex. C, page 2.] The Department of Justice then compared information from the report with other information on file to determine if "the same minor or any other minor in the same family" and if there were Penal Code Section 273(a) arrests or convictions of the reported person in other jurisdictions. If so, the Department of Justice notified "the local reporting agency and the local juvenile probation department". [Ex. O, page 2.]

It should be noted that, under prior law, local reports forwarded to the Department of Justice had little required content. Penal Code Section 11161.5(a), as amended by Chapter 348/74, only required that "... the report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries and molestation" [Ex. O, page 2.]

Further, under prior law, found in Penal Code Section 11161.7(a), as added by Chapter 836/74, the Department of Justice's reporting form for "professional medical personnel" may but need not be used [Ex. O., page 5.]

¹Added by Stats.2000, c. 916 (A.B.1241), s 8. Former s 11165.9 was repealed by Stats.2000, c. 916 (A.B.1241), s 7. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5.

In sum, under prior law, copies of dissimilar reports were forwarded to various agencies and the State Department of Justice notified local agencies of pertinent histories.

Under the test claim legislation, the old reporting system was abandoned. Now, as will be seen, local child protective agencies, not the State Department of Justice, are performing the required investigations and notifications. Now, local child protective agencies are mandated to complete extensive special forms, not merely copy brief local reports.

Under prior law, Penal Code Section 11161.5(a), as amended by Chapter 348, Statutes of 1974, provided that specified persons should report unexplained physical injury, sexually molestation, and Penal Code Section 273a injury to "both the local police authority having jurisdiction and to the juvenile probation specified persons should report unexplained physical injury, sexually molestation, and Penal Code Section 273a injury to "both the local police authority having jurisdiction and to the juvenile probation

Now, much more is required.

Child Abuse Reports

Now, Penal Code Section 11169² as amended Chapter 916, Statutes of 2000, governs the investigation and reporting of child abuse and neglect to DOJ and further requires child protective agencies to notify known or suspected child abusers and retain reports. In particular, a child protective agency:

"...shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or neglect which is determined not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be

² Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 4, eff. Sept. 12, 1981; Stats.1985, c. 1598, s 8; Stats.1988, c. 269, s 4; Stats.1988, c. 1497, s 1; Stats.1997, c. 842 (S.B.644), s 5.), Amended by Stats.2000, c. 916 (A.B.1241), s 27.)

unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

Under Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice pursuant to subdivision (a):

"... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Further, under Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index ...".

Mandatory child abuse investigations and reports are further specified in regulations.

Investigation and Reporting Requirements

Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations³ sets forth the standard reporting form for reports of child abuse submitted by child protective agencies to DOJ and, in part (b), specifies that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected

³ Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11168, 11169(a) and 11170(a)(1), Penal Code.

incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without these items will be returned to the contributor.

These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

It should be noted that the child protective agency or CPA has been given sole and exclusive jurisdiction in investigating and reporting instances of child abuse to DOJ. This information provides data for the "Automated Child Abuse System" (ACAS) or the current system used by DOJ to electronically store reports of child abuse incidents submitted by CPAs.

Automated Child Abuse System [ACAS]

The purpose of ACAS, as set forth in Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations⁴, is to "serve as the index of investigated reports of suspected child abuse received from California CPAs that is maintained by DOJ pursuant to Penal Code section 11170(a). The ACAS consists only of those reports of child abuse that meet the criteria specified in the Child Abuse and Neglect Reporting Act (Penal Code section 11164, et seq.) and that are complete as specified by these regulations". Further Section 903, also indicates that:

" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available authorized individuals or entities when so requested.

Investigative Files

CPAs are required to implement child abuse investigative files in accordance with special DOJ definitions found in Title 11, Division 1, Chapter 9, Article 2, Section 901 of the California Code of Regulations⁵:

"(a) "Audit Trail" means a method of tracking inquiries to ACAS to determine the requestor and the response provided.

⁴ Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11169 and 11170(a)(1) and (2), Penal Code.

⁵ Authority cited: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165, 11165.2, 11165.6, 11165.12(a), 11165.12(b), 11165.12(c) and 11170(a), Penal Code; and Section 1596.60, Health and Safety Code.

(b) "Automated Child Abuse System" (ACAS) means the current system used by DOJ to electronically store reports of child abuse incidents submitted by CPAs.

(c) "Child" is the same term as defined in Penal Code section 11165.

(d) "Child Abuse" is the same term as defined in Penal Code section 11165.6.

(e) "Confirmation" means the DOJ process of contacting the agency that submitted the report to confirm that the investigative file is still available and is not unfounded.

(f) "CPA" means Child Protective Agency which is the same term as defined in Penal Code section 11165.9.

(g) "DOJ" means the Department of Justice.

(h) "General Neglect" is the same term as used in Penal Code section 11165.2.

(i) "Inconclusive report" is the same term as defined in Penal Code section 11165.12(c). This category was originally termed "unsubstantiated report" and was renamed by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998.

(j) "Index" is the same term as used in Penal Code section 11170(a). The Index is currently known as the Automated Child Abuse System (ACAS).

(k) "Investigative File" or "Underlying Investigative File" means original and supplemental investigative documents developed by the CPA during an investigation of a child abuse incident and that resulted in a report to DOJ.

(l) "Possible Match" means DOJ staff has checked a specific name as the result of an inquiry and has, based on the name and other items of personal description (date of birth, social security number, driver's license number, or address), matched that name to an existing report(s) in ACAS. The match is considered possible because it has not been confirmed absolutely with positive matching processes such as a fingerprint comparison.

(m) "Report" means an entry in ACAS reporting the investigation of a suspected incident of child abuse. All mandatory information as specified in regulation s 903 must be included for the report to be entered into ACAS.

(n) "Severe Neglect" is the same term as used in Penal Code section 11165.2.

(o) "Submitting Agency" means the agency that forwarded the completed report on which an ACAS entry is based.

(p) "Substantiated Report" is the same term as defined in Penal Code section 11165.12(b).

(q) "Suspect" means a person who has been designated as a suspect in a CPA child abuse investigation and subsequently reported as such to DOJ.

(r) "TrustLine Registry" means the registry established pursuant to California Education Code section 8172. Effective July 1, 1998, Education Code section 8172 is repealed by Chapter 843 of the Statutes of 1997. The Trustline Registry will be operated by the Department of Social Services (DSS) pursuant to Health & Safety Code section 1596.60. (See s 908(b))

(s) "Unfounded" is the same term as defined in Penal Code section 11165.12(a).

(t) "Unsubstantiated" means a report that is determined by a CPA investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (This category was renamed "inconclusive" by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998).

(u) "Verification" means the process DOJ uses to insure that the data entered into ACAS is accurately entered into ACAS. (Sees 904).

(v) "Victim" means a person who has been designated as a victim in a CPA child abuse investigation report and subsequently reported as such to DOJ."

CPAs are required to investigate and report in accordance with the above definitions. Also CPAs must provide "supplemental information"⁶ after an initial report was filed, where findings changed or additional information was uncovered. The types of findings are further defined in Penal Code Section 11165.12⁷, as amended by Chapter 916, Statutes of 2000:

"(a) "Unfounded report" means a report which is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.

"(b) "Substantiated report" means a report which is determined by the investigator who conducted the investigation, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6.

"(c) "Inconclusive report" means a report which is determined by the investigator who conducted the investigation not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred."

It should be noted that the "unsubstantiated" category, found on the SS 8853 DOJ report form, in Ex. K, was renamed "inconclusive" by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998.

⁶ See 3.(a),(b),(c) on Form SS 8583, attached in Ex. K.

⁷ Added by Stats.1987, c. 1459, s 19. Amended by Stats.1990, c. 1330 (S.B.2788), s 1; Stats.1997, c. 842 (S.B.644), s 2.), Amended by Stats.2000, c. 916 (A.B.1241), s 10.

Scope of Child Abuse and Neglect

The scope of child abuse and neglect that is initially reported to child protective agencies and subsequently investigated and reported to DOJ is set forth in Penal Code Section 11165.6⁸, as added by Chapter 916, Statutes of 2000, which requires that reportable child abuse be defined as:

"... a physical injury that is inflicted by other than accidental means on a child by another person. The term "child abuse or neglect" includes sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in Section 11165.3, unlawful corporal punishment or injury as defined in Section 11165.4, and abuse or neglect in out-of-home care as defined in Section 11165.5. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer."

The definitions of the various forms of child abuse and neglect, referred to above, are as follows:

Sexual Abuse

Sexual abuse is defined in Penal Code Section 11165.1⁹, as amended by Chapter 287, Statutes of 2000, means sexual assault or sexual exploitation as defined by the following:

⁸ Former s 11165.6, added by Stats.1987, c. 1459, s 13, amended by Stats.1988, c. 39, s 3; Stats.1993, c. 346 (A.B.331), s 3, relating to a definition of child abuse, was repealed by Stats.2000, c. 916 (A.B.1241), s 3. Derivation: Former s 11165.6, added by Stats.1987, c. 1459, s 13, amended by Stats.1988, c. 39, s 3; Stats.1993, c. 346 (A.B.331), s 3.

⁹ Former s 11165.1, added by Stats.1985, c. 1572, s 2, providing an additional definition of child care custodian, was repealed by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3. See, now, s 11165.7. The renumbering of former s 11165.1, added by Stats.1985, c. 1572, s 2, as s 11165.7 and its amendment by Stats.1987, c. 56, s139, was subordinated to its repeal by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3. Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597. Former s 11165.1, added by Stats.1985, c. 1593, s 2, providing an additional definition of abuse in out-of-home care, was repealed by Stats.1987, c. 1020, s 3; Stats.1987, c. 1459, s 4. See, now, s 11165.5.

"(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c.189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2. Former s 11165.3, added by Stats.1985, c. 1068, s 2.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3."

Neglect

Neglect is defined in Penal Code Section 11165.2¹⁰, as added by Chapter 1459, Statutes of 1987:

"... "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation

¹⁰ Added by Stats.1987, c. 1459, s 7. Former s 11165.2, added by Stats.1985, c. 1572, s 3, defining medical practitioner, nonmedical practitioner, and health practitioner, was repealed by Stats.1987, c. 1459, s 6. See, now, s 11165.8. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

with a physician or physicians who have examined the minor does not constitute neglect."

Willful Cruelty

Willful cruelty or unjustifiable punishment of a child as defined in Penal Code Section 11165.3¹¹, as amended by Chapter 1459, Statutes of 1987, means a "situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered."

Unlawful Corporal Punishment

Unlawful corporal punishment or injury as defined in Penal Code Section 11165.4¹², as amended by Chapter 346, Statutes of 1993, means:

"... a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. It also does not include an injury caused by reasonable and

¹¹ Added by Stats.1987, c. 1459, s 9. Former s 11165.3, added by Stats.1985, c.1068, s 2, relating to the definitions of sexual exploitation and abuse in out-of-home care as provided in former s 11165, was repealed by Stats.1987, c. 1459, s 8. See, now, s 11165.1. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1944, s 2.

¹² Added by Stats.1987, c. 1459, s 10. Amended by Stats.1988, c. 39, s 1; Stats.1993, c. 346 (A.B.331), s 1. Derivation: Former s 11165 added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer."

Abuse in Out-of-Home Care

Abuse or neglect in out-of-home care as defined in Penal Code Section 11165.5 as amended by Chapter 916, Statutes of 2000, "includes sexual abuse as defined in Section 11165.1¹³, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the willful cruelty or unjustifiable punishment of a child, as defined in Section 11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency."

Also, Section 11165.5 provides that "abuse or neglect in out-of-home care" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer".

Prior "Child Abuse" Reports

"Child abuse", under law prior to the test claim legislation, was not as well-defined, as is the case now [as set forth above].

For example, Penal Code Section 11161.5 as amended by Chapter 348, statutes of 1974, only required specified medical and other personnel to report "child abuse" based on "... observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury has been

¹³ Added by Stats.1987, c. 1459, s 12. Amended by Stats.1988, c. 39, s 2; Stats.1993, c. 346 (A.B.331), s 2. Amended by Stats.2000, c. 916 (A.B.1241), s 2. Former s 11165.5, added by Stats.1985, c. 1420, s 1, amended by Stats.1986, c. 1289, s 1; Stats.1987, c. 56, s 140, providing an additional definition of child care custodian, was repealed by Stats.1987, c. 1459, s 11. See, now, s 11165.7. Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2. Former s 11165.1, added by Stats.1985, c. 1593, s 2.

prohibited by the terms of Section 273(a) has been inflicted upon the minor"[emphasis added].

Reporters were called upon to judge appearances and causes. Further, Penal Code Section 273(a) provided them with little guidance. Section 273(a) as amended by Chapter 697, Statutes of 1965, like Section 11161.5, was not specific, and indicated only that:

"(1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care and custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in a situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in state prison ..."

"(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care and custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in a situation that its person or health may be endangered, is guilty of a misdemeanor."

Also, Penal Code Section 11161.5 as amended by Chapter 348, statutes of 1974, only required that "whenever it is brought to the attention of a director of a county welfare department or health department that a minor has injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury has been prohibited by the terms of Section 273(a) has been inflicted upon the minor, he shall file a report without delay with the local police authority having jurisdiction and to the juvenile probation department as provided in this section" [emphasis added].

Importantly, under prior law, Penal Code Section 11161.5 as amended by Chapter 348, statutes of 1974, only required that "copies of all written reports received by the local police authority shall be forwarded to the Department of Justice". There was no requirement for child protective agencies to investigate, find initial reports to be substantiated, or inconclusive, or unsubstantiated or update investigative information... until the test claim legislation, as discussed above.

Mandated Reporters

In addition to the new investigation and reporting duties required of CPAs under the test claim legislation and the additional types of reportable child abuses, discussed above, as set forth in Penal Code Sections 11165.1, 11165.2, 11165.3, 11165.4 and 11165.5, the numbers of child reports increased because the number of initial child abuse reporters increased under the test claim legislation. The test claim legislation refers to these reporters as "mandated reporters". Currently, the long list of "mandated reporters" is found in Penal Code Section 11165.7¹⁴, as amended by Chapter 916, Statutes of 2000:

- "(1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.

¹⁴ Added by Stats.1987, c. 1459, s 14. Amended by Stats.1991, c. 132 (A.B.1133), s 1; Stats.1992, c. 459 (S.B.1695), s 1. Amended by Stats.2000, c. 916 (A.B.1241), s 5. Renumbering of former s 11165.1, added by Stats.1987, c. 1572, s 2, as this section and amendment by Stats.1987, c. 56, s 139, was subordinated to the repeal of that version of former s 11165.1 by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3. Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2. Former s 11165.1, added by Stats.1985, c. 1572, s 2. Former s 11165.5, added by Stats.1985, c. 1420, s 1, amended by Stats.1986, c. 1289, s 1. Former s 11165.6, added by Stats.1985, c. 1598, s 3.

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

(9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.

(10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.

(11) A headstart teacher.

(12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.

(13) A public assistance worker.

(14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.

(15) A social worker, probation officer, or parole officer.

(16) An employee of a school district police or security department.

(17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(18) A district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer 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 voluntary 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 other person when the monitoring of that visit has been ordered by a court of law.

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

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

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

(32) A clergy member, as specified in subdivision (c) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

Under prior law there were no "mandated" reporters. Penal Code Section 11161.5 as amended by Chapter 348, statutes of 1974, only required specified medical and other personnel to report "child abuse" based on "... observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury has been prohibited by the terms of Section 273(a) has been inflicted upon the minor"[emphasis added]. Reporters were called upon to judge appearances and causes without guidance or training and, prior to the test claim legislation, were reluctant to do so. This has changed.

Now, a DOJ "suspected child abuse report" form 8572, attached as Ex. C, must be completed by "mandated reporters". Copies of the form must be sent to the "police or sheriff", " County Welfare or Probation", and "District Attorney". "Mandated reporters" are instructed "**DO NOT** submit a copy of this form to the Department of Justice [DOJ]".

Now, training on identifying and reporting child abuse is being provided pursuant to mandated reporters. For example, Penal Code Section 11165.7¹⁵, as amended by Chapter 916, Statutes of 2000 states, in pertinent part, that:

"(b) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

(c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) The absence of training shall not excuse a mandated reporter from the duties imposed by this article."

¹⁵ Added by Stats.1987, c. 1459, s 14. Amended by Stats.1991, c. 132 (A.B.1133), s 1; Stats.1992, c. 459 (S.B.1695), s 1. Amended by Stats.2000, c. 916 (A.B.1241), s 5. Renumbering of former s 11165.1, added by Stats.1987, c. 1572, s 2, as this section and amendment by Stats.1987, c. 56, s 139, was subordinated to the repeal of that version of former s 11165.1 by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3. Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597. Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2. Former s 11165.1, added by Stats.1985, c. 1572, s 2. Former s 11165.5, added by Stats.1985, c. 1420, s 1, amended by Stats.1986, c. 1289, s 1. Former s 11165.6, added by Stats.1985, c. 1598, s 3.

Cross-Reporting

The completed DOJ "suspected child abuse report" form 8572, attached as Ex. K, is now sent to the "police or sheriff", "County Welfare or Probation", and "District Attorney" as discussed above. "Mandated reporters" are specifically informed by DOJ that the "suspected child abuse report" form 8572 is not to be sent them. Rather, on the first page of the 8572 form, "mandated reporters" are instructed that "A CPA [child protective agency] is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS-8583 if (1) an active investigation has been conducted and (2) the incident is not unfounded".

Pursuant to Penal Code Section 11166(i)¹⁶ as amended by Chapter 916, Statutes of 2000, under the test claim legislation:

"i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency

¹⁶ Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 2, eff. Sept. 12, 1981; Stats.1982, c. 905, p. 3339, s 2; Stats.1984, c. 1423, s 9, eff. Sept. 26, 1984; Stats.1986, c. 1289, s 2; Stats.1987, c. 1459, s 20; Stats.1988, c. 269, s 1; Stats.1988, c. 1580, s 2; Stats.1990, c. 1603 (S.B.2669), s 3, operative July 1, 1991; Stats.1992, c. 459 (S.B.1695), s 3; Stats.1993, c. 510 (S.B.665), s 1.5; Stats.1996, c. 1080 (A.B.295), s 10; Stats.1996, c. 1081 (A.B.3354), s 3.5.) Amended by Stats.2000, c. 916 (A.B.1241), s 16. Former s 11161.6 added by Stats.1975, c. 226, p. 609, s 2, amended by Stats.1976, c. 242, p. 461, s 2.

to which it is required to make a telephone report under this subdivision." [Emphasis added.]

It should be noted that under prior law, local law enforcement agencies had no cross-reporting responsibilities. This was not so for county probation or welfare departments.

Under prior law, county probation and welfare departments cross reporting duties were described in former Penal Code Section 11161.5¹⁷. Before repeal of Section 11161.5 by Chapter 1071, Statutes of 1980, part of the test claim legislation, Section 11161.5 as amended by Chapter 373, Statutes of 1979 spoke briefly of reporting from county welfare and health agencies to local police and probation authorities as follows:

" Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section." [Emphasis added.]

Accordingly, under prior law, county probation or welfare departments only had to cross-report 'apparent' child abuse if "brought to their attention". Such reporting was limited to the "local police authority" and "juvenile probation department".

¹⁷ Added by Stats.1963, c. 576, p. 1453, s 1, amended by Stats.1965, c. 1171, p. 2971, s 2; Stats.1966, 1st Ex.Sess., c. 31, p. 325, s 2; Stats.1968, c. 587, p. 1258, s 2; Stats.1971, c. 635, p. 1251, s 1; Stats.1971, c. 1729, p. 3680, s 7; Stats.1972, c. 421, p. 746, s 1; Stats.1972, c.1377, p. 2843, s 89; Stats.1973, c. 1151, p. 2380, s 1; Stats.1974, c. 348, p. 679, s 1; Stats.1975, c. 226, p. 608, s 1; Stats.1976, c. 242, p. 460, s 1; Stats.1977, c. 958, p. 2908, s 1; Stats.1978, c. 136, p. 358, s 1; Stats.1979, c. 373, p. 1357, s 251.

Further, under Penal Code Section 11161.7 as amended by Chapter 958, Statutes of 1977, which is hereby and herein included in the test claim legislation, county welfare departments now, in Section 11161.7(a)¹⁸, have to perform additional tasks required by various State agencies, including:

"The Department of Justice, in cooperation with the State Office of Child Abuse Prevention, shall adopt and cause to be printed, for dissemination through various county welfare departments, a form which shall be used by reporting professional medical personnel in making reports required to be made pursuant to Section 11161.5."

In 1977, when mandatory child abuse reporting was beginning, local governments costs in implementing the program were thought to be negligible State-mandated costs pursuant to Revenue and Taxation Code section 2231, the precursor of Government Code Section 17500 et seq. For example, Section 3 of Chapter 958, Statutes of 1977, cited above, states:

"Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government"

Now, mandatory child abuse reporting imposes substantial duties on local government and resulting costs are not negligible.

¹⁸ Under prior law, Penal Code Section 11161.7(a), as added by Chapter 836, Statutes of 1974, merely stated that "The Department of Justice shall prescribe by regulation a form which may be used by reporting medical personnel in making reports required to be made pursuant to Section 11161.5" --- local government was not involved and had no State-mandated duties.

Now, Penal Code Section 11166(h)¹⁹, as amended by Chapter 916, Statutes of 2000, under the test claim legislation, requires county probation and welfare departments to engage in very different cross-reporting. New agencies, reports, and conditions for cross-reporting are set forth:

"A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report."

Currently, under the test claim legislation, interagency child abuse and neglect [ICAN] investigative reporting is occurring --- both in the sense of reporting between local agencies and between local agencies and the State Department of Justice [DOJ], as discussed above.

¹⁹ Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 2, eff. Sept. 12, 1981; Stats.1982, c. 905, p. 3339, s 2; Stats.1984, c. 1423, s 9, eff. Sept. 26, 1984; Stats.1986, c. 1289, s 2; Stats.1987, c. 1459, s 20; Stats.1988, c. 269, s 1; Stats.1988, c. 1580, s 2; Stats.1990, c. 1603 (S.B.2669), s 3, operative July 1, 1991; Stats.1992, c. 459 (S.B.1695), s 3; Stats.1993, c. 510 (S.B.665), s 1.5; Stats.1996, c. 1080 (A.B.295), s 10; Stats.1996, c. 1081 (A.B.3354), s 3.5.) Amended by Stats.2000, c. 916 (A.B.1241), s 16. Former s 11161.6 added by Stats.1975, c. 226, p. 609, s 2, amended by Stats.1976, c. 242, p. 461, s 2.

The importance of ICAN investigative reporting is further underscored when it is understood that this reporting provides the only source of information for DOJ's Child Abuse Central Index.

DOJ's Child Abuse Central Index [CACI]

The unique function of local Child Protective Agencies [CPAs] in providing child abuse information to users throughout the State is revealed in Penal Code Section 11170²⁰, as amended by Chapter 916, Statutes of 2000:

"(a)(1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing record keeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the Child Abuse Central Index accurately reflects the report it receives from the submitting agency. --- " [Emphasis added.]

Accordingly, local government has complied and performed substantial work in accurately completing, updating and retaining ICAN investigative reports as previously discussed.

²⁰ Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 5, eff. Sept. 12, 1981; Stats.1982, c. 162, s 3, eff. April 26, 1982; Stats.1984, c. 1613, s 3, eff. Sept. 30, 1984; Stats.1985, c. 1598, s 8.5; Stats.1986, c. 1496, s 3; Stats.1987, c. 82, s 4, eff. June 30, 1987; Stats.1989, c. 153, s 2; Stats.1990, c. 1330 (S.B.2788), s 2; Stats.1990, c. 1363 (A.B.3532), s 15.7, operative July 1, 1991; Stats.1992, c. 163 (A.B.2641), s 113; Stats.1992, c. 1338 (S.B.1184), s 2; Stats.1993, c. 219 (A.B.1500), s 221.1; Stats.1996, c. 1081 (A.B.3354), s 5; Stats.1997, c. 842 (S.B.644), s 6; Stats.1997, c. 843 (A.B.753), s 5; Stats.1997, c. 844 (A.B.1065), s 2.5; Stats.1999, c. 475 (S.B.654), s 8. Amended by Stats.2000, c. 916 (A.B.1241), s 28.

It should be noted that the process of updating and retaining ICAN reports covers a 10 year period thereby imposing substantial duties on local government. In this regard, Penal Code Section 11170 now requires that:

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

- "

In addition, substantial notification and information sharing duties are imposed on local government. In this regard, Penal Code Section 11170 now requires that:

"(b)(1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse or severe neglect.

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

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home

of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

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

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

(6)(A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or an agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

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

It should be noted that there is no provision for reimbursing local governments' child abuse notification and information sharing costs like that set forth for the Department of Justice, in Penal Code Section 11170:

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

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred

to process trustline automated child abuse or neglect system checks pursuant to this section.

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

Also, Penal Code Section 11170 now requires that further notification when certain DOJ information is necessary and made available:

"(c) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the Child Abuse Central Index that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement. If Child Abuse Central Index information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the

Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child."

In addition, Penal Code Section 11170 now requires that CPAs provide certain information when necessary for out-of-state law enforcement agencies and for persons listed in the Child Abuse Central Index as follows:

"(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (13) of subdivision (a) of Section 11167.5."

Extraordinary Child Abuse Services are Reimbursable

The Legislature, in passing the test claim legislation, has imposed extraordinary child abuse services upon local government as was the case with the child abuse treatment services program [Chapter 1090, Statutes of 1996, adding Penal Code Section 273.1, and amending Penal Code Sections 273a and 273(d)], found reimbursable by the Commission on State Mandates [Commission].

The Legislature, in passing Chapter 1090, Statutes of 1996, took a major step in protecting California's children from recurring abuse. In requiring child abusers to complete treatment programs regulated, so to speak, by counties the Commission found a new program, and a program, not encompassed by ordinary crime enforcement duties. The Commission such new services to be extraordinary --- to be reimbursable.

So to here, the Legislature in passing the test claim legislation imposed important but extraordinary child abuse services upon local government. So to here, such services are reimbursable.

It should be noted that no reimbursement is claimed for ordinary law enforcement services --- apprehension, prosecution, and incarceration. Only those extraordinary services required to comply with ICAN Investigation reports as set forth in the test claim legislation are claimed herein.

Clearly, the test claim legislation is focused on the child, not the crime. As the Legislature stated, in Section 5 of Chapter 1071, statutes of 1980, the "... new provisions are designed to foster cooperation between child protective agencies and other persons required to report. Such cooperation will insure that children will receive the collective judgment of all such agencies and persons regarding the course to be taken to protect the child's interest".

The test claim legislation is designed, first and foremost, to protect the child's interest. This is the case here, as shown on the following flow charts²¹.

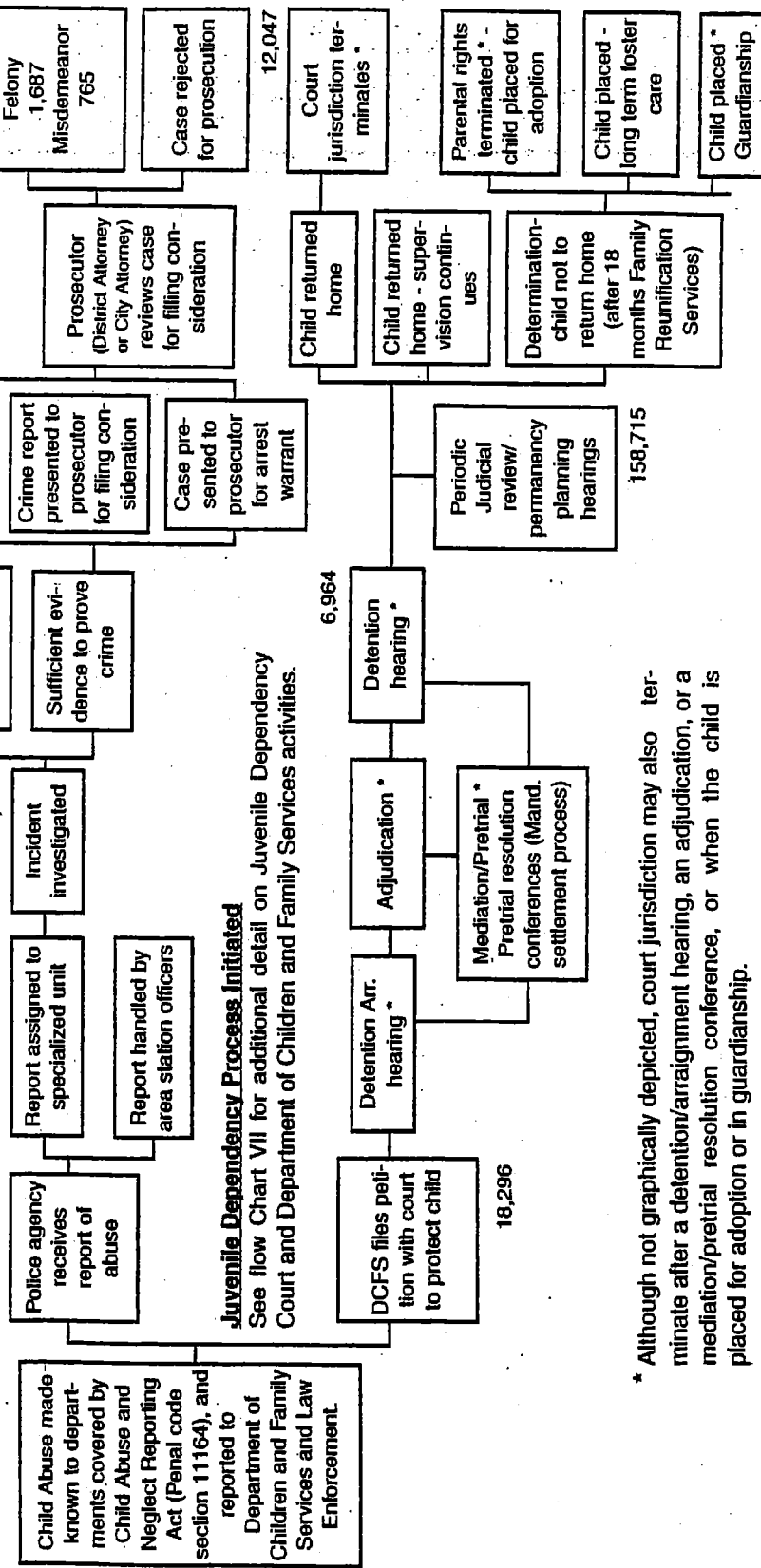
²¹ According to data reported in "The State of Child Abuse in Los Angeles County", published by the Los Angeles County Inter-Agency Council on Child Abuse and Neglect, 2000, pages 25-29 and on page 134.

Flow Chart II
ICAN AGENCY INVOLVEMENT IN CHILD ABUSE CASES 1999

Child Process Initiated

See flow Charts III, IV for individual detail on LAPD and LASD. See Flow Charts VI and VII for detail on the L.A. District Attorney and L.A. City Attorney. Where possible similar categories of agency data have been tallied.

Child Abuse/Neglect Report

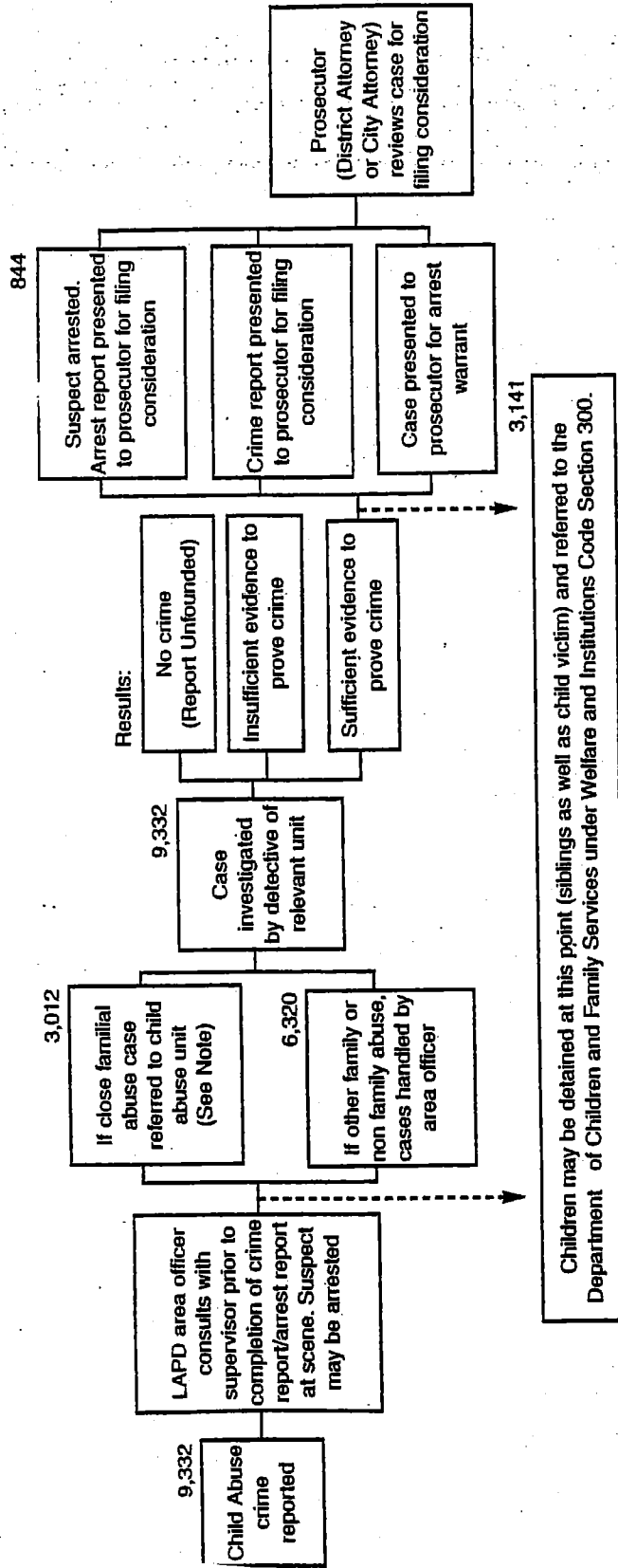


Juvenile Dependency Process Initiated
See flow Chart VII for additional detail on Juvenile Dependency Court and Department of Children and Family Services activities.

* Although not graphically depicted, court jurisdiction may also terminate after a detention/arraignment hearing, an adjudication, or a mediation/pretrial resolution conference, or when the child is placed for adoption or in guardianship.

Flow Chart III

LOS ANGELES POLICE DEPARTMENT
Involvement In Child Abuse Cases • 1999



Note:

Case Count Definition

Endangering cases:
Multiple victims in same family = 1 report (case)
All other cases:
Each victim = 1 report (case)

Child Abuse Unit Responsibilities

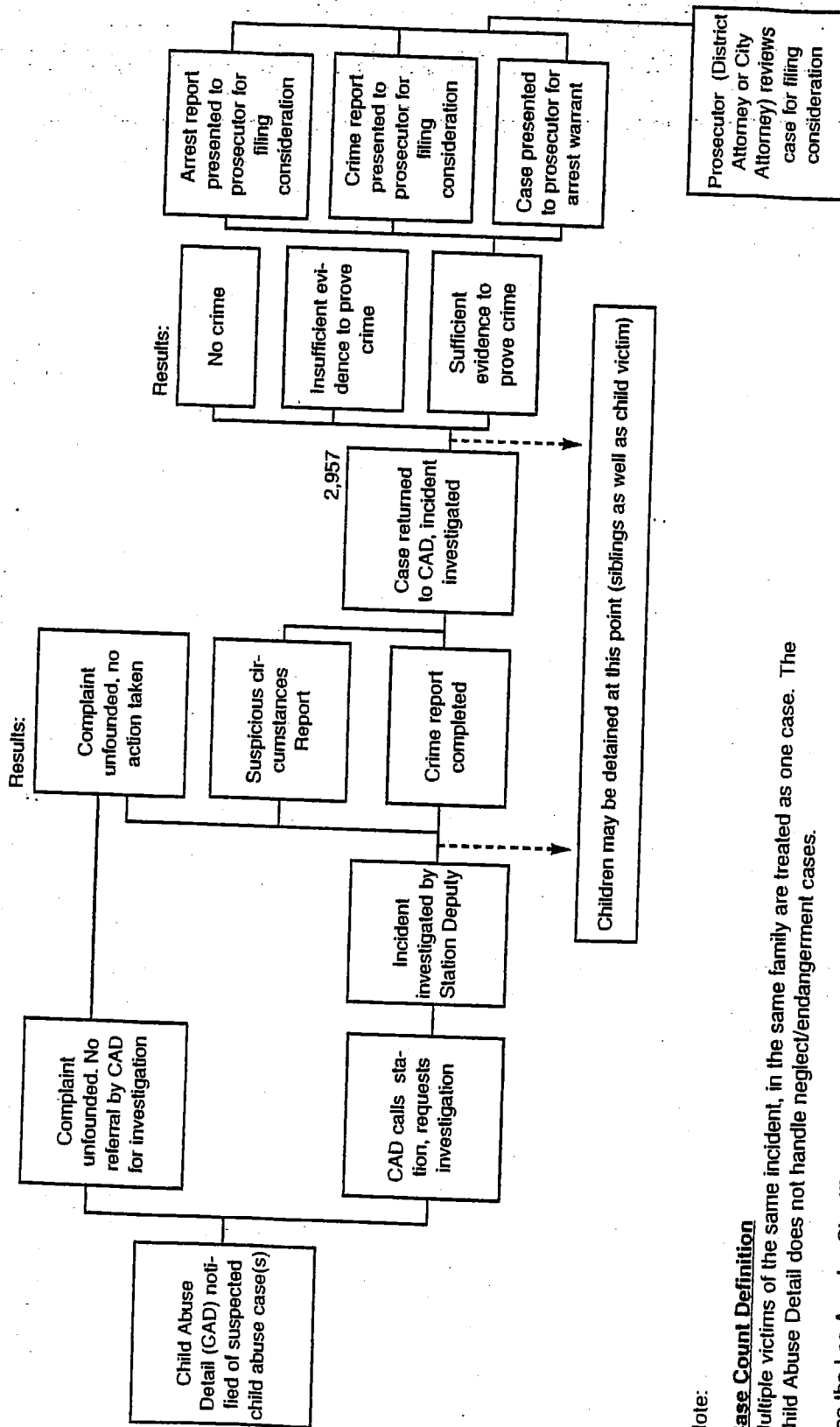
Child Abuse Unit handles abuse involving parents, step parent, legal guardian, common law spouse.

Geographic Area Responsibilities

Abuse in which perpetrator is not parent, step parent, legal guardian, or common law spouse: child not primary object of attack, but receives injury; unfit homes, endangering and dependent child cases; other cases where criteria does not meet Abused Child Unit.

See the LAPD Report for more details on their workload.

Flow Chart IV
LOS ANGELES SHERIFF'S DEPARTMENT
 Involvement In Child Abuse Cases • 1999

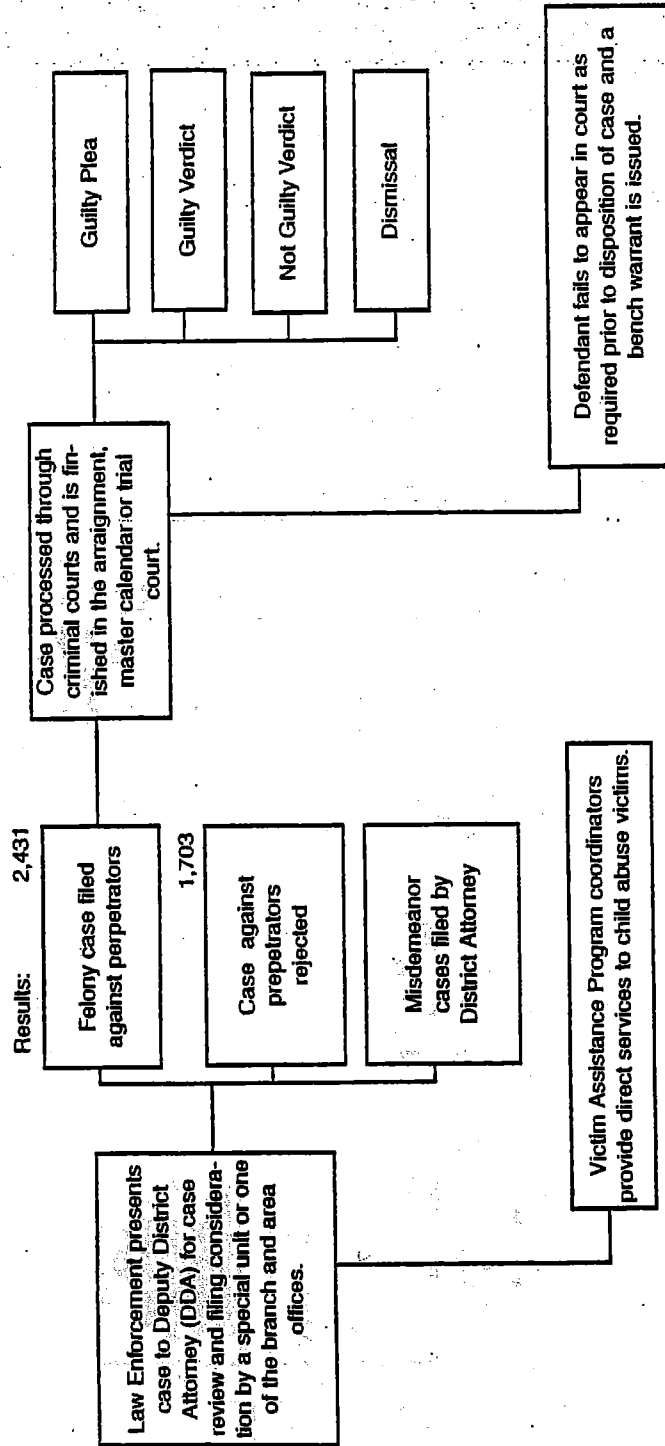


Children may be detained at this point (siblings as well as child victim)

Note:
Case Count Definition
 Multiple victims of the same incident, in the same family are treated as one case. The Child Abuse Detail does not handle neglect/endorsement cases.
 See the Los Angeles Sheriff's Department Report for more details on their workload.

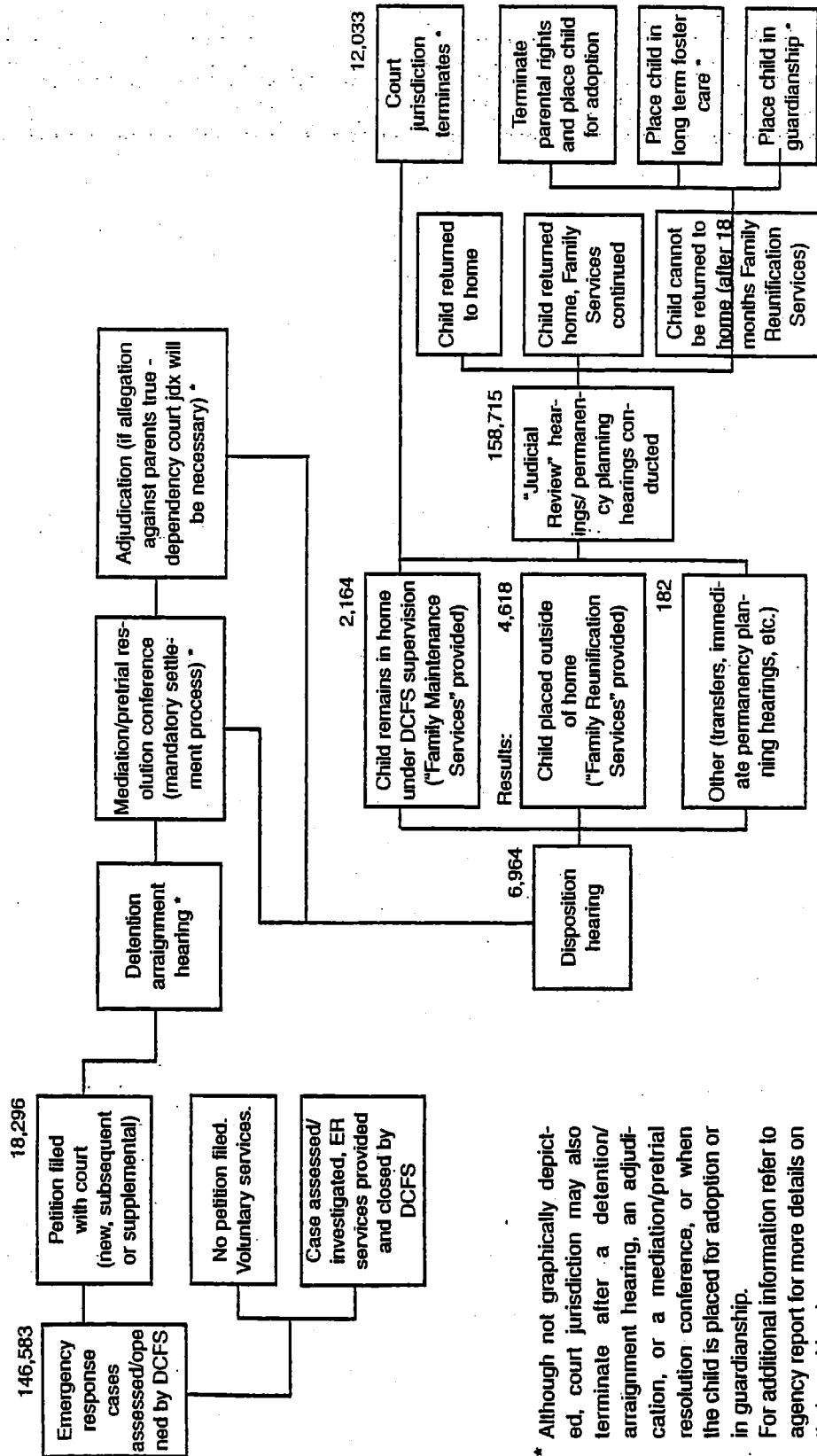
Flow Chart VI
LOS ANGELES DISTRICT ATTORNEY'S

Involvement In Child Abuse Cases • 1999



Data provided by District Attorney's Office.
 See District Attorney Data Report for complete data.

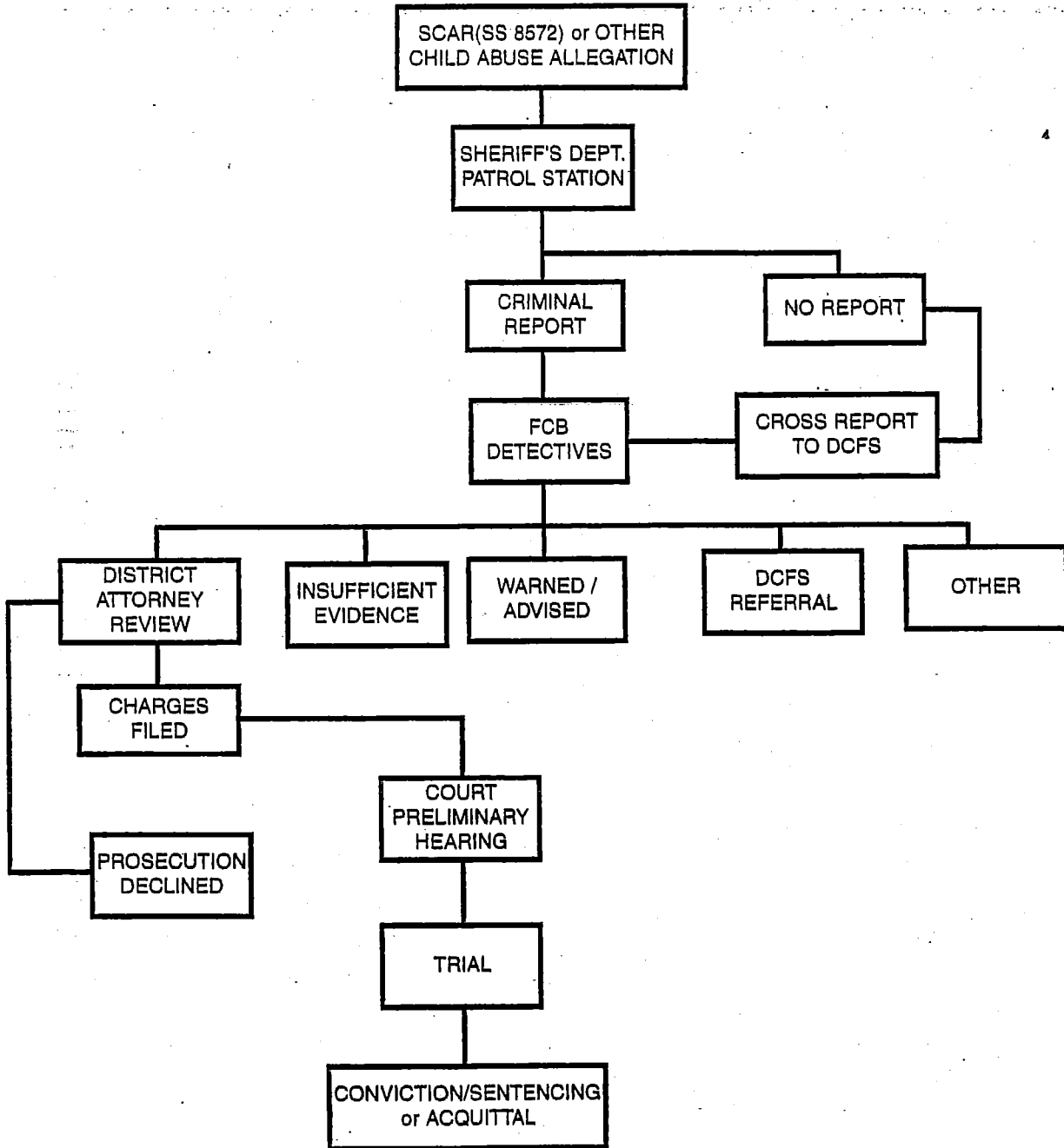
Flow Chart VIII
JUVENILE DEPENDENCY COURT/DEPARTMENT OF CHILDREN AND FAMILY SERVICES
 Involvement In Child Abuse Cases • 1999



* Although not graphically depicted, court jurisdiction may also terminate after a detention arraignment hearing, an adjudication, or a mediation/pretrial resolution conference, or when the child is placed for adoption or in guardianship. For additional information refer to agency report for more details on their workload.

Figure 7-1

STAGES OF A CHILD ABUSE REPORT



This chart shows the general route a child abuse report takes within the Sheriff's Department

Los Angeles County

ICAN child abuse investigative reporting, in compliance with the test claim legislation, is a major program in Los Angeles county. Serious abuses reported to, or discovered by, local government agencies in the County during 1999²² totaled:

| | |
|--|---------|
| County Chief Medical Examiner Coroner | 268 |
| County Probation Department | 1,289 |
| Los Angeles County Office of Education | 8,941 |
| Department of Public Social Services | 710 |
| Los Angeles City Police department | 9,332 |
| County Sheriff's Department | 2,957 |
| County Children and Family Services Department | 146,583 |

During 1999, the number of Los Angeles County reports entered into DOJ's Child Abuse Central Index²³ was 8,100, excluding 14 deaths, for the following types of child abuse:

| | |
|----------|-------|
| Physical | 4,368 |
| Mental | 1,229 |
| Neglect | 305 |
| Sexual | 2,198 |

As noted by Carol C. Nadelson, M.D., Clinical Professor of Psychiatry at Harvard Medical School²⁴:

"The overall impact of physical and sexual abuse of children has profound emotional and fiscal consequences for society as a whole. The debilitating effects of child abuse reach like tentacles across all areas of our lives, touching families and local communities, health care providers, the criminal justice system, welfare programs and educational institutions. They are so pervasive that the U.S. Advisory Board on Child Abuse and Neglect has called the problem of child maltreatment in the United States "an epidemic". "

²² According to data reported in "The State of Child Abuse in Los Angeles County", published by the Los Angeles County Inter-Agency Council on Child Abuse and Neglect, 2000, page 24.

²³ Ibid., page 213.

²⁴ From "Child Abuse and Neglect", Nadelson, Carol C., Chelsea House Publishers, 2000, page 65.

Program Implementation

Addressing the child abuse "epidemic", the Legislature is requiring local government to take many steps in the best interest of the child.

Specifically, Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 mandates child abuse and neglect case finding and reporting, taking and referring reports, cross-reporting and District Attorney reporting, investigations and file queries, maintenance, State Department of Justice - Child Abuse Central Index [CACI] reporting, and notifications as follows:

Initial Case Finding and Reporting

Mandated reporters [Section 11165.7] report child abuse [as defined in Section 11165.6] that is suspected [Section 11166(a)] and such reporters are required to undergo training in accordance with Section 11165.7 subdivisions (c) and (d):

" (c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided."

Mandate reporters are required to complete forms [e.g. SS 8572] and make reports pursuant to Section 11165.9:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive

mandated reports, or the county welfare department. It does not include a school district police or security department. ..."

Taking and Referring Reports

Police, sheriff's departments and county probation departments, if designated by the county to receive mandated reports, or the county welfare department, referred to as child protective agencies [CPAs], are mandated to take and refer initial reports in accordance with Section 11165.9:

"... [A]ny of those [CPA] agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction."
[Emphasis added.]

Cross-Reporting and District Attorney Reporting

CPAs are required to cross-report every known or suspected instance of child abuse or neglect and to report every known or suspected instance of child abuse or neglect to the District Attorney's Office in accordance with Section 11166:

"(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation

department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision." [Emphasis added.]

Investigations and File Queries, Maintenance

CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583.

CPAs, under Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, are required to maintain investigative files and answer investigative file queries pertaining to cases in DOJ's Automated Child Abuse System [ACAS] as follows:

" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

Child Abuse Central Index [CACI] Reporting

CPAs are required to complete, and, if necessary, provide supplementary information for, DOJ's SS8583 "Child Abuse Investigation Form" after an active investigation has been conducted and the incident has been determined not to be unfounded in accordance with Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, mandating that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without

these items will be returned to the contributor. These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Pursuant to Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index ...".

The following documents further describe the ICAN investigative reporting process in Los Angeles County.

The following excerpt is from a document prepared by Olivia James, Assistant Regional Administrator with the Department of Children and Family Services for Los Angeles County, whose declaration is attached as Exhibit B. This excerpt is included here to show circumstances surrounding a typical initial report of child abuse.

Effective today include the following information in the screener narrative section prior to the narrative:

1. response time
2. whether or not there is any prior history of abuse/neglect
3. callers name, address and telephone number
4. name and location of perpetrator
5. location of the incident

Example: This is a live call.
Immediate Response
No prior history

Location of incident: Susan's home
2121 Towne Avenue
Los Angeles, Ca 90010

Caller: Dr. Mark Green
Pediatrician
4321 Core Avenue
Los Angeles, Ca 90010
(213) 513-4578

Perpetrator: Ted Edwards, father

Report: Susan is a victim of sexual abuse. She states her father has had sexual intercourse with her 2-3 times per week, at home while her mother is at work. Dr. Green the family pediatrician states Susan is positive for gonorrhea and so is the father.

Mother is in denial and unable to protect Susan from further abuse. Susan and mother are currently at Dr. Green's office.

By including this information in the screener narrative section prior to the details of the report, the receiving agency can locate crucial information that will facilitate their response to the incident. "

The following excerpt is from a document obtained from Betsy Azariah, Regional Administrator with the Department of Children and Family Services for Los Angeles County, whose declaration is attached as Exhibit C. This excerpt is included here to provide information about the County's Child Protection Hotline [CPH] a key component in the ICAN investigative reporting process.

CHILD PROTECTION HOTLINE (CPH)

| | |
|--|-----------------------|
| Betsy Azariah, Regional Administrator | (213) 639-4796 |
| Olivia James, ARA | (213) 639-4498 |
| Carlos E. Castillo, ARA | (213) 639-4352 |
| Duty SCSW | (213) 639-4500 |

The Child Protection Hotline answers calls reporting suspected child abuse and neglect 24 hours a day, 7 days a week. Children's Social Workers evaluate all calls reporting suspected abuse and/or neglect to determine the service needs of children and families.

Depending on the potential danger to the child(ren), reports taken are forwarded to protective service offices throughout the county and/or to law enforcement for in-person investigation. In addition, the staff also provides child abuse/neglect consultation and information and referral services.

The Child Abuse Hotline telephone number is 1-800-540-4000. This is a toll free number within the state of California. The number the Telecommunication Device for the Deaf (T.D.D.) is 1-800-272-6699. To reach the Hotline from outside of the state of California, call 213-639-4500.

Almost all professionals who work with families and children are legally mandated to report suspected child abuse and neglect and are not permitted to report anonymously. Persons not required by law to report may remain anonymous. A mandated reporter must report suspected child abuse and neglect immediately by telephone to a child protective services agency and within thirty-six (36) hours follow-up with a written report. The Department of Justice form SS8572 is available at the Hotline for this written report. The Department of Children and Family Services Child Protection Hotline is part of the Bureau of Child Protection."

The following four pages are forms and instructions issued by the Department of Justice [DOJ].

The Suspected Child Abuse Report Form SS 8572 or SCAR is included in the test claim legislation and referred to in the declaration of Christopher Minor, Detective/Deputy Sheriff with the Family Bureau, Child Abuse Detail of Los Angeles County, attached as Exhibit F.

The Child Abuse Investigation Report Form SS 8583 is included in the test claim legislation and referred to in the declaration of Simon C. Wei, Data Systems Supervisor II, Sheriff Data Network Unit, Data Systems Bureau, Los Angeles County Sheriff Department, attached as Exhibit E.

The [above] forms and instructions are included here to show the types of information that must be cross reported and reported to DOJ.

SUSPECTED CHILD ABUSE REPORT

To Be Completed by Reporting Party
Pursuant to Penal Code Section 11166

| | |
|-------------------------------|--------------------------------------|
| A. CASE IDENTIFICATION | TO BE COMPLETED BY INVESTIGATING CPA |
| | VICTIM NAME: _____ |
| | REPORT NO./CASE NAME: _____ |
| DATE OF REPORT: _____ | |

| | | | | | | | | | | | | | | | | |
|--|---|----------------------------|-----------|--|-----------------------|---------|--------------|------|------------------------------|-----------|-----------------------------------|--------------|-----------------------------------|--|-----|------|
| B. REPORTING PARTY | NAME/TITLE | | | | | | | | | | | | | | | |
| | ADDRESS | | | | | | | | | | | | | | | |
| | PHONE () | | | | DATE OF REPORT | | | | SIGNATURE OF REPORTING PARTY | | | | | | | |
| C. REPORT SENT TO | <input type="checkbox"/> POLICE DEPARTMENT <input type="checkbox"/> SHERIFF'S OFFICE <input type="checkbox"/> COUNTY WELFARE <input type="checkbox"/> COUNTY PROBATION | | | | | | | | | | | | | | | |
| | AGENCY | | | | | | ADDRESS | | | | | | | | | |
| | OFFICIAL CONTACTED | | | | | | PHONE () | | | DATE/TIME | | | | | | |
| D. INVOLVED PARTIES | SIBLINGS | NAME (LAST, FIRST, MIDDLE) | | | | ADDRESS | | | | BIRTHDATE | | SEX | RACE | | | |
| | | PRESENT LOCATION OF CHILD | | | | | | | | | | PHONE () | | | | |
| | NAME | | BIRTHDATE | | SEX | RACE | NAME | | BIRTHDATE | | SEX | RACE | | | | |
| | 1. _____ | | 4. _____ | | | | | | | | | | | | | |
| | 2. _____ | | 5. _____ | | | | | | | | | | | | | |
| 3. _____ | | 6. _____ | | | | | | | | | | | | | | |
| PARENTS | NAME (LAST, FIRST, MIDDLE) | | | | BIRTHDATE | | SEX | RACE | NAME (LAST, FIRST, MIDDLE) | | | | BIRTHDATE | | SEX | RACE |
| | ADDRESS | | | | | | | | ADDRESS | | | | | | | |
| | HOME PHONE () | | | | BUSINESS PHONE () | | | | HOME PHONE () | | | | BUSINESS PHONE () | | | |
| E. INCIDENT INFORMATION | IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS BOX. <input type="checkbox"/> | | | | | | | | | | | | | | | |
| | 1. DATE/TIME OF INCIDENT | | | | PLACE OF INCIDENT | | | | (CHECK ONE) | | <input type="checkbox"/> OCCURRED | | <input type="checkbox"/> OBSERVED | | | |
| | IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: | | | | | | | | | | | | | | | |
| | <input type="checkbox"/> FAMILY DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> SMALL FAMILY HOME <input type="checkbox"/> GROUP HOME OR INSTITUTION | | | | | | | | | | | | | | | |
| | 2. TYPE OF ABUSE: (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER | | | | | | | | | | | | | | | |
| 3. NARRATIVE DESCRIPTION: | | | | | | | | | | | | | | | | |
| 4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED: | | | | | | | | | | | | | | | | |
| 5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENT(S) FOR THIS CHILD: | | | | | | | | | | | | | | | | |

SS 8572 (REV. 7/87)

INSTRUCTIONS AND DISTRIBUTION ON REVERSE

DO NOT submit a copy of this form to the Department of Justice (DOJ). A CPA is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS-8583 if (1) an active investigation has been conducted and (2) the incident is not unfounded.

Police or Sheriff-WHITE Copy; County Welfare or Probation-BLUE Copy; District Attorney-GREEN Copy; Reporting Party-YELLOW Copy

SUSPECTED CHILD ABUSE REPORT
DEPARTMENT OF JUSTICE FORM SS 8572
(REQUIRED UNDER PENAL CODE SECTIONS 11166 AND 11168)

I. REPORTING RESPONSIBILITIES

- No child care custodian or health practitioner reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article (California Penal Code Article 2.5). Any other person reporting a suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this section unless it can be proved that a false report was made and the person knew or should have known that the report was false.
- Any child care custodian, health practitioner, or employee of a child protective agency (CPA) who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof *within 36 hours* of receiving the information concerning the incident.
- Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or its emotional well-being is endangered in any other way, may report such suspected instance of child abuse to a child protective agency. Infliction of willful and unjustifiable mental suffering must be reported.

II. DEFINITIONS

- "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel or residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse presentation program in any public or private school.
- "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a minor for venereal disease or any other condition, a coroner, or a religious practitioner who diagnoses, examines, or treats children.
- "Child protective agency" (CPA) means a police or sheriff's department, a county probation department, or a county welfare department.

III. INSTRUCTIONS

(Section A to be completed by investigating child protective agency)

SECTION A - "CASE IDENTIFICATION": Enter the victim name, report number or case name, and date of report.

(Sections B through E are to be completed by reporting party)

SECTION B - "REPORTING PARTY": Enter your name/title, address, phone number, date of report, and signature.

SECTION C - "REPORT SENT TO": (1) Check the appropriate box to indicate which CPA this report is being sent; (2) Enter the name and address of the CPA to which this report is being sent; and (3) Enter the name of the official contacted at the CPA, phone number, and the date/time contacted.

SECTION D - "INVOLVED PARTIES":

- a. **VICTIM:** Enter the name, address, physical data, present location, and phone number where victim is located (attach additional sheets if multiple victims).
- b. **SIBLINGS:** Enter the name and physical data of siblings living in the same household as the victim.
- c. **PARENTS:** Enter the names, physical data, addresses, and phone numbers of father/stepfather and mother/stepmother.

SECTION E - "INCIDENT INFORMATION": (1) Enter the date/time and place the incident occurred or was observed, and check the appropriate boxes; (2) Check the type of abuse; (3) Describe injury or sexual assault (where appropriate, attach Medical Report - Suspected Child Abuse Form DOJ 900 or any other form desired); (4) Summarize what the child or person accompanying the child said happened; and (5) Explain any known prior incidents involving the victim.

IV. DISTRIBUTION

- A. **Reporting Party:** Complete Suspected Child Abuse Report Form SS 8572. Retain yellow copy for your records and submit top three copies to a child protective agency.
- B. **Investigating Child Protective Agency:** Upon receipt of Form SS 8572, *within 36 hours* send white copy to police or sheriff, blue copy to county welfare or probation, and green copy to district attorney.

TO BE TYPED OR PRINTED - PRESS FIRMLY - DO NOT USE FELT PEN

CHILD ABUSE INVESTIGATION REPORT

To be Completed by Investigating Child Protective Agency
Pursuant to Penal Code Section 11169
(SHADED AREAS MUST BE COMPLETED)

FOR DOJ USE ONLY
B300894

A. INVESTIGATING AGENCY

| | | |
|---|------------------------------|---|
| 1. INVESTIGATING AGENCY (Enter complete name and check type): <input type="checkbox"/> POLICE <input type="checkbox"/> WELFARE <input type="checkbox"/> SHERIFF <input type="checkbox"/> PROBATION | | 2. AGENCY REPORT NO./CASE NAME: |
| 3. AGENCY ADDRESS: Street City | | 4. AGENCY TELEPHONE: EXT: |
| 5. NAME OF INVESTIGATING PARTY: TITLE | | 6. DATE REPORT COMPLETED: MO DA YR |
| 7. AGENCY CROSS-REPORTED TO: | 8. PERSON CROSS-REPORTED TO: | |
| 10. ACTION TAKEN (check only one box): <input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse): <input type="checkbox"/> (2) UNSUBSTANTIATED (Insufficient evidence of abuse; not unfounded): | | (3) SUPPLEMENTAL INFORMATION (Attach copy of original report) <input type="checkbox"/> (a) UNSUBSTANTIATED <input type="checkbox"/> (c) ADDITIONAL INFORMATION <input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable): |
| 11. COMMENTS: | | |

B. INCIDENT INFORMATION

| | | | |
|--|----------------------|---|--|
| 1. DATE OF INCIDENT: MO DA YR | 2. TIME OF INCIDENT: | 3. LOCATION OF INCIDENT: | |
| 4. NAME OF PARTY REPORTING INCIDENT: TITLE: | 5. EMPLOYER: | 6. TELEPHONE: () | |
| 7. TYPE OF ABUSE (check one or more): <input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) INCEST (285 P.C.) <input type="checkbox"/> (4) OTHER SEXUAL ASSAULT <input type="checkbox"/> (5) SEXUAL EXPLOITATION <input type="checkbox"/> (6) SEVERE NEGLECT <input type="checkbox"/> (7) GENERAL NEGLECT <input type="checkbox"/> (8) OTHER: | | | |
| 8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE <input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION-Enter name and address: | | | |

C. INVOLVED PARTIES

VICTIMS

| | | | | | | | | |
|--|-------------|----|----|----|---|--|----------------------------|---|
| 1. NAME: Last First Middle AKA | D O B | MO | DA | YR | APPROX. AGE: | <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | R E C O R D | * |
| ADDRESS: Street City State | | | | | DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| PRESENT LOCATION OF VICTIM: | | | | | TELEPHONE NUMBER: | | | |
| | | | | | IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) W&I)? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| NATURE OF INJURIES: | | | | | | | | |
| 2. NAME: Last First Middle AKA | | | | | | | | |
| D O B | | | | | | | | |
| MO | | | | | | | | |
| DA | | | | | | | | |
| YR | | | | | | | | |
| APPROX. AGE: | | | | | | | | |
| <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | | | | | | | | |
| R E C O R D | | | | | | | | |
| * | | | | | | | | |
| ADDRESS: Street City State | | | | | DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| PRESENT LOCATION OF VICTIM: | | | | | TELEPHONE NUMBER: | | | |
| | | | | | IS VICTIM DEVELOPMENTALLY DISABLED (4512(a) W&I)? <input type="checkbox"/> YES <input type="checkbox"/> NO | | | |
| NATURE OF INJURIES: | | | | | | | | |

SUSPECTS

| | | | | | | | | |
|--|-------------|----|----|----|--------------------------|--|----------------------------|---|
| 1. NAME: Last First Middle AKA | D O B | MO | DA | YR | APPROX. AGE: | <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | R E C O R D | * |
| ADDRESS: Street City State | | | | | HGT | | | |
| | | | | | WGT | | | |
| | | | | | EYES | | | |
| | | | | | HAIR | | | |
| RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE | | | | | SOCIAL SECURITY NUMBER: | | | |
| <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER <input type="checkbox"/> (6) OTHER | | | | | DRIVER'S LICENSE NUMBER: | | | |
| 2. NAME: Last First Middle AKA | | | | | | | | |
| D O B | | | | | | | | |
| MO | | | | | | | | |
| DA | | | | | | | | |
| YR | | | | | | | | |
| APPROX. AGE: | | | | | | | | |
| <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | | | | | | | | |
| R E C O R D | | | | | | | | |
| * | | | | | | | | |
| ADDRESS: Street City State | | | | | HGT | | | |
| | | | | | WGT | | | |
| | | | | | EYES | | | |
| | | | | | HAIR | | | |
| RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE | | | | | SOCIAL SECURITY NUMBER: | | | |
| <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER <input type="checkbox"/> (6) OTHER | | | | | DRIVER'S LICENSE NUMBER: | | | |

OTHER

| | | | | | | | | | |
|---|---|-------------|----|----|----|--------------|--|----------------------------|---|
| 1. NAME: Last First Middle | <input type="checkbox"/> (1) PARENT/STEPARENT | D O B | MO | DA | YR | APPROX. AGE: | <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | R E C O R D | * |
| <input type="checkbox"/> (2) SIBLING | | | | | | | | | |
| <input type="checkbox"/> (1) PARENT/STEPARENT | | D O B | MO | DA | YR | APPROX. AGE: | <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE | R E C O R D | * |
| <input type="checkbox"/> (2) SIBLING | | | | | | | | | |

TRACE CODES: W-White, B-Black, H-Hispanic, I-American Indian, F-Filipino, P-Pacific Islander, C-Chinese, J-Japanese, A-Other Asian, Z-Asian Indian, D-Cambodian, G-Guatemalan, U-Ukrainian, K-Korean, L-Latvian, S-Samoan, V-Vietnamese, O-Other, X-Unknown
 CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.
SS 8583 (Rev. 3/91) PINK COPY-DOJ; WHITE COPY-Police or Sheriff; BLUE COPY-County Welfare or Probation; GREEN COPY- Attorney's Office 91 91931

CHILD ABUSE INVESTIGATION REPORT
DEPARTMENT OF JUSTICE (DOJ) FORM SS 8583
Guidelines for Use and Completion of Form SS 8583

B300894

(For Specific Requirements Refer to the Child Abuse Reporting Law, California Penal Code Section 11165 through 11174.5)

For immediate information on potential suspects/victims, please contact the Child Abuse Unit at (916) 739-5109.

Who Must Report

Interagency Reporting

- A child protective agency (CPA - i.e., police and sheriff's department, county welfare and probation department) must report every suspected incident of child abuse it receives to:
 - another CPA in the county.
 - the agency responsible for investigations under Welfare and Institutions Code 300
 - the district attorney's office

DOJ Reporting

- A CPA must report every incident of suspected child abuse for which they conduct an active investigation to DOJ on the Form SS 8583.
- NOTE: Reports are not accepted from agencies other than CPAs.*

What Incidents Must Be Reported

- Abuse of a minor child, i.e., a person under the age of 18 years, involving any one of the below abuse types:

Interagency Reporting

- sexual abuse
- physical abuse
- general neglect
- mental/emotional abuse
- severe neglect

(Refer to Section 11165.1 through 11165.6 PC for PC citations and definitions)

DOJ Reporting

- All of the above, excluding general neglect.
- Deaths of minors resulting from abuse or neglect.

What Incidents Must Not Be Reported

Interagency Reporting

- Incidents specifically exempted under cooperative arrangements with CPAs in your jurisdiction.

DOJ Reporting

- Unfounded reports - Reports which are determined to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined under Section 11165.12 PC.
- Acts of consensual sexual behavior between minors under the age of 14 years who are of similar age.
- Acts of negligence by a pregnant woman or other person(s) which adversely effect the well-being of a fetus.
- Reports of adults who report themselves as the victims of prior child abuse.
- Child stealing as defined in Sections 277 PC and 278 PC; unless involving sexual abuse, physical abuse, mental/emotional abuse, and/or severe neglect.
- Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- Statutory rape, as defined in Section 261.5 PC.
- Mutual fights between minors (Section 11165.6 PC).

When Must the Report be Submitted

Interagency Reporting

- Telephone notification - Immediately or as soon as practical.
- Written notification - within 36 hours of receiving information concerning the incident. (The Form SS 8583 can be used for cross-reporting purposes.)

DOJ Reporting

- A Form SS 8583 must be submitted as soon as an active investigation has been conducted and the incident has proven not to be unfounded.
- NOTE: No other form will be accepted in lieu of the Form SS 8583.*

What Information is Required

General Instructions

- All information blocks contained on the Form SS 8583 should be completed by the investigating CPA. If information is not available, indicate "UNK" in the applicable information block.

Specific Instructions

- INFORMATION BLOCKS ON THE FORM SS 8583 WHICH ARE SHADED GRAY MUST BE COMPLETED (An exception are the VICTIMS and SUSPECTS information blocks. Either a victim or suspect must be entered on the form. If a date of birth for either is not known, enter an approximate age, otherwise "UNK" may be entered.)
- IF ANY ONE OF THESE BLOCKS IS NOT COMPLETED, THE FORM WILL BE RETURNED TO THE CONTRIBUTOR.

Section A, "INVESTIGATING AGENCY", information block 10, "ACTION TAKEN" must be completed in accordance with the following definitions. (Check one of the boxes):

| | |
|--|--|
| <p align="center">①</p> <p>10. ACTION TAKEN (check only one box):</p> <p><input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse)</p> <p><input type="checkbox"/> (2) UNSUBSTANTIATED (Insufficient evidence of abuse, not unfounded)</p> <p align="center">②</p> | <p align="center">③ ④ ⑤</p> <p>(3) SUPPLEMENTAL INFORMATION (Attach copy of original report)</p> <p><input type="checkbox"/> (a) UNSUBSTANTIATED <input type="checkbox"/> (c) ADDITIONAL INFORMATION</p> <p><input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)</p> <p align="center">⑥</p> |
|--|--|

- ① SUBSTANTIATED - Acts determined, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6 PC.
- ② UNSUBSTANTIATED - Acts determined not to be unfounded, but there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6 PC, has occurred.
- ③ SUPPLEMENTAL INFORMATION - Attached information is being provided to supplement a previously submitted Form SS 8583.
- ④ UNSUBSTANTIATED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" is being reclassified to "UNSUBSTANTIATED".
- ⑤ UNFOUNDED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" or "UNSUBSTANTIATED" is being reclassified to "UNFOUNDED".
- ⑥ ADDITIONAL INFORMATION - Supplementary information is being provided for a previously submitted Form SS 8583.

Where To Send The Report, Form SS 8583
(For DOJ reporting only)

Department of Justice
 Bureau of Criminal Statistics and Special Services
 P. O. Box 903417
 Sacramento, CA 94203-4170
 ATTENTION: Child Abuse Central Index

REMEMBER

Submit completed Forms SS 8583s to DOJ as soon as possible because the case information may contribute to the success of another investigation. It is essential that the reports be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects. If you have questions about DOJ REPORTING or need a victim or suspect name check, call the DOJ Child Abuse Unit at (916) 739-5109 or ATSS 497-5109.

Redirected Effort is Prohibited

The test claim legislation imposed new duties on the County, as discussed above, and the County's funds were redirected to pay for the State's program.

The State has not been allowed to circumvent restrictions on shifting its burden to localities by directing them to shift their efforts to comply with State mandates however noble they may be.

This prohibition of substituting the work agenda of the state for that of local government, without compensation, has been found by many in the California Constitution. On December 13, 1988, Elizabeth G. Hill, Legislative Analyst, Joint Legislative (California) Budget Committee wrote to Jesse Huff, Commission on State Mandates (Exhibit H) and indicated on page 6 that the State may not redirect local governments' effort to avoid reimbursement of local costs mandated by the State:

“Article XIII B, Section 6 of the State Constitution requires the state to reimburse local entities for new programs and higher levels of service. It does not require counties to reduce services in one area to pay for a higher level of service in another.”

Therefore, reimbursement for the subject program is required as claimed herein.

State Funding Disclaimers Are Not Applicable

There are seven disclaimers specified in GC Section 17556 which could serve to bar recovery of “costs mandated by the State”, as defined in GC Section 17514. These seven disclaimers do not apply to the instant claim, as shown, in seriatim, for pertinent sections of GC Section 17556.

- (a) “The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the Program specified in the statute, and that statute imposes costs upon that local agency or school district requesting the legislative authority. A resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency to implement a given program shall constitute a request within the meaning of this paragraph.”

- (a) is not applicable as the subject law was not requested by the County claimant or any local agency or school district.
- (b) "The statute or executive order affirmed for the State that which had been declared existing law or regulation by action of the courts."
- (b) is not applicable because the subject law did not affirm what had been declared existing law or regulation by action of the courts.
- (c) "The statute or executive order implemented a federal law or regulation and resulted in costs mandated by the federal government, unless the statute or executive order mandates costs which exceed the mandate in that federal law or regulation."
- (c) is not applicable as no federal law or regulation is implemented in the subject law.
- (d) "The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or increased level of service."
- (d) is not applicable because the subject law did not provide or include any authority to levy any service charges, fees, or assessments.
- (e) "The statute or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to the local agencies or school districts, or includes additional revenue that was specifically intended to fund the costs of the State mandate in an amount sufficient to fund the cost of the State mandate."
- (e) is not applicable as no offsetting savings are provided in the subject law and no revenue to fund the subject law was provided by the legislature.

- (f) "The statute or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a Statewide election."
- (f) is not applicable as the duties imposed in the subject law were not included in a ballot measure.
- (g) "The statute created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the statute relating directly to the enforcement of the crime or infraction."
- (g) is not applicable as the subject law did not create or eliminate a crime or infraction and did not change that portion of the statute not relating directly to the penalty enforcement of the crime or infraction.

Therefore, the above seven disclaimers will not bar local governments' reimbursement of its costs in implementing the requirements set forth in the captioned test claim legislation as these disclaimers are all not applicable to the subject claim.

Costs Mandated by the State

The County has incurred costs in complying with the test claim legislation. The County's costs in performing new duties under the test claim legislation, as illustrated in the attached seven declarations, are reimbursable "costs mandated by the State" under Section 6 of Article XIII B of the California Constitution and Section 17500 et seq of the Government Code.

The County was required to provide a new State-mandated program and thus incur reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an

existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

Accordingly, for the County's costs to be reimbursable "costs mandated by the State", three requirements must be met:

1. There are "increased costs which a local agency is required to incur after July 1, 1980"; and
2. The costs are incurred "as a result of any statute enacted on or after January 1, 1975"; and
3. The costs are the result of "a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution".

All three of above requirements for finding cost mandated by the State are met herein.

First, local government is incurring costs in implementing the test claim legislation presently, in June 2001, well after July 1, 1980.

Second, the oldest statute that is included test claim legislation is Chapter 958, Statutes of 1977, enacted after January 1, 1975.

Third, the test claim legislation, as detailed in the attached declarations, has imposed new duties on local government, not found in prior law.

Accordingly, "a new program or higher level of service..." has been enacted in the test claim legislation.

Therefore, reimbursement of the County's "costs mandated by the State", incurred in implementing the test claim legislation, as claimed herein, is required.



ANITA M. BOCK
Director

County of Los Angeles DEPARTMENT OF CHILDREN AND FAMILY SERVICES

425 Shatto Place, Los Angeles, California 90020
(213) 351-5602

Board of Supervisors

GLORIA MOLINA
First District

YVONNE BRATHWAITE BURKE
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ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Betsy Azariah

Betsy Azariah makes the following declaration and statement under oath:

I, Betsy Azariah, Regional Administrator, Department of Children and Family Services of the County of Los Angeles, am responsible for implementing the subject law.

I declare that the Department of Children and Family Services has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs.

I declare that before the enactment of the test claim legislation, there was no requirement that the Department of Children and Family Services implement the Interagency Child Abuse and Neglect [ICAN] Investigation Reports as set forth in the test claim legislation.

I declare that Department of Children and Family Services is complying with the ICAN investigation reporting requirements:

Initial Case Finding and Reporting

Mandated reporters [Section 11165.7] report child abuse [as defined in Section 11165.6] that is suspected [Section 11166(a)] and such reporters are required to undergo training in accordance with Section 11165.7 subdivisions (c) and (d):

" (c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided."

Mandate reporters are required to complete forms [e.g. SS 8572] and make reports pursuant to Section 11165.9:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. ..."

Taking and Referring Reports

Police, sheriff's departments and county probation departments, if designated by the county to receive mandated reports, or the county welfare department, referred to as child protective agencies [CPAs], are mandated to take and refer initial reports in accordance with Section 11165.9:

"... [A]ny of those [CPA] agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or

electronic transmission to an agency with proper jurisdiction." [Emphasis added.]

Cross-Reporting and District Attorney Reporting

CPAs are required to cross-report every known or suspected instance of child abuse or neglect and to report every known or suspected instance of child abuse or neglect to the District Attorney's Office in accordance with Section 11166:

"(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person

responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision." [Emphasis added.]

Investigations and File Queries. Maintenance CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583 if not unfounded.

CPAs, under Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, are required to maintain investigative files and answer investigative file queries pertaining to cases in DOJ's Automated Child Abuse System [ACAS] as follows:

" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

Child Abuse Central Index [CACI] Reporting

CPAs are required to complete, and, if necessary, provide supplementary information for, DOJ's SS8583 "Child Abuse Investigation Form" after an active investigation has been conducted and the incident has been determined not to be unfounded in accordance with Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, mandating that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent

version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without these items will be returned to the contributor. These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Pursuant to Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index ...".

I declare that the Department of Children and Family Services implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

~~I have prepared the attached description of reimbursable activities necessary to implement the subject law.~~

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

Los Angeles, California

Date and Place

4/21/01

Betsy Azariah

Signature

Test Claim
Exhibit B



ANITA M. BOCK
Director

County of Los Angeles
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

425 Shatto Place, Los Angeles, California 90020
(213) 351-5602

Board of Supervisors

GLORIA MOLINA
First District

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County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Olivia James

Olivia James makes the following declaration and statement under oath:

I, Olivia James, Assistant Regional Administrator, Department of Children and Family Services, of the County of Los Angeles, am responsible for implementing the subject law.

I declare that the Department of Children and Family Services has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs.

I declare that before the enactment of the test claim legislation, there was no requirement that the Department of Children and Family Services implement the Interagency Child Abuse and Neglect [ICAN] Investigation Reports as set forth in the test claim legislation.

I declare that Department of Children and Family Services is complying with the ICAN investigation reporting requirements:

Initial Case Finding and Reporting

Mandated reporters [Section 11165.7] report child abuse [as defined in Section 11165.6] that is suspected [Section 11166(a)] and such reporters are required to undergo training in accordance with Section 11165.7 subdivisions (c) and (d):

" (c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided."

Mandate reporters are required to complete forms [e.g. SS 8572] and make reports pursuant to Section 11165.9:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. ..."

Taking and Referring Reports

Police, sheriff's departments and county probation departments, if designated by the county to receive mandated reports, or the county welfare department, referred to as child protective agencies [CPAs], are mandated to take and refer initial reports in accordance with Section 11165.9:

"... [A]ny of those [CPA] agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report

about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction." [Emphasis added.]

Cross-Reporting and District Attorney Reporting

CPAs are required to cross-report every known or suspected instance of child abuse or neglect and to report every known or suspected instance of child abuse or neglect to the District Attorney's Office in accordance with Section 11166:

"(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the

child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision." [Emphasis added.]

Investigations and File Queries, Maintenance CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583 if not unfounded.

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" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

Child Abuse Central Index [CACI] Reporting

CPAs are required to complete, and, if necessary, provide supplementary information for, DOJ's SS8583 "Child Abuse Investigation Form" after an active investigation has been conducted and the incident has been determined not to be unfounded in accordance with Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, mandating that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ

after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

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- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Pursuant to Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to

I declare that the Department of Children and Family Services implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

~~I have prepared the attached description of reimbursable activities necessary to implement the subject law.~~

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

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I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

6/22/01 3075 Wilshire Blvd
Los Angeles, Ca 90010
Date and Place

Olivia James
Signature



ANITA M. BOCK
Director

County of Los Angeles
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Declaration of David M. Diamond

David M. Diamond makes the following declaration and statement under oath:

I, David M. Diamond, Network Services Manager, Department of Children and Family Services, Information Technology Services of the County of Los Angeles, am responsible for implementing the subject law.

I declare that the Department of Children and Family Services has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs.

I declare that before the enactment of the test claim legislation, there was no requirement that the Department of Children and Family Services implement the Interagency Child Abuse and Neglect [ICAN] Investigation Reports as set forth in the test claim legislation.

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about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction."

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welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision."

Investigations and File Queries, Maintenance

CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583.

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Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

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Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of

this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

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I declare that the Department of Children and Family Services implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

~~I have prepared the attached description of reimbursable activities necessary to implement the subject law.~~

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

June 24, 2001 DCFS-ITS
Date and Place

David Diamond
Signature

Test Claim
Exhibit D



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney

PETER BOZANICH
Assistant District Attorney

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Susan F. Steinfeld

Susan F. Steinfeld makes the following declaration and statement under oath:

I, Susan F. Steinfeld, Special Assistant for the Bureau of Special Operations, of the Office of the Los Angeles County District Attorney, am responsible for implementing the subject law.

I declare that the District Attorney's Office has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs for the Office.

I declare that before the enactment of the test claim legislation, there was inconsistent compliance by local police and sheriff's departments and as well as the Department of Children's and Family Services in notifying the District Attorney's Office pursuant to Penal Code Section 11166(i):

"A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department..."

I declare that the District Attorney's Office is required to audit each case so reported and ensure that, pursuant to the test claim legislation, appropriate investigative agency's reports are completed by these agencies.

I declare that the District Attorney Office's implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

I declare that the subject District Attorney's Office implementation duties required services of attorneys, support personnel, investigators, experts, and associated services and supplies.

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

June 22, 2001 Los Angeles
Date and Place

Susan F. Stein
Signature

Test Claim
Exhibit E



LEROY D. BACA, SHERIFF

County of Los Angeles
Sheriff's Department Headquarters
4700 Ramona Boulevard
Monterey Park, California 91754-2169



PLEASE REFER

TO FILE NO. _____

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Simon C. Wei

Simon C. Wei makes the following declaration and statement under oath:

I, Simon C. Wei, Data System Supervisor II, Sheriff Data Network Unit, Data Systems Bureau, Los Angeles County Sheriff Department of the County of Los Angeles, am responsible for implementing the subject law.

I declare that the Sheriff's Department has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs.

I declare that before the enactment of the test claim legislation, there was no requirement that the Sheriff's Department implement the Interagency Child Abuse and Neglect [ICAN] Investigation Reports as set forth in the test claim legislation.

I declare that Sheriff's Department is complying with the ICAN investigation reporting requirements:

Initial Case Finding and Reporting

Mandated reporters [Section 11165.7] report child abuse [as defined in Section 11165.6] that is suspected [Section 11166(a)] and such reporters are required to undergo training in accordance with Section 11165.7 subdivisions (c) and (d):

" (c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided."

Mandate reporters are required to complete forms [e.g. SS 8572] and make reports pursuant to Section 11165.9:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. ..."

Taking and Referring Reports

Police, sheriff's departments and county probation departments, if designated by the county to receive mandated reports, or the county welfare department, referred to as child protective agencies [CPAs], are mandated to take and refer initial reports in accordance with Section 11165.9:

"... [A]ny of those [CPA] agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or

electronic transmission to an agency with proper jurisdiction." [Emphasis added.]

Cross-Reporting and District Attorney Reporting

CPAs are required to cross-report every known or suspected instance of child abuse or neglect and to report every known or suspected instance of child abuse or neglect to the District Attorney's Office in accordance with Section 11166:

"(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to

which it is required to make a telephone report under this subdivision.
[Emphasis added.]

Investigations and File Queries, Maintenance

CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583.

CPAs, under Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, are required to maintain investigative files and answer investigative file queries pertaining to cases in DOJ's Automated Child Abuse System [ACAS] as follows:

" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

Child Abuse Central Index [CACI] Reporting

CPAs are required to complete, and, if necessary, provide supplementary information for, DOJ's SS8583 "Child Abuse Investigation Form" after an active investigation has been conducted and the incident has been determined not to be unfounded in accordance with Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, mandating that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without these items will be returned to the contributor. These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Pursuant to Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index ... "

I declare that the Sheriff's Department implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in

excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

~~I have prepared the attached description of reimbursable activities necessary to implement the subject law.~~

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

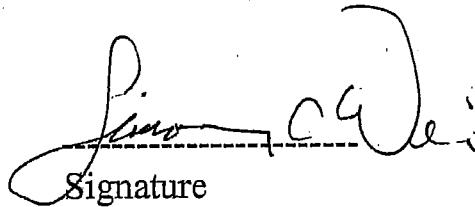
" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

6-27-2001 Norwalk, CA

Date and Place


Signature

Faint, illegible text at the top of the page, possibly a header or introductory paragraph.

Main body of faint, illegible text, appearing to be several lines of a document.

Lower section of faint, illegible text, possibly a conclusion or a list of items.

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as specified, and as added or amended by Chapter 1071, Statutes of 1980 and subsequent statutes, including Penal Code Section 11168, and as including former Penal Code Section 11161.7, amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903, Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Christopher Minor

Christopher Minor makes the following declaration and statement under oath:

I, Christopher Minor, Detective/Deputy Sheriff, Los Angeles County Sheriff's Department, Family Crimes Bureau, Child Abuse Detail of the County of Los Angeles, am responsible for implementing the subject law.

I declare that the Sheriff's Department has incurred new duties as a result of the test claim legislation, captioned above, and that these new duties have resulted in increased costs.

I declare that before the enactment of the test claim legislation, there was no requirement that the Sheriff's Department implement the Suspected Child Abuse Reports [SCAR] as set forth in the test claim legislation.

I declare that Sheriff's Department is complying with the Suspected Child Abuse reporting requirements:

Initial Case Finding and Reporting

Mandated reporters [Section 11165.7] report child abuse [as defined in Section 11165.6] that is suspected [Section 11166(a)] and such reporters are required to undergo training in accordance with Section 11165.7 subdivisions (c) and (d):

" (c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided."

Mandated reporters are required to complete forms [e.g. SS 8572] and make reports pursuant to Section 11165.9:

"Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. ..."

Taking and Referring Reports

Police, sheriff's departments and county probation departments, if designated by the county to receive mandated reports, or the county welfare department, referred to as child protective agencies [CPAs], are mandated to take and refer initial reports in accordance with Section 11165.9:

"... [A]ny of those [CPA] agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction." [Emphasis added.]

Cross-Reporting and District Attorney Reporting

CPAs are required to cross-report every known or suspected instance of child abuse or neglect and to report every known or suspected instance of child abuse or neglect to the District Attorney's Office in accordance with Section 11166:

"(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2; or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision." [Emphasis added.]

Investigations and File Queries, Maintenance

CPAs are required to determine if initial reports of child abuse are "unfounded" [Section 11165.12(a)], or "substantiated" [Section 11165.12(b)] or "inconclusive" [Section 11165.12(c)] and report initial and supplemental investigation information on DOJ Form SS8583.

CPAs, under Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, are required to maintain investigative files and answer investigative file queries pertaining to cases in DOJ's Automated Child Abuse System [ACAS] as follows:

" The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information." [Emphasis added.]

Accordingly, CPAs are required to maintain not only child abuse investigative reports submitted to DOJ, but also underlying child abuse investigative files, and, make such files available to authorized individuals or entities when so requested.

Child Abuse Central Index [CACI] Reporting

CPAs are required to complete, and, if necessary, provide supplementary information for, DOJ's SS8583 "Child Abuse Investigation Form" after an active investigation has been conducted and the incident has been determined not to be unfounded in accordance with Title 11, Division 1, Chapter 9, Article 2, Section 903 of the California Code of Regulations, mandating that:

"The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without these items will be returned to the contributor. These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Notifications

Pursuant to Penal Code Section 11169(b) as amended Chapter 916, Statutes of 2000, when a child protective agency forwards a report in writing to the Department of Justice, "... the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative."

Pursuant to Penal Code Section 11169(c) as amended Chapter 916, Statutes of 2000, child protective agencies are required to "... retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index ... "

I declare that the Sheriff's Department implementation activities are reasonably necessary in complying with the subject law, and cost the County of Los Angeles in excess of \$200 per annum, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

~~I have prepared the attached description of reimbursable activities necessary to implement the subject law.~~

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the subject law require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters which are stated as information and belief, and as to those matters I believe them to be true.

6-25-01 WHITTIER, CA

Date and Place

Christina Miller

Signature

Test Claim
Exhibit G

COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER



KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572 Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I Leonard Kaye, SB 90 Coordinator, in and for the County of Los Angeles, am responsible for filing test claims, reviews of State agency comments, Commission staff analysis, and for proposing parameters and guidelines (P's & G's) and amendments thereto, all for the complete and timely recovery of costs mandated by the State. Specifically, I have prepared the subject test claim.

Specifically, I declare that I have examined the County's State mandated duties and resulting costs, in implementing the subject law, and find that such costs as set forth in the subject test claim, are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

" ' Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information or belief, and as to those matters I believe them to be true.

6/28/91; Los Angeles, CA
Date and Place

Leonard Kaye
Signature

Test Claim
Exhibit H

CHAIRMAN
WILLIAM CAMPBELL

Joint Legislative Budget Committee

VICE CHAIRMAN
JOHN VASCONCELLI

SENATE

ALFRED E. ALQUIST
ROBERT C. BEVERLY
BILL GREENE
MILTON MARKS
JOSEPH B. MONTOYA
NICHOLAS C. PETRIS

GOVERNMENT CODE SECTIONS 9140-9143

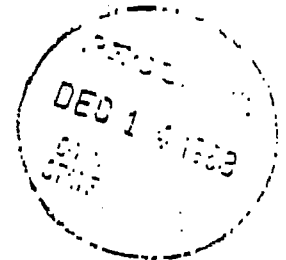
ASSEMBLY
WILLIAM BAKER
JOHN L. BURTON
ROBERT CAMPBELL
ROBERT C. FRAZEE
WILLIAM LEONARD
MARINE WATERS

CALIFORNIA LEGISLATURE

LEGISLATIVE ANALYST
ELIZABETH G. HILL

925 L STREET, SUITE 650
SACRAMENTO, CALIFORNIA 95814
916/445-4636

December 13, 1988



Mr. Jesse Huff, Chairman
Commission on State Mandates
1130 K Street, Suite LL50
Sacramento, CA 95814

Dear Mr. ~~Jesse~~ Huff:

This letter responds to your request for a recommendation on Claim No. CSM-4313, related to the reporting of cases involving the abuse of elderly persons. In this claim, Fresno County requests reimbursement for the increased costs it has allegedly incurred in providing protective services in reported cases of elder abuse. The county claims that Chapter 769, Statutes of 1987, requires the county Department of Social Services to investigate a reported incident of elder abuse, assess the needs of the victim, provide various social or medical services, and follow-up to ensure a satisfactory outcome.

Our examination of the current law reveals, however, that most of the existing requirements with regard to county response to reported elder abuse preceded the enactment of Chapter 769. The statute which initially allowed reporting of dependent adult abuse was enacted in 1982. This reporting requirement was extended by legislation enacted in 1983 and 1985. Our analysis indicates, however, that Chapter 769 does impose increased workload on counties in the following manner:

- Chapter 769 repealed the 1990 sunset date on the existing law regarding reporting of dependent adult abuse. This imposes a mandate in 1990 and subsequent years by increasing county costs associated with reporting known or suspected dependent adult abuse cases. In addition, to the extent that the dependent adult abuse reporting program results in increased reports of abuse, it will increase county workload associated with investigation and resolution of these cases.

- Chapter 769 requires county Adult Protective Services (APS) or law enforcement agencies receiving a report of abuse occurring within a long-term care facility to report the incident to the appropriate facility licensing agency.

Our analysis further indicates that the increased costs associated with Chapter 769 appear to be state-reimbursable to the extent that counties have augmented their County Services Block Grant (CSBG) with county funding to pay for these costs. A detailed analysis of the claim follows below.

Background

Adult Protective Services. Welfare and Institutions (W&I) Code Chapter 5.1 generally requires county governments to provide an APS program. The purpose of this program is to ensure the safety and well-being of adults unable to care for themselves. The program attempts to accomplish these objectives by providing social services and/or referrals to adults in need.

The state provides funding for APS through the County Services Block Grant (CSBG), which counties also use to fund a variety of other social service programs, including administration of In-Home Supportive Services. Under current law, each county generally has discretion as to the types of adult protective services to provide, the number of adults who receive such services, and the amount of CSBG funding allocated to these services. However, the state does require the county APS program to record and investigate reports of suspected elder or dependent adult abuse.

Reporting. Welfare and Institutions Code Chapter 11 (Section 15600 et seq.) requires dependent care custodians, health care providers, and specified public employees to report known or suspected physical abuse of an elderly or dependent adult. An elderly adult is defined as anyone aged 65 years or older. A dependent adult is any person between the ages of 18 and 64 years who is unable to care for himself or herself due to physical or mental limitations, or who is admitted as an inpatient to a specified 24-hour health facility. Care providers are permitted but not required to make such reports if the suspected abuse is not physical in nature.

Upon receiving a report, counties are required to file appropriate reports with the local law enforcement agency, the state long-term care ombudsman, and long-term care facility licensing agencies. In addition, the county is required to report monthly to the state Department of Social Services (DSS) regarding the number of abuse reports it has received.

Analysis

Fresno County claims that Chapter 769 requires the county Department of Social Services to investigate a reported incident of elder abuse, assess the needs of the victim, provide various social or medical services, and follow-up to ensure a satisfactory outcome. In our view, the central question before the commission is what Chapter 769 actually requires a county to do upon receiving a report of elder abuse. We examine

requirements with regard to three areas of county response: reporting, investigation, and case resolution.

Reporting. Our review of the APS program's statutory history reveals that most of the current reporting requirements were in existence prior to the enactment of Chapter 769. Chapter 1184, Statutes of 1982, established W&I Code Chapter 11, which allowed any person witnessing or suspecting that a dependent adult was subject to abuse to report the suspected case to the county adult protective services agency. At that time, "dependent adult" included individuals over age 65 years. Chapter 11 initially was scheduled to sunset on January 1, 1986. Subsequent legislation expanded the reporting requirements. Specifically:

- Ch 1273/83 enacted W&I Code Chapter 4.5, which established a separate reporting system for suspected abuse of individuals aged 65 or older. This statute required elder care custodians, medical and nonmedical practitioners and employees of elder protective agencies to report suspected or known cases of physical abuse to the local APS agency. It also required county APS agencies to report the number of reports received to the state DSS.
- Ch 1164/85 amended W&I Code Chapter 11 to require similar mandatory reporting of physical abuse of a dependent adult. This statute also required law enforcement agencies and APS agencies to report to each other any known or suspected incident of dependent adult abuse. In addition, Chapter 1164 extended the program's sunset date to January 1, 1990.

Chapter 769, Statutes of 1987, consolidated the reporting requirements for elderly and dependent adult abuse within the same statute, and repealed the January 1, 1990 sunset date for dependent adult abuse reporting. The statute also made minor changes in the reporting requirements, including the following:

- The statute required abuse occurring within a long-term care facility to be reported to a law enforcement agency or the state long-term care ombudsman.
- The statute required county APS or law enforcement agencies receiving a report of abuse occurring within a long-term care facility to report the incident to the appropriate facility licensing agency.

In sum, various provisions of existing law impose increased reporting workload on local governments by requiring them to receive reports of suspected abuse made by other care providers, and to report specific information to other state and local agencies. However, our analysis indicates that the bulk of these requirements were imposed prior to Chapter 769. Therefore, only the marginal increase in workload imposed by Chapter 769 would appear to be subject to the current claim. These requirements include the following:

- Reporting workload associated with reports of dependent adult abuse occurring after January 1, 1990. By repealing the January 1, 1990 sunset date for the dependent adult abuse reporting program, Chapter 769 imposes increased reporting workload on counties in 1990 and subsequent years.
- The workload required to report abuse incidents to the appropriate long-term care facility licensing agency.

We note that Chapter 769 also could reduce county workload to the extent that reports of abuse in a 24-hour health facility are made to the state long-term care ombudsman rather than to the local APS agency. We are unable to determine the potential magnitude of this reduction in costs. However, it appears unlikely that the reduction in costs in this area will fully offset the cost increases identified above, and particularly the costs associated with dependent adult abuse reporting in 1990 and beyond.

In addition to increasing reporting costs, Chapter 769 will increase county costs associated with investigating and resolving dependent adult abuse cases, to the extent that the mandatory reporting requirement results in identification of increased cases of abuse.

Investigation. Chapter 30-810.2 of the state Department of Social Services' (DSS) regulations, requires counties to investigate promptly most reports or referrals of adult abuse or neglect. Welfare and Institutions Code Section 15610 (m) defines "investigation" as the activities required to determine the validity of a report of elder or dependent adult abuse, neglect or abandonment. Thus, it appears that state law requires county APS agencies to act promptly to determine the validity of a reported incident of abuse.

Resolution. Welfare and Institutions Code Section 15635 (b) requires the county to maintain an inventory of public and private service agencies available to assist victims of abuse, and to use this inventory to refer victims in the event that the county cannot resolve the immediate or long-term needs of the victim. This referral requires assessment of the needs of the client, and identification of the appropriate agency to serve these needs. Depending on the needs of the client and the resources available, a county may refer the client to a county, state or federally funded program, or to a private organization. When serving an indigent client, the county is required to be the service provider of last resort if the client does not qualify for state or federal programs (W&I Section 17000).

To the extent that mandatory reporting of dependent adult abuse increases the number of cases reported to the county, it increases the county's APS workload. Presumably, the sunset of the reporting requirements would have led to a reduction in this workload. Thus, by repealing the January 1, 1990 sunset date on the dependent adult abuse reporting program, Chapter 769 probably results in increased county APS workload, in terms of both investigation and resolution, in 1990 and subsequent years. Again, the

requirements with regard to elder abuse cases, and with regard to dependent adult cases reported prior to January 1, 1990, are imposed by earlier statutes. Consequently, any increased workload associated with these cases does not appear to be subject to the current claim.

Are costs reimbursable? The second question before the commission is whether the increased county costs associated with this mandate are state-reimbursable. Specifically, you must determine whether the costs associated with dependent adult and elder abuse reporting are reimbursable, given that the Legislature currently provides funding for the APS program in the form of the CSBG.

In order to determine whether the CSBG fully funds the increased workload imposed by Chapter 769, it is useful to understand the history of funding for APS. Prior to 1981, the state DSS' social services regulations contained detailed requirements identifying the minimum level of APS service that counties had to provide to clients. In 1981, however, the federal government reduced its support for social service programs (Title XX of the Social Security Act) by approximately 20 percent. To help the counties accommodate this reduction, DSS eliminated the specific requirements from its APS regulations and from the regulations governing various other social services programs, thereby giving the counties substantial discretion in the level of service they provide and in the amount of federal Title XX funds they allocate to APS.

In recognition of this increased county discretion, the Legislature, in the Budget Act of 1985, created the CSBG, which provides funds for the various social services programs, including APS, over which counties have substantial discretion. (In contrast, the counties have limited discretion over two major social services programs -- Child Welfare Services and In-Home Supportive Services. These programs are budgeted and their funds are allocated based on county caseloads and costs.) The level of funding provided through the CSBG was not tied to any measurement of the workload in any of the CSBG programs. Rather, it was based on county expenditures for all of the programs in 1982-83, with the expectation that counties would allocate CSBG funds to the various programs based on local priorities.

In sum, counties have considerable flexibility as to the types and level of services provided under APS, and as to the level of CSBG funding each county devotes to the APS program. Moreover, the amount of CSBG funds provided to each county does not necessarily reflect workload in that county. Thus, in response to the increased workload requirements imposed by Chapter 769, counties with insufficient CSBG funding to pay for the workload increase generally face two choices:

- The county can fund the increased APS workload by reducing expenditures in other areas of the APS program, or in other programs funded through CSBG. This, in effect, requires the county to realign its existing program priorities in order to redirect CSBG money to pay for the recording, investigation, and referral of reported abuse cases.

Mr. Jesse Huff

-6-

December 13, 1988

- The county can use its own funds to augment CSBG funding in order to provide an increased level of service within the existing program, while maintaining existing program priorities.

Article XIII B, Section 6 of the State Constitution requires the state to reimburse local entities for new programs and higher levels of service. It does not require counties to reduce service in one area to pay for a higher level of service in another. Moreover, in enacting Chapter 11, the Legislature did not require that counties realign their social service priorities in order to accommodate the increased workload. Therefore, we conclude that the costs associated with Chapter 769, are state-reimbursable to the extent that a county uses its own funding to pay for these costs. If, however, a county exercises its discretion to redirect CSBG funds to pay for the costs of elder and dependent adult abuse reporting, investigation, and resolution, these costs are not state-reimbursable.

Sincerely,



Elizabeth G. Hill
Legislative Analyst

County of Los Angeles Test Claim

Penal Code Part 4, Title 1, Chapter 2, Article 2.5: The Child Abuse and Neglect Reporting Act, as Specified, and as Added or Amended by Chapter 1071, Statutes of 1980 and Subsequent Statutes, Including Penal Code Section 11168, and as Including Former Penal Code Section 11161.7, Amended by Chapter 958, Statutes of 1977; and the California Code of Regulations Title 11, Division 1, Chapter 9, Article 2, Sections 901, 902, 903; State Form SS 8583, Form SS 8572
Interagency Child Abuse and Neglect [ICAN] Investigation Reports

Table of Exhibits

Volume 2

| | | | |
|----|---------------------------------------|---------|---|
| I. | Child Abuse and Neglect Reporting Act | Exhibit | I |
| J. | California Code of Regulations | Exhibit | J |
| K. | DOJ Forms, SS8583, SS8572 | Exhibit | K |
| L. | Chapter 1071, Statutes of 1980 | Exhibit | L |
| M. | Chapter 958, Statutes of 1977 | Exhibit | M |
| N. | Chapter 348, Statutes of 1974 | Exhibit | N |
| O. | Chapter 836, Statutes of 1974 | Exhibit | O |

Test Claim
Exhibit I

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CA PENAL Pt. 4, T. 1, Ch. 2, Art. 2.5, Refs & Annos
West's Ann. Cal. Penal Code Pt. 4, T. 1, Ch. 2, Art. 2.5, Refs & Annos

WEST'S ANNOTATED CALIFORNIA CODES
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PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS
TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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CA PENAL Pt. 4, T. 1, Ch. 2, Art. 2.5, Refs & Annos
HISTORICAL NOTES -- GENERAL NOTES

GENERAL NOTES

2000 Main Volume

<Article 2.5 was added by Stats. 1980, c. 1071, s 4.>

<The heading of Article 2.5, Child Abuse Reporting, was amended to read in its present form by Stats. 1987, c. 1444, s 1.>

West's Ann. Cal. Penal Code Pt. 4, T. 1, Ch. 2, Art. 2.5, Refs & Annos

CA PENAL Pt. 4, T. 1, Ch. 2, Art. 2.5, Refs & Annos

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CA PENAL S 11164

West's Ann.Cal.Penal Code s 11164

TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

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s 11164. Short title; intent and purpose of article

(a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act.

(b) The intent and purpose of this article is to protect children from abuse and neglect. In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

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2000 Main Volume

(Added by Stats.1987, c. 1444, s 1.5.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 1.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) inserted references to neglect.

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

West's Ann. Cal. Penal Code s 11164

CA PENAL s 11164

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CA PENAL S 11165

West's Ann.Cal.Penal Code s 11165

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s 11165. Child

As used in this article "child" means a person under the age of 18 years.

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 2.)

HISTORICAL AND STATUTORY NOTES

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Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2, defining terms, was repealed by Stats.1987, c. 1459, s 1. See, now, s 11165 et seq.

Section 5 of Stats.1980, c. 1071, provided:

"In reenacting the child abuse reporting law, it is the intent of the Legislature to clarify the duties and responsibilities of those who are required to report child abuse. The new provisions are designed to foster cooperation between child protective agencies and other persons required to report. Such cooperation will insure that children will receive the collective judgment of all such agencies and persons regarding the course to be taken to protect the child's interest.

"In enacting Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, the Legislature recognizes that the reporting of child abuse and any subsequent action by a child protective agency involves a delicate balance between the right of parents to control and raise their own children by imposing reasonable discipline and the social interest in the protection and safety of the child. Therefore, it is the intent of the

Legislature to require the reporting of child abuse which is of a serious nature and is not conduct which constitutes reasonable parental discipline.

"In repealing Sections 11161.5, 11161.6, and 11161.7 of, and in reenacting the Child Abuse Reporting Law in Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of, the Penal Code, it is not the intent of the Legislature to alter the holding in the decision of *Landeros v. Flood* (1976), 17 Cal.3d 399, which imposes civil liability for a failure to report child abuse.

"It is the intent of the Legislature to encourage each county welfare department to establish within the department a toll-free number for receiving reports of child abuse 24 hours a day, seven days a week.

"It is the intent of the Legislature to encourage the board of supervisors of each county to establish a committee composed of representatives from the county welfare department, local law enforcement agencies, county probation department, county health department and other persons representative of the population to be served, and any other person the board of supervisors deems appropriate, which would establish guidelines for the sharing of information and the coordination of the investigation of cases of child abuse.

"It is the intent of the Legislature to encourage the county welfare or probation departments to promptly perform for each mandated report they receive and each report received pursuant to subdivision (b) of Section 11166 a thorough assessment to determine all of the following:

"(a) The composition of the family or household, including the name, address, age, sex, and race of each child named in the report, and any siblings or other children in the same household or in the care of the same adults.

"(b) Whether there is reasonable suspicion to believe that any child in the family, household, or child-care facility is being abused or neglected and a determination of the person or persons apparently responsible for the abuse or neglect.

"(c) The immediate and long-term risk to each child if he or she remains in the existing environment.

"(d) The protective treatment and ameliorative services that appear necessary to help prevent further child abuse or neglect."

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats. 1987, c. 1444, s 2.

West's Ann. Cal. Penal Code s 11165
CA PENAL s 11165
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CA PENAL S 11165.1

West's Ann. Cal. Penal Code s 11165.1

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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s 11165.1. Sexual abuse; sexual assault; sexual exploitation

As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral copulation), 289 (sexual penetration), or 647.6 (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of

preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, video tape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 5. Amended by Stats.1997, c. 83 (A.B.327), s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 287 (S.B.1955), s 21.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 287, in subd. (a), substituted "sexual penetration" for "penetration of a genital or anal opening by a foreign object".

Subordination of legislation by Stats.2000, c. 287 (S.B.1955), to other 2000 legislation, see Historical and Statutory Notes under Evidence Code s 1560.

2000 Main Volume

Stats.1997, c. 83, in subd. (a), inserted "subdivision (d) of Section 261.5 (statutory rape)," following "(rape),", inserted ", or paragraph (1) of subdivision (c)" following "(a) or (b)", deleted "under 14 years of age" following "upon a child" and substituted "647.6" for "647a".

Former s 11165.1, added by Stats.1985, c. 1572, s 2, providing an additional definition of child care custodian, was repealed by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3. See, now, s 11165.7.

The renumbering of former s 11165.1, added by Stats.1985, c. 1572, s 2, as s 11165.7 and its amendment by Stats.1987, c. 56, s 139, was subordinated to its repeal by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3.

Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597.

Former s 11165.1, added by Stats.1985, c. 1593, s 2, providing an additional definition of abuse in out-of-home care, was repealed by Stats.1987, c. 1020, s 3; Stats.1987, c. 1459, s 4. See, now, s 11165.5.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

Former s 11165.3, added by Stats.1985, c. 1068, s 2.

West's Ann. Cal. Penal Code s 11165.1

CA PENAL s 11165.1

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CA PENAL S 11165.2

West's Ann. Cal. Penal Code s 11165.2

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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s 11165.2. Neglect; severe neglect; general neglect

As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

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2000 Main Volume

(Added by Stats. 1987, c. 1459, s 7.)

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

Former s 11165.2, added by Stats.1985, c. 1572, s 3, defining medical practitioner, nonmedical practitioner, and health practitioner, was repealed by Stats.1987, c. 1459, s 6. See, now, s 11165.8.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

West's Ann. Cal. Penal Code s 11165.2

CA PENAL s 11165.2

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CA PENAL S 11165.3

West's Ann. Cal. Penal Code s 11165.3

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s 11165.3. Willful cruelty or unjustifiable punishment of a child

As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 9.)

HISTORICAL AND STATUTORY NOTES

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Former s 11165.3, added by Stats.1985, c.1068, s 2, relating to the definitions of sexual exploitation and abuse in out-of-home care as provided in former s 11165, was repealed by Stats.1987, c. 1459, s 8. See, now, s 11165.1.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1944, s 2.

West's Ann. Cal. Penal Code s 11165.3

CA PENAL s 11165.3

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CA PENAL S 11165.4

West's Ann.Cal.Penal Code s 11165.4

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11165.4. Unlawful corporal punishment or injury

As used in this article, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. It also does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 10. Amended by Stats.1988, c. 39, s 1; Stats.1993, c. 346 (A.B.331), s 1.)

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

The 1993 amendment rewrote the last sentence of the section.

Derivation: Former s 11165 added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

West's Ann. Cal. Penal Code s 11165.4

CA PENAL s 11165.4

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CA PENAL S 11165.5

West's Ann.Cal.Penal Code s 11165.5

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TEXT

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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s 11165.5. Abuse or neglect in out-of-home care

As used in this article, the term "abuse or neglect in out-of-home care" includes sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the willful cruelty or unjustifiable punishment of a child, as defined in Section 11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. "Abuse or neglect in out-of-home care" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

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(Added by Stats.1987, c. 1459, s 12. Amended by Stats.1988, c. 39, s 2; Stats.1993, c. 346 (A.B.331), s 2.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 2.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"As used in this article, 'abuse in out-of-home care' means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined in this

article, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. 'Abuse in out-of-home care' does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1988 amendment added the last sentence.

The 1993 amendment rewrote the last sentence of the section.

Former s 11165.5, added by Stats.1985, c. 1420, s 1, amended by Stats.1986, c. 1289, s 1; Stats.1987, c. 56, s 140, providing an additional definition of child care custodian, was repealed by Stats.1987, c. 1459, s 11. See, now, s 11165.7.

Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56; see Historical Note under § 597.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

Former s 11165.1, added by Stats.1985, c. 1593, s 2.

West's Ann. Cal. Penal Code s 11165.5
CA PENAL s 11165.5
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CA PENAL S 11165.6

West's Ann. Cal. Penal Code s 11165.6

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s 11165.6. Child abuse

As used in this article, "child abuse" means a physical injury that is inflicted by other than accidental means on a child by another person. The term "child abuse or neglect" includes sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in Section 11165.3, unlawful corporal punishment or injury as defined in Section 11165.4, and abuse or neglect in out-of-home care as defined in Section 11165.5. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

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2001 Electronic Update

(Added by Stats.2000, c. 916 (A.B.1241), s 4.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

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2000 Legislation

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

Former s 11165.6, added by Stats.1987, c. 1459, s 13, amended by Stats.1988, c. 39, s 3; Stats.1993, c. 346 (A.B.331), s 3, relating to a definition of child abuse, was repealed by Stats.2000, c. 916 (A.B.1241), s 3. See this section.

Derivation: Former s 11165.6, added by Stats.1987, c. 1459, s 13, amended by Stats.1988, c. 39, s 3; Stats.1993, c. 346 (A.B.331), s 3.

2000 Main Volume

The 1988 amendment added the last sentence.

The 1993 amendment rewrote the last sentence of the section.

Former s 11165.6, added by Stats.1985, c. 1598, s 3, providing additional definitions for abuse in out-of-home care, child care custodian, licensing agency, and unfounded report, was repealed by Stats.1987, c. 1459, s 12.5. See, now, ss 11165.5, 11165.7, 11165.11, and 11165.12.

West's Ann. Cal. Penal Code s 11165.6

CA PENAL s 11165.6

END OF DOCUMENT

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CA PENAL S 11165.7

West's Ann. Cal. Penal Code s 11165.7

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s 11165.7. Mandated reporter

(a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A headstart teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- (18) A district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer 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 voluntary 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 other person when the monitoring of that visit has been ordered by a court of law.

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

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

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

(32) A clergy member, as specified in subdivision (c) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(b) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

(c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) The absence of training shall not excuse a mandated reporter from the duties imposed by this article.

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(Added by Stats.1987, c. 1459, s 14. Amended by Stats.1991, c. 132 (A.B.1133), s 1; Stats.1992, c. 459 (S.B.1695), s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 5.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) As used in this article, 'child care custodian' means a teacher; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in

the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; a licensee, an administrator, or an employee of a licensed community care or child day care facility; a headstart teacher; a licensing worker or licensing evaluator; a public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; a social worker, probation officer, or parole officer; an employee of a school district police or security department; any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

"(b) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

"(c) School districts which do not train the employees specified in subdivision (a) in the duties of child care custodians under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

"(d) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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The 1991 amendment, in subd. (a), inserted "an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children"; and inserted "or parole officer; an employee of a school district police or security department"; added subd. (d) relating to volunteers of public or private organizations; and made nonsubstantive changes throughout.

The 1992 amendment, at the end of subd. (a) describing child care custodian, added provisions to include district attorney investigators, inspectors, or family support officers as custodians.

Renumbering of former s 11165.1, added by Stats.1987, c. 1572, s 2, as this section and amendment by Stats.1987, c. 56, s 139, was subordinated to the repeal of that version of former s 11165.1 by Stats.1987, c. 1020, s 2; Stats.1987, c. 1459, s 3.

Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597.

Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5; Stats.1987, c. 1020, s 1; Stats.1987, c. 1418, s 9; Stats.1987, c. 1444, s 2.

Former s 11165.1, added by Stats.1985, c. 1572, s 2.

Former s 11165.5, added by Stats.1985, c. 1420, s 1, amended by Stats.1986, c. 1289, s 1.

Former s 11165.6, added by Stats.1985, c. 1598, s 3.

West's Ann. Cal. Penal Code s 11165.7
CA PENAL s 11165.7
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CA PENAL S 11165.8

West's Ann. Cal. Penal Code § 11165.8

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s 11165.8. Repealed by Stats. 2000, c. 916 (A.B. 1241), s 6

HISTORICAL AND STATUTORY NOTES

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The 1988 amendment added, to the list of persons defined as "health practitioner", a medical examiner or any other person who performs autopsies.

The 1996 amendment deleted from the list of types of health practitioners "a religious practitioner who diagnoses, examines or treats children" and added subdivision designations.

Stats. 1998, c. 932, in subd. (a), inserted "marriage, family and child counselor, clinical social worker," deleted subd. (b), which provided "A marriage, family and child counselor" and redesignated the following subdivisions accordingly.

Derivation: Former s 11165, added by Stats. 1980, c. 1071, s 4, amended by Stats. 1981, c. 29, s 1; Stats. 1981, c. 435, s 1; Stats. 1982, c. 905, s 1; Stats. 1984, c. 1170, s 1; Stats. 1984, c. 1391, s 23; Stats. 1984, c. 1613, ss 2, 2.6; Stats. 1985, c. 189, s 1; Stats. 1985, c. 1528, s 2.5.

Former s 11165.2, added by Stats. 1985, c. 1572, s 3.

West's Ann. Cal. Penal Code s 11165.8

CA PENAL s 11165.8

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CA PENAL S 11165.9

West's Ann.Cal.Penal Code s 11165.9

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s 11165.9. Reports of suspected child abuse or neglect

Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department, sheriff's department, county probation department if designated by the county to receive mandated reports, or the county welfare department. It does not include a school district police or security department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referral by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

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2001 Electronic Update

(Added by Stats.2000, c. 916 (A.B.1241), s 8.)

HISTORICAL AND STATUTORY NOTES

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2001 Electronic Update

2000 Legislation

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

Former s 11165.9 was repealed by Stats.2000, c. 916 (A.B.1241), s 7.

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Derivation: Former s 11165, added by Stats.1980, c. 1071, s 4, amended by Stats.1981, c. 29, s 1; Stats.1981, c. 435, s 1; Stats.1982, c. 905, s 1; Stats.1984, c. 1170, s 1; Stats.1984, c. 1391, s 23; Stats.1984, c. 1613, ss 2, 2.6; Stats.1985, c. 189, s 1; Stats.1985, c. 1528, s 2.5.

West's Ann. Cal. Penal Code s 11165.9.

CA PENAL s 11165.9

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CA PENAL S 11165.10

West's Ann. Cal. Penal Code s 11165.10

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s 11165.10. Repealed by Stats. 2000, c. 916 (A.B. 1241), s 9

HISTORICAL AND STATUTORY NOTES

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Derivation: Former s 11165, added by Stats. 1980, c. 1071, s 4, amended by Stats. 1981, c. 29, s 1; Stats. 1981, c. 435, s 1; Stats. 1982, c. 905, s 1; Stats. 1984, c. 1170, s 1; Stats. 1984, c. 1391, s 23; Stats. 1984, c. 1613, ss 2, 2.6; Stats. 1985, c. 189, s 1; Stats. 1985, c. 1528, s 2.5; Stats. 1987, c. 1020, s 1; Stats. 1987, c. 1418, s 9; Stats. 1987, c. 1444, s 2.

West's Ann. Cal. Penal Code s 11165.10

CA PENAL s 11165.10

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CA PENAL S 11165.11

West's Ann. Cal. Penal Code s 11165.11

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s 11165.11. Licensing agency

As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code), or the county licensing agency which has contracted with the state for performance of those duties.

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 18.)

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

Derivation: Former s 11165.6, added by Stats.1985, c. 1598, s 3.

West's Ann. Cal. Penal Code s 11165.11

CA PENAL s 11165.11

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CA PENAL S 11165.12

West's Ann.Cal.Penal Code s 11165.12

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s 11165.12. Unfounded report; substantiated report; inconclusive report

As used in this article, the following definitions shall control:

(a) "Unfounded report" means a report which is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.

(b) "Substantiated report" means a report which is determined by the investigator who conducted the investigation, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6.

(c) "Inconclusive report" means a report which is determined by the investigator who conducted the investigation not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

CREDIT

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2000 Main Volume

(Added by Stats.1987, c. 1459, s 19. Amended by Stats.1990, c. 1330 (S.B.2788), s 1; Stats.1997, c. 842 (S.B.644), s 2.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 10.)

HISTORICAL AND STATUTORY NOTES

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2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"As used in this article, the following definitions shall control:

"(a) 'Unfounded report' means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse, as defined in Section 11165.6.

"(b) 'Substantiated report' means a report which is determined by a child protective agency investigator, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6.

"(c) 'Inconclusive report' means a report which is determined by a child protective agency investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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The 1990 amendment added subds. (b) and (c) defining "substantiated report" and "unsubstantiated report", respectively, and made other, nonsubstantive changes.

Stats.1997, c. 842, in subd. (c), substituted "Inconclusive" for "Unsubstantiated".

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

Derivation: Former s 11165.6, added by Stats.1985, c. 1598, s 3.

West's Ann. Cal. Penal Code s 11165.12

CA PENAL s 11165.12

END OF DOCUMENT

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CA PENAL S 11165.13

West's Ann.Cal.Penal Code s 11165.13

TEXT

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TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg.Sess.

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s 11165.13. Maternal substance abuse; positive toxicology screen at time of delivery; basis for reporting child abuse or neglect; assessment of needs

For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse shall be made only to a county welfare or probation department, and not to a law enforcement agency.

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(Added by Stats.1990, c. 1603 (S.B.2669), s 2, operative July 1, 1991. Amended by Stats.1996, c. 1023 (S.B.1497), s 397.2, eff. Sept. 29, 1996.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 11.)

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2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting

child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse shall be made only to county welfare departments and not to law enforcement agencies."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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The 1996 amendment substituted "123605" for "10901".

Legislative findings, declaration and intent relating to Stats.1996, c. 1023 (S.B.1497), see Historical and Statutory Notes under Business and Professions Code s 690.

Subordination of legislation by Stats.1996, c. 1023 (S.B.1497), see Historical and Statutory Notes under Business and Professions Code s 690.

West's Ann. Cal. Penal Code s 11165.13

CA PENAL s 11165.13

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CA PENAL S 11165.14

West's Ann.Cal.Penal Code s 11165.14

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s 11165.14. Abuse of a pupil at a schoolsite; investigation of complaint; transmission of substantiated report

The appropriate local law enforcement agency shall investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or an agency specified in Section 11165.9 against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a schoolsite and shall transmit a substantiated report, as defined in Section 11165.12, of that investigation to the governing board of the appropriate school district or county office of education. A substantiated report received by a governing board of a school district or county office of education shall be subject to the provisions of Section 44031 of the Education Code.

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(Added by Stats.1991, c. 1102 (A.B.2232), s 5.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 12.)

HISTORICAL AND STATUTORY NOTES

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2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"The local child protective agency shall investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or a local child protective agency against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a schoolsite and shall transmit a substantiated report, as defined in Section 11165.12, of that

investigation to the governing board of the appropriate school district or county office of education. A substantiated report received by a governing board of a school district or county office of education shall be subject to the provisions of Section 44031 of the Education Code."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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Stats.1991, c. 1102 (A.B.2232), s 3, provides:

"It is further the intent of the Legislature that local child protective agencies, as defined by the Child Abuse and Neglect Reporting Act, upon receipt of a complaint by a parent or guardian of a pupil against a school employee, comply with the requirements of the Child Abuse and Neglect Reporting Act to investigate and, when appropriate, to send a report on a complaint that is substantiated, as defined in Section 11165.1 of the Penal Code, to the governing board of the school district or county office of education for its review."

West's Ann. Cal. Penal Code s 11165.14
CA PENAL s 11165:14
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CA PENAL S 11165.15

West's Ann.Cal.Penal Code s 11165.15

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ss 11165.15 to 11165.17. Repealed by Stats.2000, c. 916 (A.B.1241), ss 13 to 15

West's Ann. Cal. Penal Code s 11165.15

CA PENAL s 11165.15

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CA PENAL S 11165.16

West's Ann. Cal. Penal Code s 11165.16

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ss 11165.15 to 11165.17. Repealed by Stats. 2000, c. 916 (A.B. 1241), ss 13 to 15

West's Ann. Cal. Penal Code s 11165.16

CA PENAL s 11165.16

END OF DOCUMENT

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CA PENAL S 11165.17

West's Ann. Cal. Penal Code s 11165.17

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ss 11165.15 to 11165.17. Repealed by Stats. 2000, c. 916 (A.B. 1241), ss 13 to 15

West's Ann. Cal. Penal Code s 11165.17

CA PENAL s 11165.17

END OF DOCUMENT

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CA PENAL S 11166

West's Ann. Cal. Penal Code s 11166

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WEST'S ANNOTATED CALIFORNIA CODES

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TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11166. Report; duty; time

(a) Except as provided in subdivision (c), a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make a report to the agency immediately or as soon as is practicably possible by telephone, and the mandated reporter shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

(1) For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

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

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

(b) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that fine and punishment.

(c)(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the

clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(d) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16

years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone, and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident. As used in this subdivision, "sexual conduct" means any of the following:

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

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

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

(4) Sadoomasochistic abuse for the purpose of sexual stimulation of the viewer.

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

(e) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9.

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

(g)(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

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

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

(h) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone, fax, or electronically transmit to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. For the purposes of this subdivision, a fax or electronic transmission shall be deemed to be a written report.

(i) A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

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(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 2, eff. Sept. 12, 1981; Stats.1982, c. 905, p. 3339, s 2; Stats.1984, c. 1423, s 9, eff. Sept. 26, 1984; Stats.1986, c. 1289, s 2; Stats.1987, c. 1459, s 20; Stats.1988, c. 269, s 1; Stats.1988, c. 1580, s 2; Stats.1990, c. 1603 (S.B.2669), s 3, operative July 1, 1991; Stats.1992, c. 459 (S.B.1695), s 3; Stats.1993, c. 510 (S.B.665), s 1.5; Stats.1996, c. 1080 (A.B.295), s 10; Stats.1996, c. 1081 (A.B.3354), s 3.5.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 16.)

HISTORICAL AND STATUTORY NOTES

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2000 Legislation

Section 1 of Stats.2000, c. 178 (S.B.1951), provides:

"The Board of Corrections shall revise the annual training requirements for probation officers to provide that each full participation probation officer providing direct service to families and children shall complete updated training or child abuse identification and reporting, with the content and protocols of the training prescribed by the Board of Corrections. This training shall occur no less frequently than once every three years unless the chief probation officer determines that the staff member's job responsibilities do not include contact with juvenile probationers or adult probationers who are parents or have more than occasional contact with minors."

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) Except as provided in subdivision (b), any child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, or humane society officer who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment, whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and

even if suspected child abuse was discovered during an autopsy. For the purposes of this article, 'reasonable suspicion' means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute a basis of reasonable suspicion of sexual abuse.

"(b) Any child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, or humane society officer who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of child abuse to a child protective agency.

"(c) (1) Except as provided in paragraph (2) and subdivision (d), any clergy member who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her duties, whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death.

"(2) A clergy member who acquires knowledge or reasonable suspicion of child abuse during a penitential communication is not subject to paragraph (1). For the purposes of this subdivision, 'penitential communication' means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

"(3) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse when he or she is acting in the capacity of a child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, humane society officer, or commercial film print processor.

"(d) Any member of the clergy who has knowledge of or who reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way may report the known or suspected instance of child abuse to a child protective agency.

"(e) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone, and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving

the information concerning the incident. As used in this subdivision, 'sexual conduct' means any of the following:

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

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

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

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

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

"(f) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse may report the known or suspected instance of child abuse to a child protective agency.

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

"(h) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

"The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

"(i) A county probation or welfare department shall immediately, or as soon as practically possible, report by telephone to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare department. A county probation or welfare department also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

"A law enforcement agency shall immediately, or as soon as practically possible, report by telephone to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare department. A law enforcement agency shall report to the county welfare department every known or suspected instance of child abuse reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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The 1981 amendment inserted in subd. (c) (designated subd. (d) by 1982 amendment) and the first sentence of subd. (a) "knows or" preceding "reasonably suspects"; substituted in the first sentence of subd. (a) "the known or suspected instance of child abuse" for "such suspected instance of child abuse"; substituted in subd. (b) "his or her" for "its"; inserted in subds. (b) and (d) (designated subd. (e) by 1982 amendment) "known or" preceding "suspected instance"; substituted in subd. (c) "the known or suspected instance" for "such suspected instance"; substituted in the second sentence of subd. (d) and the first sentence of subd. (e) (designated subd. (f) by 1982 amendment) "the report" for "such report"; substituted in the first sentence of subd. (e) "the reporting duties" for "such reporting duties" and "such a report" for "such report"; and rewrote subd. (f) (designated subd. (g) by 1982 amendment), which previously read:

"(f) A county probation or welfare department shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse as defined in Section 11165 reported to it to the law enforcement agency having

jurisdiction over the case, and to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and shall send a written report thereof within 36 hours of receiving the information concerning the incident to that agency.

"A law enforcement agency shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse reported to it to county social services and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and shall send a written report thereof within 36 hours of receiving the information concerning the incident to such agency."

The 1982 amendment redesignated subds. (c), (d), (e) and (f) as subds. (d), (e), (f) and (g) and inserted subd. (c).

The 1984 amendment deleted in the first sentence of the first paragraph of subd. (g), "and" following "jurisdiction over the case" and inserted "and to the district attorney's office"; and deleted in the first sentence of the second paragraph of subd. (g) "and" following "county welfare department" and inserted "and to the district attorney's office".

The 1986 amendment added the second paragraph of subd. (f), relating to internal procedures not requiring a reporting employee to disclose his or her identity to the employer.

The 1987 amendment substituted "health practitioner" for "medical practitioner, nonmedical practitioner" in subds. (a) and (b); in subd. (a) added the final sentence, relating to pregnancies of minors; and, in subd. (g) made conforming changes, deleted "county welfare department" preceding "the agency given responsibility", and inserted the second sentence of the second paragraph, requiring law enforcement agencies to report to the county welfare department instances of abuse resulting from actions, or the failure to act, of persons responsible for the child's welfare where the person knew or should have known of the danger.

The 1988 amendment inserted, in subd. (a), the sentence regarding reporting possible abuse even if the child has expired.

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code s 9605.

The 1990 amendment inserted "videotape" twice in subd. (c); and inserted, in the first paragraph of subd. (g), the provision relating to reports based on risk to a child which relates to parent's inability to provide regular care due to substance abuse.

The 1992 amendment inserted "or child visitation monitor" in subds. (a) and (b); in the second paragraph of subd. (f), relating to internal procedures, substituted "pursuant to this article" for "by this article"; and made grammatical changes throughout the section.

The 1993 amendment, in subds. (a) and (b), inserted ", firefighter, animal control officer, or humane society officer"; and made nonsubstantive changes throughout.

The 1996 amendment inserted new subds. (c) and (d), requiring clergy members to report suspected cases of child abuse or cases of infliction of mental suffering to a child protective agency, respectively; redesignated existing subds. (c) to (g) as subds. (e) to (i); in redesignated subd. (e), relating to the duty of film processors, substituted "16 years" for "14 years"; and made nonsubstantive changes.

Under the provisions of s 7 of Stats.1996, c. 1081, the 1996 amendments of this section by c. 1080 (A.B.295) and c. 1081 (A.B.3354) were given effect and incorporated in the form set forth in s 3.5 of c. 1081. An amendment of this section by s 3 of Stats.1996, c. 1081, failed to become operative under the provisions of s 7 of that Act.

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

Derivation: Former s 11161.5, added by Stats.1963, c. 576, p. 1453, s 1, amended by Stats.1965, c. 1171, p. 2971, s 2; Stats.1966, 1st Ex.Sess., c. 31, p. 325, s 2; Stats.1968, c. 587, p. 1258, s 2; Stats.1971, c. 635, p. 1251, s 1; Stats.1971, c. 1729, p. 3680, s 7; Stats.1972, c. 421, p. 746, s 1; Stats.1972, c. 1377, p. 2843, s 89; Stats.1973, c. 1151, p. 2380, s 1; Stats.1974, c. 348, p. 679, s 1; Stats.1975, c. 226, p. 608, s 1; Stats.1976, c. 242, p. 460, s 1; Stats.1977, c. 958, p. 2908, s 1; Stats.1978, c. 136, p. 358, s 1; Stats.1979, c. 373, p. 1357, s 251.

Former s 11161.6 added by Stats.1975, c. 226, p. 609, s 2, amended by Stats.1976, c. 242, p. 461, s 2.

West's Ann. Cal. Penal Code s 11166
CA PENAL s 11166
END OF DOCUMENT

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CA PENAL S 11166.1

West's Ann.Cal.Penal Code s 11166.1

TEXT

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TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg.Sess.

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s 11166.1. Agency notice to licensing officer and attorney; alleged child abuse or death

(a) When an agency receives a report pursuant to Section 11166 that contains either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:

(1) A report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services.

(2) A report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

The agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

(b) Any employee of an agency specified in Section 11165.9 who has knowledge of, or observes in his or her professional capacity or within the scope of his or her employment, a child in protective custody whom he or she knows or reasonably suspects has been the victim of child abuse or neglect shall, within 36 hours, send or have sent to the attorney who represents the child in dependency court, a copy of the report prepared in accordance with Section 11166. The agency shall maintain a copy of the written report. All information requested by the attorney for the child or the child's guardian ad litem shall be provided by the agency within 30 days of the request.

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(Added by Stats.1985, c. 1593, s 3, eff. Oct. 2, 1985. Amended by Stats.1987, c. 56, s 141; Stats.1987, c. 531, s 4; Stats.1992, c. 844 (A.B.3633), s 1; Stats.1998, c. 900 (A.B.2316), s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 17.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) When a child protective agency receives either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:

"(1) A report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services.

"(2) A report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

"The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

"(b) Any employee of a child protective agency who has knowledge of, or observes in his or her professional capacity or within the scope of his or her employment, a child in protective custody whom he or she knows or reasonably suspects has been the victim of child abuse shall, within 36 hours, send or have sent to the attorney who represents the child in dependency court, a copy of the suspected child abuse and neglect report prepared for the court in accordance with Section 11166 of the Penal Code. The child protective agency shall maintain a copy of the written report. All information requested by the attorney for the child or the child's guardian ad litem shall be provided by the child protective agency within 30 days of the request."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1987 amendment added the second sentence.

Renumbering as s 11166.4 and amendment of s 11166.1, added by Stats.1985, c. 1593, s 3, by Stats.1987, c. 56, s 141, was subordinated to the amendment of that version of s 11166.1 by Stats.1987, c. 531, s 4.

Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597.

The 1992 amendment rewrote the section, which had read:

"When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility. The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials."

Stats.1998, c. 900, s 1, designated existing section as subd. (a) and added subd. (b).

Another s 11166.1, added by Stats.1985, c. 1598, s 3.5, relating to violations by supervisors and administrators who impede or inhibit reporting duties, was repealed by Stats.1988, c. 269, s 2. See, now, s 11166.

Another s 11166.1, added by Stats.1985, c. 1262, s 2, was renumbered s 11166.3 and amended by Stats.1986, c. 1122, s 1.5; Stats.1987, c. 531, s 3.

West's Ann. Cal. Penal Code s 11166.1
CA PENAL s 11166.1
END OF DOCUMENT

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CA PENAL S 11166.2

West's Ann.Cal.Penal Code s 11166.2

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TEXT

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CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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s 11166.2. Telephoned report of child abuse to licensing agencies; written reports

In addition to the reports required under Section 11166, any agency specified in Section 11165.9 shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse or neglect when the instance of abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. The agency shall also send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. The agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

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(Added by Stats.1985, c. 1598, s 4. Amended by Stats.1987, c. 531, s 5; Stats.1988, c. 269, s 3; Stats.1990, c. 650 (S.B.2423), s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 18.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES.

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision. A child protective agency shall send the licensing agency a copy of its investigation report and any other pertinent materials."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1987 amendment added the last sentence.

The 1988 amendment substituted "subdivision (b) of Section 11165.2" for "provisions of paragraph (2) of subdivision (c) of

Section 11165".

The 1990 amendment deleted ", except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department," following "instance of child abuse" in the first sentence.

West's Ann. Cal. Penal Code s 11166.2

CA PENAL s 11166.2

END OF DOCUMENT

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CA PENAL S 11166.3

West's Ann. Cal. Penal Code s 11166.3

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s 11166.3. Legislative intent; cooperative arrangements for investigation; written findings; report

(a) The Legislature intends that in each county the law enforcement agencies and the county welfare or probation department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare or probation department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or probation department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or probation department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Section 859.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of Section 1502 or in Section 1596.750 or 1596.76 of the Health and Safety Code and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

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2000 Main Volume

(Formerly s 11166.1, added by Stats.1985, c. 1262, s 2. Renumbered s 11166.3 and amended by Stats.1987, c. 531, s 3; Stats.1988, c. 898, s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 135 (A.B.2539), s 139; Stats.2000, c. 916 (A.B.1241), s 19.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote subd. (a), which formerly read:

"(a) The Legislature intends that in each county the law enforcement agencies and the county welfare or social services department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or social services department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, in accordance with the requirements of subdivision (c) of Section 288, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or social services department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or

her counsel in the manner specified in Sections 859 and 1430. The child protective agency shall send a copy of its investigative report and any other pertinent materials to the licensing agency upon the request of the licensing agency."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180."

Stats.2000, c. 135 (A.B.2539), made nonsubstantive changes to maintain the code.

Subordination of legislation by Stats.2000, c. 135 (A.B.2539), to other 2000 legislation, see Historical and Statutory Notes under Business and Professions Code s 651.

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

2000 Main Volume

Stats.1986, c. 1122, s 1.5, renumbered the section (s 11166.3 as amended and renumbered by Stats.1986, c. 1122, was repealed by Stats.1988, c. 898, s 2); and inserted "in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor" in the provision requiring an evaluation of what action would be in the best interests of a child.

The 1987 amendment, in addition to renumbering the section (also renumbered by the 1986 amendment), deleted the insertion made by the 1986 amendment (see amendment note for 1986 legislation); and added the last sentence of both subds. (a) and (b) regarding sending copies of reports to licensing agencies.

The 1988 amendment, in subd. (a), inserted "cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, in".

West's Ann. Cal. Penal Code s 11166.3

CA PENAL s 11166.3

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CA PENAL S 11166.4

West's Ann. Cal. Penal Code s 11166.4

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s 11166.4. Inoperative

HISTORICAL AND STATUTORY NOTES

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Renumbering of s 11166.1, added by Stats.1985, c. 1593, s 3, as s 11166.4 and amendment by Stats.1987, c. 56, s 141, was subordinated to the amendment of that version of s 11166.1 by Stats.1987, c. 531, s 4.

Subordination of legislation by Stats.1987, c. 56, to other legislation during the 1987 calendar year, effective on or before Jan. 1, 1988, and whether enacted prior to or after c. 56, see Historical Note under s 597.

West's Ann. Cal. Penal Code s 11166.4

CA PENAL s 11166.4

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CA PENAL S 11166.5

West's Ann. Cal. Penal Code s 11166.5

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Current through end of 1999-2000 Reg. Sess.

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s 11166.5. Required statements of mandated reporters

(a) On and after January 1, 1985, any mandated reporter as specified in Section 11165.7, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions. The employer shall provide a copy of Sections 11165.7 and 11166 to the employee.

On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in Section 11165.15, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

The statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Section 11166.

The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

This subdivision is not applicable to persons employed by public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(d) On and after January 1, 1993, any child visitation monitor, as defined in Section 11165.15, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has received this training. This statement may be included in the statement required by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement required by subdivision (a), in the court file of the case for which the visitation monitoring is being provided.

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(Added by Stats.1984, c. 1718, s 1. Amended by Stats.1985, c. 464, s 1; Stats.1985, c. 1598, s 5.1; Stats.1986, c. 248, s 168; Stats.1987, c. 1459, s 21; Stats.1990, c. 931 (A.B.3521), s 1; Stats.1991, c. 132 (A.B.1133), s 2; Stats.1992, c. 459 (S.B.1695), s 4; Stats.1993, c. 510 (S.B.665), s 2; Stats.1996, c. 1081 (A.B.3354), s 4.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 20.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote subd. (a), which formerly read:

"(a) On and after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, firefighter, animal control officer, or humane society officer, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

"On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in Section 11165.15, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

"The statement shall include all of the following provisions:

"Section 11166 of the Penal Code requires any child care custodian, health practitioner, firefighter, animal control officer, or humane society officer, employee of a child protective agency, or child visitation monitor who has knowledge of, or observes, a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of child abuse to report the known or suspected instance of child abuse to a child protective agency immediately, or as soon as practically possible, by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"For purposes of this section, 'child care custodian' includes teachers; an instructional aide, a teacher's aide, or a teacher's assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained in the duties imposed by this article, if the school has so warranted to the State Department of Education; administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; administrators and employees of public or private youth centers, youth recreation programs, or youth organizations; administrators and employees of public or private organizations whose duties require direct contact and supervision of children and who have been trained in the duties imposed by this article; licensees, administrators, and employees of licensed community care or child day care facilities; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; social workers, probation officers, or parole officers; employees of a school district police or security department; any person who is an administrator or a presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney

investigator, inspector, or family support officer unless the investigator, inspector, or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

" 'Health practitioner' includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, optometrists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; marriage, family, and child counselors; emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological assistants registered pursuant to Section 2913 of the Business and Professions Code; marriage, family, and child counselor trainees as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code; unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code; state or county public health employees who treat minors for venereal disease or any other condition; coroners; and paramedics.

" 'Child visitation monitor' means any person as defined in Section 11165.15.

"The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

"This subdivision is not applicable to persons employed by child protective agencies, public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1985 amendment designated subd. (a); in the definition of child care custodian, substituted "licensees, administrators, and employees of community care facilities or child day care facilities" for "licensed day care workers; administrators of community care facilities"; in the definition of medical practitioner, added "or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code"; added the last paragraph of subd. (a); and subds. (b) and (c).

Under the provisions of s 11 of Stats.1985, c. 1598, the 1985 amendments of this section by c. 464 and c. 1598 were given effect and incorporated in the form set forth in s 5.1 of c. 1598.

Amendment of this section by ss 5, 5.2, 5.3 of Stats.1985, c. 1598, failed to become operative under the provisions of s 11 of that Act.

The 1986 amendment made nonsubstantive changes to maintain this code.

The 1987 amendment, in subd. (a) substituted references to health practitioner for references to medical and nonmedical practitioners, made a nonsubstantive change, and substituted the definitions of child care custodian and health practitioner for definitions of child care custodian, medical practitioner, and nonmedical practitioner which formerly read:

" 'Child care custodian' includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of community care facilities or child day care facilities licensed to care for children; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

" 'Medical practitioner' includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code.

" 'Nonmedical practitioner' includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children."

The 1990 amendment inserted "administrators and employees of public or private youth centers, youth recreation programs, and youth organizations who have been trained in the duties imposed by this article;" in the definitional paragraph for "Child care

custodian" in subd. (a); and made subdivision (a) inapplicable to persons employed by "public or private youth centers, youth recreation programs, and youth organizations" who do not work with, observe or have knowledge of children as part of their official duties.

The 1991 amendment, in subd. (a), in the paragraph defining "child care custodian", inserted "administrators and employees of public or private organizations whose duties require direct contact and supervision and", and inserted "or parole officers; employees of a school district police or security department"; and made nonsubstantive changes throughout.

The 1992 amendment, in subd. (a), added "On and after January 1, 1985" and added the paragraph relating to persons acting as a child visitation monitor; inserted a reference to child visitation monitors in the paragraph describing what s 11166 requires; at the end of the paragraph describing "child care custodian" added references to district attorney investigators, inspectors or family support officers; added the paragraph describing "child visitation monitor"; in the paragraph relating to retention of the statements, inserted "or the court, as the case may be" and "or the court".

The 1992 amendment, also, in subd. (b), substituted "in a county jail" for "in jail" and added "that imprisonment and fine"; added subd. (d) requiring child visitation monitors to have training in child abuse identification and reporting; and made grammatical changes throughout the section.

The 1993 amendment, in subd. (a), twice inserted "firefighter, animal control officer, or humane society officer".

The 1996 amendment, in subd. (a), inserted at the beginning of the paragraph defining child care custodian, "For purposes of this section," and deleted from the end of the paragraph defining health practitioner "and religious practitioners who diagnose, examine, or treat children"; and made nonsubstantive changes.

West's Ann. Cal. Penal Code s 11166.5
CA PENAL s 11166.5
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CA PENAL S 11166.7

West's Ann.Cal.Penal Code s 11166.7

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TEXT

WEST'S ANNOTATED CALIFORNIA CODES.

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11166.7. Interagency child death team; autopsy protocol.

(a) Each county may establish an interagency child death team to assist local agencies in identifying and reviewing suspicious child deaths and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. Interagency child death teams have been used successfully to ensure that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired.

(b) Each county may develop a protocol that may be used as a guideline by persons performing autopsies on children to assist coroners and other persons who perform autopsies in the identification of child abuse, in the determination of whether child abuse or neglect contributed to death or whether child abuse or neglect had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse or neglect, including the designation of the cause and mode of death.

(c) In developing an interagency child death team and an autopsy protocol, each county, working in consultation with local members of the California State Coroner's Association and county child abuse prevention coordinating councils, may solicit suggestions and final comments from persons, including but not limited to, the following:

- (1) Experts in the field of forensic pathology.
- (2) Pediatricians with expertise in child abuse.
- (3) Coroners and medical examiners.
- (4) Criminologists.
- (5) District attorneys.
- (6) Child protective services staff.
- (7) Law enforcement personnel.
- (8) Representatives of local agencies which are involved with child abuse or neglect reporting.
- (9) County health department staff who deals with children's health issues.
- (10) Local professional associations of persons described in paragraphs (1) to (9), inclusive.

CREDIT

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2000 Main Volume

(Added by Stats.1988, c. 1580, s 3.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 21.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) inserted references to neglect.

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

West's Ann. Cal. Penal Code s 11166.7
CA PENAL s 11166.7
END OF DOCUMENT

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CA PENAL S 11166.8

West's Ann.Cal.Penal Code s 11166.8

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s 11166.8. Interagency child death team protocol

Subject to available funding, the Attorney General, working with the California Consortium of Child Abuse Councils, shall develop a protocol for the development and implementation of interagency child death teams for use by counties, which shall include relevant procedures for both urban and rural counties. The protocol shall be designed to facilitate communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases so that incidents of child abuse or neglect are recognized and other siblings and nonoffending family members receive the appropriate services in cases where a child has expired. The protocol shall be completed on or before January 1, 1991.

CREDIT

CREDIT(S)

2000 Main Volume

(Added by Stats.1988, c. 1580, s 4.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 22.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) inserted references to neglect.

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

West's Ann. Cal. Penal Code s 11166.8
CA PENAL s 11166.8
END OF DOCUMENT

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CA PENAL S 11166.9

West's Ann. Cal. Penal Code s 11166.9

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WEST'S ANNOTATED CALIFORNIA CODES

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11166.9. Coordination and integration of state and local efforts; prevent child deaths; sharing of data and other information; California State Child Death Review Council

(a)(1) The purpose of this section shall be to coordinate and integrate state and local efforts to address fatal child abuse or neglect, and to create a body of information to prevent child deaths.

(2) It is the intent of the Legislature that the California State Child Death Review Council, the Department of Justice, the State Department of Social Services, the State Department of Health Services, and state and local child death review teams shall share data and other information necessary from the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics and the Department of Social Services Child Welfare Services/Case Management System files to establish accurate information on the nature and extent of child abuse or neglect related fatalities in California as those documents relate to child fatality cases. Further, it is the intent of the Legislature to ensure that records of child abuse or neglect related fatalities are entered into the State Department of Social Services, Child Welfare Services/Case Management System. It is also the intent that training and technical assistance be provided to child death review teams and professionals in the child protection system regarding multiagency case review.

(b)(1) It shall be the duty of the California State Child Death Review Council to oversee the statewide coordination and integration of state and local efforts to address fatal child abuse or neglect and to create a body of information to prevent child deaths. The Department of Justice, the State Department of Social Services, the State Department of Health Services, the California Coroner's Association, the County Welfare Directors Association, Prevent Child Abuse California, the California Homicide Investigators Association, the Office of Criminal Justice Planning, the Inter-Agency Council on Child Abuse and Neglect/National Center on Child Fatality Review, the California Conference of Local Health Officers, the California Conference of Local Directors of Maternal, Child, and Adolescent Health, the California Conference of Local Health Department Nursing Directors, the California District Attorneys Association, and at least three regional representatives, chosen by the other members of the council, working collaboratively for the purposes of this section, shall be known as the California State Child Death Review Council. The council shall select a chairperson or cochairpersons from the members.

(2) The Department of Justice is hereby authorized to carry out the purposes of this section by coordinating council activities and working collaboratively with the agencies and organizations in paragraph (1), and may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.

(c) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state. There shall be a minimum of four meetings per calendar year.

(d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved shall engage in the following activities:

(1) Analyze and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. Copies of the report shall also be distributed to public officials in the state who deal with child abuse issues and to those agencies responsible for child death investigation in each county. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.

The state data shall include the Department of Justice Child Abuse Central Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State Department of Social Services Child Welfare Services/Case Management System.

(2) In conjunction with the Office of Criminal Justice Planning, coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the interagency child death investigation protocols and procedures established under Sections 11166.7 and 11166.8 to identify child deaths associated with abuse.

(e) The State Department of Health Services, in collaboration with the California State Child Death Review Council, shall design, test and implement a statewide child abuse or neglect fatality tracking system incorporating information collected by local child death review teams. The department shall:

(1) Establish a minimum case selection criteria and review protocols of local child death review teams.

(2) Develop a standard child death review form with a minimum core set of data elements to be used by local child death review teams, and collect and analyze that data.

(3) Establish procedural safeguards in order to maintain appropriate confidentiality and integrity of the data.

(4) Conduct annual reviews to reconcile data reported to the State Department of Health Services Vital Statistics, Department of Justice Homicide Files and Child Abuse Central Index, and the State Department of Social Services Child Welfare Services/Case Management System data systems, with data provided from local child death review teams.

(5) Provide technical assistance to local child death review teams in implementing and maintaining the tracking system.

(6) This subdivision shall become operative on July 1, 2000, and shall be implemented only to the extent that funds are appropriated for its purposes in the Budget Act.

(f) Local child death review teams shall participate in a statewide child abuse or neglect fatalities monitoring system by:

(1) Meeting the minimum standard protocols set forth by the State Department of Health Services in collaboration with the California State Child Death Review Council.

(2) Using the standard data form to submit information on child abuse or neglect fatalities in a timely manner established by the State Department of Health Services.

(g) The California State Child Death Review Council shall monitor the implementation of the monitoring system and incorporate the results and findings of the system and review into an annual report.

(h) The Department of Justice shall direct the creation, maintenance, updating, and distribution electronically and by paper, of a statewide child death review team directory, which shall contain the names of the members of the agencies and private organizations participating under this section, and the members of local child death review teams and local liaisons to those teams. The department shall work in collaboration with members of the California State Child Death Review Council to develop a directory of professional experts, resources, and information from relevant agencies and organizations and local child death review teams, and to facilitate regional working relationships among teams. The Department of Justice shall maintain and update these directories annually.

(i) The agencies or private organizations participating under this section shall participate without reimbursement from the state.

Costs incurred by participants for travel or per diem shall be borne by the participant agency or organization. The participants shall be responsible for collecting and compiling information to be included in the annual report. The Department of Justice shall be responsible for printing and distributing the annual report using available funds and existing resources.

(j) The Office of Criminal Justice Planning, in coordination with the State Department of Social Services, the Department of Justice, and the California State Child Death Review Council shall contract with state or nationally recognized organizations in the area of child death review to conduct statewide training and technical assistance for local child death review teams and relevant organizations, develop standardized definitions for fatal child abuse or neglect, develop protocols for the investigation of fatal child abuse, and address relevant issues such as grief and mourning, data collection, training for medical personnel in the identification of child abuse fatalities, domestic violence fatality review, and other related topics and programs. The provisions of this subdivision shall only be implemented to the extent that the Office of Criminal Justice Planning can absorb the costs of implementation within its current funding, or to the extent that funds are appropriated for its purposes in the Budget Act.

(k) Law enforcement and child welfare agencies shall cross-report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings.

(l) County child welfare agencies shall create a record in the Child Welfare Services/Case Management System (CWS/CMS) on all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings. Upon notification that the death was determined not to be related to child abuse or neglect, the child welfare agency shall enter that information into the Child Welfare Services/Case Management System.

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(Added by Stats.1992, c. 844 (A.B.3633), s 2. Amended by Stats.1995, c. 539 (A.B.653), s 1; Stats.1997, c. 842 (S.B.644), s 3; Stats.1999, c. 1012 (S.B.525), s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 23.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) substituted "child abuse or neglect" for "child abuse and neglect" throughout.

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1995 amendment, in subd. (b), added "and the Homicide Investigators Association"; in subd. (c), substituted "this state" for "Sacramento County"; in the first sentence of subd. (d)(1), inserted "local child death review teams with copies to", and deleted "for 1993, 1994, and 1995" following "July 1 each year"; in subd. (f), rewrote the third sentence to become the third and fourth sentences; deleted subd. (g), providing for repeal of the section; and made nonsubstantive changes throughout the section. Prior to amendment, the third sentence of subd. (f), and subd. (g) read:

"The California Consortium for the Prevention of Child Abuse shall be responsible for collecting, compiling, and distributing the annual report.

"(g) This section shall remain operative only until January 1, 1996, and as of that date is repealed."

Stats.1997, c. 842, in subd. (a), designated the existing text as par. (1) and added par. (2) relating to legislative intent; and rewrote subd. (b)(1), which had read:

"The Department of Justice is hereby authorized to carry out the purpose of this section with the cooperation of the State Department of Social Services, the State Department of Health Services, the California Coroner's Association, the County Welfare Directors Association, the California Consortium for the Prevention of Child Abuse, and the Homicide Investigators Association."

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

Stats.1999, c. 1012, rewrote this section, which read:

"(a) (1) The purpose of this section shall be to coordinate and integrate state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths.

"(2) It is the intent of the Legislature that the California State Child Death Review Council, the Department of Justice, the State Department of Social Services, the State Department of Health Services, and state and local child death review teams shall share data and other information necessary to reconcile and integrate the Department of Justice Child Abuse Central Index and Supplemental Homicide File and the State Department of Health Services Vital Statistics as those documents relate to child fatality cases.

"(b) (1) The Department of Justice is hereby authorized to carry out the purpose of this section with the cooperation of the State Department of Social Services, the State Department of Health Services, the California Coroner's Association, the County Welfare Directors Association, the California Consortium to Prevent Child Abuse, and the California Homicide Investigators Association. These entities working cooperatively together for the purposes of this section shall be known as the California State Child Death Review Council, to be administered by the Department of Justice. It shall be the duty of the California State Child Death Review Council to oversee the statewide coordination and integration

of state and local efforts to address fatal child abuse and neglect, and to create a body of information to prevent child deaths.

"(2) The Department of Justice, after consultation with the agencies and organizations in paragraph (1), may consult with other representatives of other agencies and private organizations, to help accomplish the purpose of this section.

"(c) Meetings of the agencies and organizations involved shall be convened by a representative of the Department of Justice. All meetings convened between the Department of Justice and any organizations required to carry out the purpose of this section shall take place in this state, not to exceed four meetings per calendar year.

"(d) To accomplish the purpose of this section, the Department of Justice and agencies and organizations involved may engage in the following activities:

"(1) Collect, analyze, and interpret state and local data on child death in an annual report to be submitted to local child death review teams with copies to the Governor and the Legislature, no later than July 1 each year. The report shall contain, but not be limited to, information provided by state agencies and the county child death review teams for the preceding year.

"(2) Develop a state and local data base on child death.

"(A) The state data may include the Department of Justice Child Abuse Index and Supplemental Homicide File, the State Department of Health Services Vital Statistics, and the State Department of Social Services Foster Care Information System.

"(B) The Department of Justice, in consultation with the agencies and organizations in paragraph (1) of subdivision (b), may develop a model minimal local data set and request data from local teams for inclusion in the annual report.

"(3) Distribute a copy of the report to public officials in the state who deal with child abuse issues and to those agencies

responsible for child death investigation in each county.

"(4) Coordinate statewide and local training for county death review teams and the members of the teams, including, but not limited to, training in the application of the Interagency Child Death Investigation Protocols and procedures to identify child deaths associated with abuse established under Sections 11166.7 and 11166.8.

"(e) The Department of Justice may direct the creation of a statewide child death review team directory, which shall contain the names of the members of the agencies and private organizations participating under this section, and the members of local child death review teams and local liaisons to those teams. The Department of Justice may maintain and update the directory annually.

"(f) The agencies or private organizations participating under this section shall participate without reimbursement from the state. Costs incurred by participants for travel or per diem shall be borne by the participant agency or organization. The participants shall be responsible for collecting and compiling information to be included in the annual report. The Department of Justice shall be responsible for printing and distributing the annual report using available funds and existing resources."

West's Ann. Cal. Penal Code s 11166.9
CA PENAL s 11166.9
END OF DOCUMENT

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CA PENAL S 11166.95

West's Ann. Cal. Penal Code s 11166.95

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TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

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CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11166.95. Child death cases; investigation and findings; abuse and neglect; plan to track and maintain data

The State Department of Social Services shall work with state and local child death review teams and child protective services agencies in order to identify child death cases that were, or should have been, reported to or by county child protective services agencies. Findings made pursuant to this section shall be used to determine the extent of child abuse fatalities occurring in families known to child protective services agencies and to define child welfare training needs for reporting, cross-reporting, data integration, and involvement by child protective services agencies in multiagency review in child deaths. The State Department of Social Services, the State Department of Health Services, and Department of Justice shall develop a plan to track and maintain data on child deaths from abuse and neglect, and submit this plan, not later than December 1, 1997, to the Senate Committee on Health and Human Services, the Assembly Committee on Human Services, and the chairs of the fiscal committees of the Legislature.

CREDIT

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2000 Main Volume

(Added by Stats. 1997, c. 606 (A.B. 67), s 12, eff. Oct. 3, 1997.)

West's Ann. Cal. Penal Code s 11166.95

CA PENAL s 11166.95

END OF DOCUMENT

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CA PENAL S 11167

West's Ann. Cal. Penal Code s 11167

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WEST'S ANNOTATED CALIFORNIA CODES

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11167. Report; contents; confidentiality of identity of persons reporting

(a) Reports of suspected child abuse or neglect pursuant to Section 11166 shall include, if known, the name, business address, and telephone number of the mandated reporter, and the capacity that makes the person a mandated reporter; the child's name and address, present location, and, where applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information; 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 may also 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, 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 district attorney 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 district attorney 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) Persons who may report pursuant to subdivision (f) of Section 11166 are not required to include their names.

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(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 3, eff. Sept. 12, 1981; Stats.1982, c. 162, s 2, eff. April 26, 1982; Stats.1984, c. 144, s 164; Stats.1985, c. 1598, s 6; Stats.1986, c. 1289, s 3; Stats.1987, c. 531, s 6; Stats.1992, c. 163 (A.B.2641), s 112; Stats.1992, c. 316 (A.B.3491), s 2; Stats.1993, c. 219 (A.B.1500), s 221; Stats.1997, c. 324 (S.B.871), s 8.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 24.)

LAW REVISION COMMISSION COMMENT

2000 Main Volume

1993 Amendment

Section 11167 is amended to substitute a reference to the Family Code provisions that replaced former Civil Code Section 232. [23 Cal.L.Rev.Comm. Reports 1 (1993)]

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led that person to suspect child abuse, requested by the child protective agency.

"(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

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

"(d) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney 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 district attorney 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 in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

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

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1981 amendment substituted in subd. (a) "a known or suspected instance of child abuse" for "suspected child abuse"; inserted in subd. (b) "known or" preceding "suspected case"; and substituted in the second sentence of subd. (c) (redesignated subd. (d) by 1987 amendment) (see text quoted in 1982 amendment note) "when needed for court action initiated under Section 232 of the Civil Code, or Section 300 of the Welfare and Institutions Code, or in a criminal prosecution arising from alleged child abuse, or by court order, or between child

protective agencies" for "by court order or between child protective agencies or the probation department."

The 1982 amendment rewrote subd. (c) (redesignated subd. (d) by 1987 amendment), which previously read:

"Persons who may report pursuant to subdivision (c) of Section 11166 are not required to include their names. The identity of all persons who report under this article shall be confidential and disclosed only when needed for court action initiated under Section 232 of the Civil Code, or Section 300 of the Welfare and Institutions Code, or in a criminal prosecution arising from alleged child abuse or by court order or between child protective agencies", and added subd. (d) (redesignated subd. (e) by the 1987 amendment) consisting of the former first sentence of subd. (c).

The 1984 amendment made nonsubstantive changes to maintain this code.

The 1985 amendment, in subd. (c) (redesignated subd. (d) by 1987 amendment), inserted "or to a licensing agency when abuse in out-of-home care is reasonably suspected,".

The 1986 amendment added the second paragraph of subd. (c) (redesignated subd. (d) by 1987 amendment) prohibiting disclosure of the identity of a child abuse reporter to that person's employer without consent or court order.

The 1987 amendment inserted subd. (c), and designated former subs. (c) and (d) as (d) and (e).

The 1992 amendment substituted "subdivision (c) of Section 317" for "Section 318" in subd. (d).

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

Subordination of legislation by Stats.1992, c. 163 (A.B.2641), see Historical and Statutory Notes under Bus. & Prof. C. s 1320.

The 1993 amendment, in subd. (d), in the first sentence, substituted "a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code" for "an action initiated under Section 232 of the Civil Code".

Stats.1997, c. 324, in subd. (e) substituted "subdivision (f) of Section 11166" for "subdivision (d) of Section 11166".

West's Ann. Cal. Penal Code s 11167

CA PENAL s 11167

END OF DOCUMENT

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CA PENAL S 11167.5

West's Ann. Cal. Penal Code s 11167.5

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TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11167.5. Confidentiality of reports; violations; disclosure

(a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine.

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

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

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

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

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

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

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.

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

(8) Coroners and medical examiners when conducting a postmortem examination of a child.

(9) The Board of Prison Terms, who may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee

charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

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

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to subdivision (c) of Section 11170. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim in order to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure provided by the requesting state or the applicable interstate compact provision. In the absence of both (1) a specific out-of-state statute or interstate compact provision that requires that the information contained within these reports be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and (2) criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(13) Persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided by subdivision (e) of Section 11170. Disclosure under this section shall be subject to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). Nothing in this section prohibits a submitting agency prior to disclosure from redacting the name, address, and telephone number of a witness, person who reports under this article, or victim to maintain confidentiality as required by law.

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

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in Section 11165.8, pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

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

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(Added by Stats.1983, c. 1082, s 1. Amended by Stats.1985, c. 1593, s 4, eff. Oct. 2, 1985; Stats.1985, c. 1598, s 7.5; Stats.1987, c. 167, s 1; Stats.1987, c. 1459, s 22; Stats.1988, c. 1580, s 5; Stats.1989, c. 153, s 1; Stats.1989, c. 1169, s 2; Stats.1995, c. 391 (A.B.1440), s 1; Stats.1997, c. 24 (A.B.1536), s 1; Stats.1997, c. 842 (S.B.644), s 4; Stats.1997, c. 844 (A.B.1065), s 1.5; Stats.1998, c. 485 (A.B.2803), s 135.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 25.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) inserted references to "or neglect"; and, in subd. (b) (10), substituted "an agency" for "a child protective agency".

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1985 amendment by c. 1593 added subd. (b) (5).

The 1985 amendment by c. 1598, in subd. (a), substituted "Sections 11166 and 11166.2" for "Section 11166"; substituted, in subd. (b) (5), "subdivision (h) of Section 11166" for "Section 11166.1"; and added subd. (b) (6).

Section 12 of Stats.1985, c. 1598, provides:

"Section 7.5 of this bill incorporates amendments to Section 11167.5 of the Penal Code proposed by both this bill and AB 2337 [Stats.1985, c. 1593]. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11167.5 of the Penal Code [Section 11167.5 was so amended], and (3) this bill is enacted after AB 2337, in which case Section 11167.5 of the Penal Code, as amended by AB 2337, shall remain operative only until the operative date of this bill [Jan. 1, 1986], at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative."

The amendment by Stats.1987, c. 1459, in subd. (b)(5) substituted "Section 11165.7" for "subdivision (h) of Section 11166"; and inserted subd. (b)(7) relating to hospital scan teams.

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code s 9605.

The 1988 amendment added, to the list in subd. (b) of persons or agencies to whom reports may be disclosed, subd. (b)(8) regarding coroners and medical examiners.

The 1989 amendment inserted "or any county licensing agency which has contracted with the state" in subd. (b)(6), and added subd. (b)(9).

The 1989 amendment by c. 1169 of this section explicitly amended the 1989 amendment of this section by c. 153.

The 1995 amendment added a new subd. (c), relating to disclosure to authorized persons in county health departments; and redesignated as subds. (d) and (e) former subds. (c) and (d).

Stats.1997, c. 844, in subd. (a), substituted "is" for "shall be", substituted "imprisonment in a county jail not to exceed six months" for "up to six months in jail or" and inserted "that imprisonment and fine"; in subd. (b), in par. (7), substituted "all hospital scan teams" for "hospital scan teams located in the same county", in par. (9), substituted "who may subpoena an employee of a county welfare department who can provide relevant evidence and" for "may subpoena", and added pars. (10) to (14), relating to child protection agency personnel, persons listed in the Child Abuse Central Index as provided in subds. (c) and (e) of s 11170, out-of-state law enforcement agencies, and each county's child death review team's chairperson; and in subd. (c), substituted "Sections 123600 and 123605" for "Sections 10900 and 10901".

Under the provisions of s 3 of Stats.1997, c. 844, the 1997 amendments of this section by c. 844 (A.B.1065) and c. 842 (S.B.644) were given effect and incorporated in the form set forth in s 1.5 of c. 844.

An amendment of this section by s 1 of Stats.1997, c. 844, failed to become operative under the provisions of s 3 of that Act.

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

Amendment of this section by s 4.5 of Stats.1997, c. 842 (S.B.644), failed to become operative under the provisions of s 8 of that Act.

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

Stats.1998, c. 485, made nonsubstantive changes to maintain the code.

Subordination of legislation by Stats.1998, c. 485 (A.B.2803), to other 1998 legislation, see Historical and Statutory Notes under Business and Professions Code s 4840.

West's Ann. Cal. Penal Code s 11167.5
CA PENAL s 11167.5
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CA PENAL S 11168

West's Ann.Cal.Penal Code s 11168

TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg.Sess.

and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11168. Written reports; forms

The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Those forms shall be distributed by the agencies specified in Section 11165.9.

CREDIT

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2000 Main Volume

(Added by Stats.1980, c. 1071, s 4.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 26.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) substituted the existing second sentence for a former second sentence which read, "Such forms shall be distributed by the child protective agencies."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

Derivation: Former s 11161.7, added by Stats.1974, c. 836, p. 1802, s 1,
amended by Stats.1977, c. 958, p. 2909, s 2.

West's Ann. Cal. Penal Code s 11168

CA PENAL s 11168

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CA PENAL S 11169

West's Ann. Cal. Penal Code s 11169

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TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

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and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11169. Child abuse reports; transmittal to Department of Justice; notice to known or suspected child abuser; retention of reports; immunity

(a) An agency specified in Section 11165.9 shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or neglect which is determined not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

(b) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(c) Agencies shall retain child abuse or neglect investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

(d) The immunity provisions of Section 11172 shall not apply to the submission of a report by an agency pursuant to this section.

However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

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2000 Main Volume

(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 4, eff. Sept. 12, 1981; Stats.1985, c. 1598, s 8; Stats.1988, c. 269, s 4; Stats.1988, c. 1497, s 1; Stats.1997, c. 842 (S.B.644), s 5.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 27.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within subdivision (b) of Section 11165.2. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is not unfounded, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not

retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send that report to the Department of Justice.

"(b) At the time a child protective agency forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index. The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

"(c) Child protective agencies shall retain child abuse investigative reports that result in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the Child Abuse Central Index pursuant to this section. Nothing in this section precludes a child protective agency from retaining the reports for a longer period of time if required by law.

"(d) The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

As added, the section provided:

"A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of suspected child abuse which it investigates, whether or not any formal action is taken in the case. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice."

The 1981 amendment inserted in the first sentence "known or" preceding "suspected" and added at the end of the first sentence "other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165".

The 1985 amendment rewrote this section.

The 1988 amendment substituted "subdivision (b) of Section 11165.2" for "the provisions of paragraph (2) of subdivision (c) of Section 11165" and "Section 11165.12" for "subdivision (n) of Section 11165".

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code s 9605.

Stats.1997, c. 842, designated the existing text as subds. (a) and (d); inserted subds. (b) and (c), relating to notice to known or suspected abusers and retention of reports; and made a nonsubstantive change.

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

West's Ann. Cal. Penal Code s 11169

CA PENAL s 11169

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CA PENAL S 11170

West's Ann. Cal. Penal Code s 11170

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TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11170. Index of reports; notice to child protection agencies or district attorneys; availability of information

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

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

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

(b) (1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse or severe neglect.

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

(3) The department shall make available to the State Department of Social Services or to any county licensing agency that has contracted with the state

for the performance of licensing duties information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code.

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

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

(6) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), or an agency or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (5), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original.

investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, or placement of a child.

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

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

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

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

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

If Child Abuse Central Index information is requested by an agency for the placement of a child with a responsible relative in an emergency situation

pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to Section 11169 to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, identifying the suspected abuser or victim by name. The request shall be signed by the department supervisor of the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the criminal penalties for unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision. In the absence of a specified out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and criminal penalties equivalent to the penalties in California for unlawful disclosure, access shall be denied.

(e) Any person may determine if he or she is listed in the Child Abuse Central Index by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (13) of subdivision (a) of Section 11167.5.

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

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2000 Main Volume

(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 5, eff. Sept. 12, 1981; Stats.1982, c. 162, s 3, eff. April 26, 1982; Stats.1984, c. 1613, s 3, eff. Sept. 30, 1984; Stats.1985, c. 1598, s 8.5; Stats.1986, c. 1496, s 3; Stats.1987, c.

82, s 4, eff. June 30, 1987; Stats.1989, c. 153, s 2; Stats.1990, c. 1330 (S.B.2788), s 2; Stats.1990, c. 1363 (A.B.3532), s 15.7, operative July 1, 1991; Stats.1992, c. 163 (A.B.2641), s 113; Stats.1992, c. 1338 (S.B.1184), s 2; Stats.1993, c. 219 (A.B.1500), s 221.1; Stats.1996, c. 1081 (A.B.3354), s 5; Stats.1997, c. 842 (S.B.644), s 6; Stats.1997, c. 843 (A.B.753), s 5; Stats.1997, c. 844 (A.B.1065), s 2.5; Stats.1999, c. 475 (S.B.654), s 8.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 28.)

LAW REVISION COMMISSION COMMENT

2000 Main Volume

1993 Amendment

Subdivision (b) (3) of Section 11170 is amended to substitute references to the Family Code provisions that replaced the former Civil Code provisions. [23 Cal.L.Rev.Comm. Reports 1 (1993)]

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) inserted references to severe neglect and neglect throughout; and substituted references to agency for references to child protective agency throughout,

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1981 amendment inserted in the first and third sentences of the first paragraph [now the first and second sentences of the first paragraph of subd. (b)] "known or" preceding "suspected".

The 1982 amendment inserted the subdivision designations; added subd. (a); in subd. (b), in the first sentence, added the words "or a district attorney who requests notification"; substituted a reference to "subdivision (a)" for a reference to "Section 11110"; deleted the former second sentence of subd. (b) which read: "The indexed reports retained by the Department of Justice shall be continually updated and shall not contain any unfounded reports."; and in the second sentence of subd. (b) substituted "that information" for "such information".

The 1984 amendment substituted, in subd. (b), "guardian ad litem appointed under Section 326, or counsel appointed under Section 318" for "guardian ad litem appointed under Section 318".

Section 5 of Stats.1984, c. 1613, provides:

"(a) The Legislature finds and declares that child abuse is a serious problem, as evidenced by the fact that the number of cases reported to the Attorney General each year pursuant to Section 11170 of the Penal Code has increased over 900 percent from 1974 through 1983. One of the major problems in treating and preventing child abuse is the need to quickly and accurately identify cases, which frequently involve family members or other individuals in close relationship to the victim.

"(b) The Child Abuse Central Registry provided by Section 11170 of the Penal Code is an important source of information assisting local law enforcement officials and child protective agencies in identifying, apprehending, and prosecuting child abusers.

"(c) The Department of Justice shall automate its Child Abuse Central Registry and shall develop criteria to periodically purge registry entries during the automation process."

The 1985 amendment, in subd. (a), in the first sentence, deleted "preliminary" preceding "reports"; designated subds. (b)(1) and (b)(2); in subd. (b)(1), in the second sentence, inserted "or the appropriate licensing agency,"; and added subd. (b)(3).

Amendment of this section by another s 8.5 of Stats.1985, c. 1598, failed to become operative under the provisions of s 13 of that Act.

The 1986 amendment inserted "including, but not limited to, professional child care providers pursuant to Chapter 3.65 (commencing

with Section 1597.80) of Division 2 of the Health and Safety Code" in subd. (b) (3) preceding "or who will provide 24-hour care".

The 1987 amendment deleted the insertion made by the 1986 amendment, and added pars. (4) and (5) to subd. (b) (deleted by 1990 amendment; see 1990 amendment note).

The 1989 amendment, in subd. (b) (1), in the second sentence, inserted "317 or"; in subd. (b) (3), in the first sentence, inserted "or to any county licensing agency which has contracted with the state for the performance of licensing duties", inserted "any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for", substituted "1596.877" for "1596.876", and in the second sentence, inserted "or the county licensing agency".

The 1990 amendment by c. 1330 deleted subd. (b) (4) and (5), which read:

"(4) The department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, of the fact that a substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981, or prior to January 1, 1981, if there was also a report subsequent to that date.

"(5) The department shall notify parents or legal guardians requesting a background examination of a professional child care provider pursuant to Chapter 3.65 (commencing with Section 1597.80) of Division 2 of the Health and Safety Code, of the fact that no substantiated report exists which indicates that the professional child care provider was a suspect of child abuse subsequent to January 1, 1981."

The 1990 amendment by c. 1330 also added subd. (b) (4).

The 1990 amendment by c. 1363, in subd. (b) (3), in the first sentence, substituted "Section 222.70, 224.30, 226.52, or 227.10" for "Section 226".

Under the provisions of s 25 of Stats.1990, c. 1363, the 1990 amendments of this section by c. 1330 and c. 1363 were given effect and incorporated in the form set forth in s 2 of c. 1330, operative until July 1, 1991, then in the form set forth in s 15.7 of c. 1363. Amendments of this section by ss 15, 15.5, 15.9, and 15.10 of Stats.1990, c. 1363, failed to become operative under the provisions of s 25 of that Act.

Amendments of this section by ss 2.5, 2.6, 2.7 of Stats.1990, c. 1330, failed to become operative under the provisions of s 3 of that Act.

The 1992 amendment added paragraph (5) relating to fees for furnishing information as a result of an application for employment or licensing to subd. (b).

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

Subordination of legislation by Stats.1992, c. 163 (A.B.2641), see Historical and Statutory Notes under Bus. & Prof. C. s 1320.

Amendment of this section by s 2.5 of Stats.1992, c. 1338, failed to become operative under the provisions of s 5 of that Act.

The 1993 amendment, in subd. (b) (3), in the first sentence, substituted "Section 8714, 8802, 8912, or 9000 of the Family Code" for "Section 222.70, 224.30, 226.52, or 227.10 of the Civil Code"; and made a nonsubstantive change.

The 1996 amendment, in subd. (b) (2), inserted a reference to subd. (c) of s11166.

Amendments of this section by ss 5.1, 5.2 and 5.3 of Stats.1996, c. 1081 (A.B.3354), failed to become operative under the provisions of s 8 of that Act.

Stats.1997, c. 844, rewrote the section, which had read:

"(a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

"(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

"(2) When a report is made pursuant to subdivision (a) or (c) of Section 11166, the investigating agency, upon completion of the

investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

"(3) The department shall make available to the State Department of Social Services or to any county licensing agency which has contracted with the state for the performance of licensing duties any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or any adult who resides or is employed in the home of an applicant for licensure or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code. If the department has information that has been received subsequent to January 1, 1981, concerning such a person, it also shall make available to the State Department of Social Services or to the county licensing agency any other information maintained pursuant to subdivision (a).

"(4) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse, or the State Department of Social Services or any county licensing agency pursuant to paragraph (3), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, or licensing.

"(5) Effective January 1, 1993, whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing pursuant to paragraph (3), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

"All moneys received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and Section 290.2, and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and Section 290.2."

Under the provisions of s 4 of Stats.1997, c. 844, the 1997 amendments of this section by c. 844 (A.B.1065), c. 843 (A.B.753) and c. 842 (S.B.644) were given effect and incorporated in the form set forth in s 2.5 of c. 844.

An amendment of this section by s 2 of Stats.1997, c. 844, failed to become operative under the provisions of s 4 of that Act.

Amendment of this section by ss 6 to 8 of Stats.1997, c. 843 (A.B.753), failed to become operative under the provisions of s 10 of that Act.

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

Amendment of this section by ss 6.1 and 6.2 of Stats.1997, c. 842 (S.B.644), failed to become operative under the provisions of s 9 of that Act.

Section affected by two or more acts at the same session of the legislature, see Government Code s 9605.

Stats.1999, c. 475, in subd. (b)(7)(C), in the second sentence substituted "the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1)" for "Section 290.2" in two places.

West's Ann. Cal. Penal Code s 11170

CA PENAL s 11170

END OF DOCUMENT

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CA PENAL S 11170.5

West's Ann.Cal.Penal Code s 11170.5

TEXT

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PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11170.5. Adoption agencies; applicants; information from child abuse index; fee

(a) Notwithstanding paragraph (3) of subdivision (b) of Section 11170, the Department of Justice shall make available to a licensed adoption agency, as defined in Section 8530 of the Family Code, regarding a known or suspected child abuser maintained in the child abuse index, pursuant to subdivision (a) of Section 11170, concerning any person who has submitted to the agency an application for adoption.

(b) Whenever information contained in the Department of Justice files is furnished as the result of an application for adoption pursuant to subdivision (a), the Department of Justice may charge the agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Sexual Habitual Offender Fund pursuant to paragraph (5) of subdivision (b) of Section 11170.

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(Added by Stats.1993, c. 491 (A.B.1423), s 1. Amended by Stats.1997, c. 842 (S.B.644), s 7.)

HISTORICAL AND STATUTORY NOTES

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Stats.1997, c. 842, in subd. (a), substituted "regarding a known or suspected child abuser" for "any information".

Section 1 of Stats.1997, c. 842 (S.B.644), provides:

"This act shall be known and may be cited as Lance's Law Child Safety Reform Act of 1997."

West's Ann. Cal. Penal Code s 11170.5

CA PENAL s 11170.5

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CA PENAL S 11170.6

West's Ann. Cal. Penal Code s 11170.6

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s 11170.6. "6-to-6" program; applicants for employment; disclosure by department to City of San Diego regarding known or suspected child abusers

(a) Notwithstanding paragraph (3) of subdivision (b) of Section 11170, the Department of Justice shall make available to the City of San Diego for purposes of evaluating employees for the "6 to 6" program information regarding a known or suspected child abuser maintained in the child abuse index pursuant to subdivision (a) of Section 11170 concerning any person who has submitted an application for employment in the "6 to 6" program.

(b) The City of San Diego, to whom disclosure of any information pursuant to subdivision (a) is authorized, is responsible for obtaining the original investigative report from the reporting agency and for drawing independent conclusions regarding the quality of the evidence disclosed and the sufficiency of the evidence for making decisions when evaluating employees for the "6 to 6" program.

(c) The disclosure pursuant to this section of the presence of an applicant's name on the index is provided solely for purposes of investigating the individual's background by identifying the original investigative report from the reporting agency. The presence of an individual's name on the index may not itself be used as evidence adverse to an applicant for employment in the "6 to 6" program. An investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency that investigated the child abuse report. Employment may not be denied based on a report from the Child Abuse Central Index, unless the child abuse is substantiated.

(d) (1) Whenever information contained in the Department of Justice files is furnished as the result of a request for information pursuant to subdivision (a), the Department of Justice may charge the requestor a fee. The fee may not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. The fee may not exceed fifteen dollars (\$15).

(2) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditures by the department to offset costs incurred for processing child abuse central index requests.

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2000 Main Volume

(Added by Stats.1999, c. 851 (A.B.181), s 2, eff. Oct. 10, 1999.)

2001 Electronic Update

(Amended by Stats.2000, c. 135 (A.B.2539), s 140.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 135 (A.B.2539), made nonsubstantive changes to maintain the code.

Subordination of legislation by Stats.2000, c. 135 (A.B.2539), to other 2000 legislation, see Historical and Statutory Notes under Business and Professions Code s 651.

West's Ann. Cal. Penal Code s 11170.6

CA PENAL s 11170.6
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CA PENAL S 11171

West's Ann. Cal. Penal Code s 11171

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s 11171. X-rays of child; physician- or psychotherapist-patient

(a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse or neglect and determining the extent of the child abuse or neglect.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

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2000 Main Volume

(Added by Stats.1980, c. 1071, s 4.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 29.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) twice inserted "or neglect".

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of *Alejo v. City of Alhambra* (1999) 75 Cal.App.4th 1180."

West's Ann. Cal. Penal Code s 11171

CA PENAL s 11171

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CA PENAL S 11171.5

West's Ann.Cal.Penal Code s 11171.5

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s 11171.5. X-rays without parental consent; application for order; liability for costs

(a) If a peace officer, in the course of an investigation of child abuse or neglect, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent.

Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.

(b) With respect to the cost of an X-ray taken by the county coroner or at the request of the county coroner in suspected child abuse or neglect cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.

(c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray.

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(Added by Stats.1985, c. 317, s 1.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 30.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) twice inserted "or neglect".

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

West's Ann. Cal. Penal Code s 11171.5

CA PENAL s 11171.5

END OF DOCUMENT

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CA PENAL S 11172

West's Ann.Cal.Penal Code s 11172

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TEXT

WEST'S ANNOTATED CALIFORNIA CODES

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s 11172. Immunity from liability; liability for false reports; attorney fees; failure to report

(a) No mandated reporter who reports a known or suspected instance of child abuse or neglect shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse or neglect, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse or neglect. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the State Board of Control for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose.

Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

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(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 135, s 1, eff. July 1, 1981; Stats.1981, c. 435, s 6, eff. Sept. 12, 1981; Stats.1984, c. 1170, s 2; Stats.1984, c. 1703, s 2; Stats.1984, c. 1718, s 3; Stats.1985, c. 1598, s 9; Stats.1986, c. 553, s 1; Stats.1987, c. 1459, s 23; Stats.1992, c. 459 (S.B.1695), s 5; Stats.1993, c. 510 (S.B.665), s 3; Stats.1996, c.1081 (A.B.3354), s 6.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 31.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) No child care custodian, health practitioner, firefighter, clergy member, animal control officer, humane society officer, employee of a child protective agency, child visitation monitor, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused.

No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

"(b) Any child care custodian, health practitioner, firefighter, clergy member, animal control officer, humane society officer, employee of a child protective agency, or child visitation monitor who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

"(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, firefighter, clergy member, animal control officer, humane society officer, employee of a child protective agency, child visitation monitor, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

"This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

"(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

"(e) Any person who fails to report an instance of child abuse which he or she knows to exist, or reasonably should know to exist, as required by this article, is guilty of a misdemeanor, punishable by confinement in a county jail for a term not to exceed six months, by a fine of not more than one thousand dollars (\$1,000), or by both that imprisonment and fine."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

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The 1981 amendment by c. 135 inserted in the first sentence immunity from liability for employees of a child protective agency; substituted in the second and third sentences of subd. (a) "this article" for "this section"; substituted in the second sentence of subd. (a) "proven" for "proved"; and substituted in the third and fourth sentences of subd. (a) "the photographs" for "such photographs".

The 1981 amendment by c. 435 inserted, in the first and second sentences of subd. (a), "known or" preceding "suspected"; deleted, in the second sentence of subd. (a), "or should have known" following "knew"; and substituted in subd. (b) "an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article" for "as required by this article an instance of child abuse which he or she knows to exist or reasonably should know to exist".

The 1984 amendment inserted subds. (b) and (c); redesignated former subd. (b) as subd. (d) (redesignated as subd. (e) by 1985 amendment); and substituted "one thousand dollars (\$1,000)" for "five hundred dollars (\$500)" in subd. (d).

Under the provisions of s 4 of Stats. 1984, c. 1718, the 1984 amendments of this section by c. 1170 and c. 1718 were given effect

and incorporated in the form set forth in s 3 of c. 1718.

Amendment of this section by s 2 of Stats.1984, c. 1718, failed to become operative under the provisions of s 4 of that Act.

Amendment of this section by s 3 of Stats.1984, c. 1170, failed to become operative under the provisions of s 4 of that Act.

Amendment of this section by s 1 of Stats.1984, c. 1703, failed to become operative under the provisions of s 3 of that Act.

Effect of amendment of section by two or more acts at the same session of the legislature, see Government Code s 9605.

The 1985 amendment in subd. (a), in the first sentence, and in subd. (c), in the third sentence, deleted "or" following "nonmedical practitioner," and inserted ", or commercial film and photographic print processor"; inserted subd. (d); and redesignated former subd. (d) as subd. (e).

Amendment of this section by s 10 of Stats.1985, c. 1598, failed to become operative under the provisions of s 14 of that Act.

The 1986 amendment provides, in subd. (a) that persons will be liable for damages if a report was made "with reckless disregard of the truth or falsity of the report" of child abuse.

The 1987 amendment substituted "health practitioner" for "medical practitioner, nonmedical practitioner" throughout the section.

The 1992 amendment inserted "child visitation monitor" in three places; in subd. (e) relating to the penalty, added "that imprisonment and fine"; and made grammatical changes.

The 1993 amendment, in subds. (a) to (c), inserted "firefighter, animal control officer, humane society officer".

The 1996 amendment, in subd. (a), deleted "such" preceding "person who makes a report" and inserted "clergy member" following "firefighter," throughout the section.

Derivation: Former s 11161.5, added by Stats.1963, c. 576, p. 1453, s 1, amended by Stats.1965, c. 1171, p. 2971, s 2; Stats.1966, 1st Ex.Sess., c. 31, p. 325, s 2; Stats.1968, c. 587, p. 1258, s 2; Stats.1971, c. 635, p. 1251, s 1; Stats.1971, c. 1729, p. 3680, s 7; Stats.1972, c. 421, p. 746, s 1; Stats.1972, c. 1377, p. 2843, s 89; Stats.1973, c. 1151, p. 2380, s 1; Stats.1974, c. 348, p. 679, s 1; Stats.1975 Cal. 226, p. 608, s 1; Stats.1976, c. 242, p. 460, s 1; Stats.1977, c. 958, p. 2908, s 1; Stats.1978, c. 136, p. 358, s 1; Stats.1979, c. 373, p. 1357, s 251.

Former s 11161.6, added by Stats.1975, c. 226, p. 609, s 2, amended by Stats.1976, c. 242, p. 461, s 2.

West's Ann. Cal. Penal Code s 11172

CA PENAL s 11172

END OF DOCUMENT

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CA PENAL S 11174

West's Ann. Cal. Penal Code s 11174

TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

CHAPTER 2. CONTROL OF CRIMES AND CRIMINALS

ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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Current through end of 1999-2000 Reg. Sess.

and 1st Ex. Sess. and Nov. 7, 2000, election.

s 11174. Guidelines

The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in Section 11165.5, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

CREDIT

CREDIT(S)

2000 Main Volume

(Added by Stats.1980, c. 1071, s 4. Amended by Stats.1981, c. 435, s 7, eff. Sept. 12, 1981; Stats.1982, c. 162, s 4, eff. April 26, 1982; Stats.1985, c. 1528, s 3; Stats.1988, c. 269, s 5.)

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

As added, this section read:

"The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (g) of Section 11165, in group homes or institutions and shall ensure that every investigation of such alleged child abuse is conducted in accordance with such regulations and guidelines."

The 1981 amendment substituted "subdivision (f) of Section 11165" for "subdivision (g) of Section 11165"; deleted "such" preceding "alleged child abuse"; and inserted the phrase "coming within that definition" following "alleged child abuse".

The 1982 amendment substituted "shall ensure that the investigation is conducted" for "shall ensure that every investigation of alleged child abuse coming within that definition is conducted".

The 1985 amendment substituted "abuse in out-of-home care" for "child abuse".

The 1988 amendment substituted "Section 11165.5" for "subdivision (f) of Section 11165".

West's Ann. Cal. Penal Code s 11174

CA PENAL s 11174

END OF DOCUMENT

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CA PENAL S 11174.1

West's Ann. Cal. Penal Code s 11174.1

TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

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and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11174.1. Guidelines for investigation of child abuse or neglect; regulations; orientation and training of inspectors

(a) The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse or neglect, as defined in Section 11165.6, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines .

(b) For community treatment facilities, day treatment facilities, group homes, and foster family agencies, the State Department of Social Services shall prescribe the following regulations:

(1) Regulations designed to assure that all licensees and employees of community treatment facilities; day treatment facilities, group homes, and foster family agencies licensed to care for children have had appropriate training, as determined by the State Department of Social Services, in consultation with representatives of licensees, on the provisions of this article.

(2) Regulations designed to assure the community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children maintain a written protocol for the investigation and reporting of child abuse or neglect, as defined in Section 11165.6, alleged to have occurred involving a child placed in the facility.

(c) The State Department of Social Services shall provide such orientation and training as it deems necessary to assure that its officers, employees, or agents who conduct inspections of facilities licensed to care for children are knowledgeable about the reporting requirements of this article and have adequate training to identify conditions leading to, and the signs of, child abuse or neglect, as defined in Section 11165.6.

CREDIT

CREDIT(S)

2000 Main Volume

(Added by Stats.1985, c. 1593, s 5, eff. Oct. 2, 1985. Amended by Stats.1988, c. 269, s 6; Stats.1989, c. 1053, s 2, eff. Sept. 29, 1989.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 32.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES
2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) three times inserted "or neglect".

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

The 1988 amendment substitutes "Section 11165.6" for "subdivision (f) of Section 11165".

The 1989 amendment designated subd. (a) and added subs. (b) and (c).

Section 3 of Stats.1989, c. 1053, provides:

"The State Department of Social Services shall require that at least one hour of the 20 hours of training currently required by regulation of group home child care workers within the first 18 months of employment shall be dedicated to meeting the requirements of paragraph (1) of subdivision (b) of Section 11174.1 of the Penal Code."

West's Ann. Cal. Penal Code s 11174.1

CA PENAL s 11174.1

END OF DOCUMENT

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CA PENAL S 11174.3

West's Ann.Cal.Penal Code s 11174.3

TEXT

WEST'S ANNOTATED CALIFORNIA CODES

PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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and 1st Ex.Sess. and Nov. 7, 2000, election.

s 11174.3. Interviewing victim at school; presence of school staff member; confidentiality; admissibility of evidence; informing school districts and agency employees of section requirements

(a) Whenever a representative of a government agency investigating suspected child abuse or neglect or the State Department of Social Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the agency investigating suspected child abuse or neglect or the State Department of Social Services shall inform the child of that right prior to the interview.

The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district and each agency specified in Section 11165.9 to receive mandated reports, and the State Department of Social Services shall notify each of its employees who participate in the investigation of reports of child abuse or neglect, of the requirements of this section.

CREDIT

CREDIT(S)

2000 Main Volume

(Added by Stats.1987, c. 640, s 2. Amended by Stats.1998, c. 311 (S.B.933), s 51, eff. Aug. 19, 1998.)

2001 Electronic Update

(Amended by Stats.2000, c. 916 (A.B.1241), s 33.)

HISTORICAL AND STATUTORY NOTES

HISTORICAL NOTES -- HISTORICAL AND STATUTORY NOTES

2001 Electronic Update

2000 Legislation

Stats.2000, c. 916 (A.B.1241) rewrote the section, which formerly read:

"(a) Whenever a representative of a child protective agency or the State Department of Social Services deems it necessary, a suspected victim of child abuse may be interviewed during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home or out-of-home care facility. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the child protective agency or the State Department of Social Services shall inform the child of that right prior to the interview.

"The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

"(b) The Superintendent of Public Instruction shall notify each school district and each child protective agency, and the State Department of Social Services shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section."

Section 34 of Stats.2000, c. 916 (A.B.1241), provides:

"This act is not intended to abrogate the case of Alejo v. City of Alhambra (1999) 75 Cal.App.4th 1180."

2000 Main Volume

Stats.1998, c. 311, in subd. (a), twice inserted "or the State Department of Social Services" following "child protective agency" and inserted "or out-of-home care facility" following "child's home"; in subd. (b), inserted ", and the State Department of Social Services"; and made nonsubstantive changes.

Provisions of Stats.1998, c. 311 (S.B.933), relating to development of protocols for placement of foster children in group homes, emergency regulations, creation of a community care facility law enforcement task force, and providing for a reexamination of the role of out-of-home placements, see Historical and Statutory Notes under Welfare and Institutions Code s 18987.6.

Section 1 of Stats.1987, c. 640, provides:

"The Legislature finds and declares that a number of victims of child abuse must be interviewed by representatives of child protective agencies during school hours, on school premises, regarding suspected child abuse. It is essential to minimize the trauma to the child attendant with such an interview and to thereby increase the likelihood of ascertaining the true facts in the case. Accordingly, it is desirable that the child should have the opportunity to have present at the interview an adult who is a member of the staff of the school with whom the child has a comfortable relationship."

West's Ann. Cal. Penal Code s 11174.3
CA PENAL s 11174.3
END OF DOCUMENT

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CA PENAL S 11174.5

West's Ann. Cal. Penal Code s 11174.5

<RED FLAG>

TEXT

WEST'S ANNOTATED CALIFORNIA CODES
PENAL CODE

PART 4. PREVENTION OF CRIMES AND APPREHENSION OF CRIMINALS

TITLE 1. INVESTIGATION AND CONTROL OF CRIMES AND CRIMINALS

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ARTICLE 2.5. CHILD ABUSE AND NEGLECT REPORTING ACT

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s 11174.5. Repealed by Stats. 1987, c. 1444, s 3

HISTORICAL AND STATUTORY NOTES

2000 Main Volume

The repealed section, added by Stats. 1985, c. 1262, s 3, related to legislative purpose and intent to protect children from abuse.

West's Ann. Cal. Penal Code s 11174.5

CA PENAL s 11174.5

END OF DOCUMENT

Test Claim
Exhibit J

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11 CA ADC S 901

11 CCR s 901

Cal. Admin. Code tit. 11, s 901

CALIFORNIA ADMINISTRATIVE CODE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 9. REPORT OF CHILD ABUSE

ARTICLE 2. REPORT OF SEXUAL ASSAULT

This database is current through 05/04/2001, Register 01, No. 18.

s 901. Definitions.

(a) "Audit Trail" means a method of tracking inquiries to ACAS to determine the requestor and the response provided. (See s 910)

(b) "Automated Child Abuse System" (ACAS) means the current system used by DOJ to electronically store reports of child abuse incidents submitted by CPAs.

(c) "Child" is the same term as defined in Penal Code section 11165.

(d) "Child Abuse" is the same term as defined in Penal Code section 11165.6.

(e) "Confirmation" means the DOJ process of contacting the agency that submitted the report to confirm that the investigative file is still available and is not unfounded. (See s 908)

(f) "CPA" means Child Protective Agency which is the same term as defined in Penal Code section 11165.9.

(g) "DOJ" means the Department of Justice.

(h) "General Neglect" is the same term as used in Penal Code section 11165.2.

(i) "Inconclusive report" is the same term as defined in Penal Code section 11165.12(c). This category was originally termed "unsubstantiated report" and was renamed by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998.

(j) "Index" is the same term as used in Penal Code section 11170(a). The Index is currently known as the Automated Child Abuse System (ACAS).

(k) "Investigative File" or "Underlying Investigative File" means original and supplemental investigative documents developed by the CPA during an investigation of a child abuse incident and that resulted in a report to DOJ.

(l) "Possible Match" means DOJ staff has checked a specific name as the result of an inquiry and has, based on the name and other items of personal description (date of birth, social security number, driver's license number, or address), matched that name to an

existing report(s) in ACAS. The match is considered possible because it has not been confirmed absolutely with positive matching processes such as a fingerprint comparison.

(m) "Report" means an entry in ACAS reporting the investigation of a suspected incident of child abuse. All mandatory information as specified in regulation s 903 must be included for the report to be entered into ACAS. (See s 903)

(n) "Severe Neglect" is the same term as used in Penal Code section 11165.2.

(o) "Submitting Agency" means the agency that forwarded the completed report on which an ACAS entry is based.

(p) "Substantiated Report" is the same term as defined in Penal Code section 11165.12 (b).

(q) "Suspect" means a person who has been designated as a suspect in a CPA child abuse investigation and subsequently reported as such to DOJ.

(r) "TrustLine Registry" means the registry established pursuant to California Education Code section 8172. Effective July 1, 1998, Education Code section 8172 is repealed by Chapter 843 of the Statutes of 1997. The Trustline Registry will be operated by the Department of Social Services (DSS) pursuant to Health & Safety Code section 1596.60. (See s 908(b))

(s) "Unfounded" is the same term as defined in Penal Code section 11165.12(a).

(t) "Unsubstantiated" means a report that is determined by a CPA investigator not to be unfounded, but in which the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (This category was renamed "inconclusive" by Chapter 842 of the Statutes of 1997 and became effective January 1, 1998).

(u) "Verification" means the process DOJ uses to insure that the data entered into ACAS is accurately entered into ACAS. (Sees 904)

(v) "Victim" means a person who has been designated as a victim in a CPA child abuse investigation report and subsequently reported as such to DOJ.

Note: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11165, 11165.2, 11165.6, 11165.12(a), 11165.12(b), 11165.12(c) and 11170(a), Penal Code; and Section 1596.60, Health and Safety Code.

HISTORY

1. New section filed 7-17-98; operative 7-17-98 pursuant to Government Code section 11343.4(d). (Register 98, No. 29).

11 CA ADC s 901
END OF DOCUMENT

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11 CA ADC § 902

11 CCR § 902

Cal. Admin. Code tit. 11, § 902

CALIFORNIA ADMINISTRATIVE CODE
TITLE 11. LAW
DIVISION 1. ATTORNEY GENERAL
CHAPTER 9. REPORT OF CHILD ABUSE
ARTICLE 2. REPORT OF SEXUAL ASSAULT

This database is current through 05/04/2001, Register 01, No. 18.

§ 902. Purpose of ACAS.

The purpose of ACAS is to serve as the index of investigated reports of suspected child abuse received from California CPAs that is maintained by DOJ pursuant to Penal Code section 11170(a). The ACAS consists only of those reports of child abuse that meet the criteria specified in the Child Abuse and Neglect Reporting Act (Penal Code section 11164, et seq.) and that are complete as specified by these regulations.

The ACAS is a reference file and is used to refer authorized individuals or entities to the underlying child abuse investigative files maintained at the reporting CPA. It is the responsibility of authorized individuals or entities to obtain and review the underlying CPA investigative report file and make their own assessment of the merits of the child abuse report. They shall not act solely upon ACAS information.

Note: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11169 and 11170(a)(1) and (2), Penal Code.

HISTORY

1. New section filed 7-17-98; operative 7-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 29).

11 CA ADC § 902

END OF DOCUMENT

Copr. (C) West 2001 No Claim to Orig. U.S. Govt. Works

11 CA ADC S 903

11 CCR s 903

Cal. Admin. Code tit. 11, s 903

CALIFORNIA ADMINISTRATIVE CODE

TITLE 11. LAW

DIVISION 1. ATTORNEY GENERAL

CHAPTER 9. REPORT OF CHILD ABUSE

ARTICLE 2. REPORT OF SEXUAL ASSAULT

This database is current through 05/04/2001, Register 01, No. 18.

s 903. Standard Reporting Form for Reports of Child Abuse Maintained in ACAS.

(a) The following form shall be the standard reporting form for submitting summary reports of child abuse to DOJ:

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

(b) The "Child Abuse Investigation Report" form SS 8583 is the standard reporting form required to report investigative summaries of suspected incidents of child abuse to ACAS. Reporting CPAs shall submit form SS 8583 to DOJ after an active investigation has been conducted and the incident has been determined not to be unfounded. CPAs must obtain and use the most recent version of the SS 8583 when submitting the report to DOJ. The most recent version of the SS 8583 must be the basis for any report in an automated format submitted to DOJ.

If a report is submitted on a form pre-dating the current SS 8583, and DOJ receives an inquiry that requires a confirmation of the report, the information on the report originally submitted must comply with the reporting requirements of the current form SS 8583.

(Sees 908)

All information items on the standard report form SS 8583 should be completed by the investigating CPA. Certain information items on the SS 8583 must be completed by the CPA in order for it to be considered a "retainable report" by DOJ and entered into ACAS. Reports without these items will be returned to the contributor. These information items are:

- (1) The complete name of the investigating agency and type of agency.
- (2) The agency's report number or case name.
- (3) The action taken by the investigating agency.
- (4) The specific type of abuse.
- (5) The victim(s) name, birth date or approximate age, and gender.
- (6) Either the suspect(s) name or the notation "unknown".

Note: Authority cited: Section 11170(a)(1), Penal Code. Reference: Sections 11168, 11169(a) and 11170(a)(1), Penal Code.

HISTORY

1. New section filed 7-17-98; operative 7-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 29).

11 CA ADC s 903

END OF DOCUMENT

SUSPECTED CHILD ABUSE REPORT

To Be Completed by Reporting Party
Pursuant to Penal Code Section 11166

| | |
|------------------------|--------------------------------------|
| A. CASE IDENTIFICATION | TO BE COMPLETED BY INVESTIGATING CPA |
| | VICTIM NAME: _____ |
| | REPORT NO./CASE NAME: _____ |
| DATE OF REPORT: _____ | |

| | | | | | | | | | | |
|--|---|-----------------------|------------------------------|-----------------------|-------------|----------------------------|-----------------------------------|-----------|-----------------------------------|------|
| B. REPORTING PARTY | NAME/TITLE | | | | | | | | | |
| | ADDRESS | | | | | | | | | |
| | PHONE () | DATE OF REPORT | SIGNATURE OF REPORTING PARTY | | | | | | | |
| C. REPORT SENT TO | <input type="checkbox"/> POLICE DEPARTMENT <input type="checkbox"/> SHERIFF'S OFFICE <input type="checkbox"/> COUNTY WELFARE <input type="checkbox"/> COUNTY PROBATION | | | | | | | | | |
| | AGENCY | ADDRESS | | | | | | | | |
| | OFFICIAL CONTACTED | PHONE () | DATE/TIME | | | | | | | |
| D. INVOLVED PARTIES | NAME (LAST, FIRST, MIDDLE) | | ADDRESS | BIRTHDATE | SEX | RACE | | | | |
| | PRESENT LOCATION OF CHILD | | PHONE () | | | | | | | |
| | NAME | BIRTHDATE | SEX | RACE | NAME | BIRTHDATE | SEX | RACE | | |
| | 1. _____ | | | | 4. _____ | | | | | |
| | 2. _____ | | | | 5. _____ | | | | | |
| PARENTS | NAME (LAST, FIRST, MIDDLE) | | BIRTHDATE | SEX | RACE | NAME (LAST, FIRST, MIDDLE) | | BIRTHDATE | SEX | RACE |
| | ADDRESS | | ADDRESS | | | | | | | |
| | HOME PHONE () | BUSINESS PHONE () | HOME PHONE () | BUSINESS PHONE () | | | | | | |
| | | | | | | | | | | |
| E. INCIDENT INFORMATION | IF NECESSARY, ATTACH EXTRA SHEET OR OTHER FORM AND CHECK THIS BOX. <input type="checkbox"/> | | | | | | | | | |
| | 1. DATE/TIME OF INCIDENT | | PLACE OF INCIDENT | | (CHECK ONE) | | <input type="checkbox"/> OCCURRED | | <input type="checkbox"/> OBSERVED | |
| | IF CHILD WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: | | | | | | | | | |
| | <input type="checkbox"/> FAMILY DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> SMALL FAMILY HOME <input type="checkbox"/> GROUP HOME OR INSTITUTION | | | | | | | | | |
| | 2. TYPE OF ABUSE: (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL ASSAULT <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER | | | | | | | | | |
| | 3. NARRATIVE DESCRIPTION: | | | | | | | | | |
| 4. SUMMARIZE WHAT THE ABUSED CHILD OR PERSON ACCOMPANYING THE CHILD SAID HAPPENED: | | | | | | | | | | |
| 5. EXPLAIN KNOWN HISTORY OF SIMILAR INCIDENT(S) FOR THIS CHILD: | | | | | | | | | | |

SS 8572 (REV. 7/87)

INSTRUCTIONS AND DISTRIBUTION ON REVERSE

DO NOT submit a copy of this form to the Department of Justice (DOJ). A CPA is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS-8583 if (1) an active investigation has been conducted and (2) the incident is not unfounded.

Police or Sheriff-WHITE Copy; County Welfare or Probation-BLUE Copy; District Attorney-GREEN Copy; Reporting Party-YELLOW Copy

SUSPECTED CHILD ABUSE REPORT
DEPARTMENT OF JUSTICE FORM SS 8572
(REQUIRED UNDER PENAL CODE SECTIONS 11166 AND 11168)

I. REPORTING RESPONSIBILITIES

- No child care custodian or health practitioner reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article (California Penal Code Article 2.5). Any other person reporting a suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this section unless it can be proved that a false report was made and the person knew or should have known that the report was false.
- Any child care custodian, health practitioner, or employee of a child protective agency (CPA) who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof *within 36 hours* of receiving the information concerning the incident.
- Any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or its emotional well-being is endangered in any other way, may report such suspected instance of child abuse to a child protective agency. Infliction of willful and unjustifiable mental suffering must be reported.

II. DEFINITIONS

- "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel or residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse presentation program in any public or private school.
- "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, marriage, family, and child counselor; or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a minor for venereal disease or any other condition, a coroner, or a religious practitioner who diagnoses, examines, or treats children.
- "Child protective agency" (CPA) means a police or sheriff's department, a county probation department, or a county welfare department.

III. INSTRUCTIONS

(Section A to be completed by investigating child protective agency)

SECTION A - "CASE IDENTIFICATION": Enter the victim name, report number or case name, and date of report.

(Sections B through E are to be completed by reporting party)

SECTION B - "REPORTING PARTY": Enter your name/title, address, phone number, date of report, and signature.

SECTION C - "REPORT SENT TO": (1) Check the appropriate box to indicate which CPA this report is being sent; (2) Enter the name and address of the CPA to which this report is being sent; and (3) Enter the name of the official contacted at the CPA, phone number, and the date/time contacted.

SECTION D - "INVOLVED PARTIES":

- a. **VICTIM:** Enter the name, address, physical data, present location, and phone number where victim is located (attach additional sheets if multiple victims).
- b. **SIBLINGS:** Enter the name and physical data of siblings living in the same household as the victim.
- c. **PARENTS:** Enter the names, physical data, addresses, and phone numbers of father/stepfather and mother/stepmother.

SECTION E - "INCIDENT INFORMATION": (1) Enter the date/time and place the incident occurred or was observed, and check the appropriate boxes; (2) Check the type of abuse; (3) Describe injury or sexual assault (where appropriate, attach Medical Report - Suspected Child Abuse Form DOJ 900 or any other form desired); (4) Summarize what the child or person accompanying the child said happened; and (5) Explain any known prior incidents involving the victim.

IV. DISTRIBUTION

- A. **Reporting Party:** Complete Suspected Child Abuse Report Form SS 8572. Retain yellow copy for your records and submit top three copies to a child protective agency.
- B. **Investigating Child Protective Agency:** Upon receipt of Form SS 8572, *within 36 hours* send white copy to police or sheriff, blue copy to county welfare or probation, and green copy to district attorney.

CHILD ABUSE INVESTIGATION REPORT

To be Completed by Investigating Child Protective Agency
Pursuant to Penal Code Section 11169
(SHADED AREAS MUST BE COMPLETED)

FOR DOJ USE ONLY
B300894
R:
C:
N:
A:
G:
Y:

A. INVESTIGATING AGENCY

1. INVESTIGATING AGENCY (Enter complete name and check type):
 POLICE WELFARE
 SHERIFF PROBATION

2. AGENCY REPORT NO./CASE NAME:

3. AGENCY ADDRESS: Street City

4. AGENCY TELEPHONE: EXT:

5. NAME OF INVESTIGATING PARTY: TITLE

6. DATE REPORT COMPLETED: MO DA YR

7. AGENCY CROSS-REPORTED TO: 8. PERSON CROSS-REPORTED TO:

9. DATE CROSS-REPORTED: MO DA YR

10. ACTION TAKEN (check only one box):
 (1) SUBSTANTIATED (Credible evidence of abuse)
 (2) UNSUBSTANTIATED (Insufficient evidence of abuse; not unfounded)
 (3) SUPPLEMENTAL INFORMATION (Attach copy of original report)
 (4) UNSUBSTANTIATED (5) ADDITIONAL INFORMATION
 (6) UNFOUNDED (false report, accidental, improbable)

11. COMMENTS:

B. INCIDENT INFORMATION

1. DATE OF INCIDENT: MO DA YR 2. TIME OF INCIDENT: 3. LOCATION OF INCIDENT:

4. NAME OF PARTY REPORTING INCIDENT: TITLE: 5. EMPLOYER: 6. TELEPHONE:

7. TYPE OF ABUSE (check one or more):
 (1) PHYSICAL (2) MENTAL (3) INCEST (285 P.C.) (4) OTHER SEXUAL ASSAULT:
 (5) SEXUAL EXPLOITATION (6) SEVERE NEGLECT (7) GENERAL NEGLECT (8) OTHER

8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE
 (1) FAMILY DAY CARE (2) CHILD CARE CENTER (3) FOSTER FAMILY HOME (4) SMALL FAMILY HOME (5) GROUP HOME OR INSTITUTION-Enter name and address:

C. INVOLVED PARTIES

VICTIMS

1. NAME: Last First Middle AKA D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

ADDRESS: Street City State DID VICTIM'S INJURIES RESULT IN DEATH? YES NO

PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER: IS VICTIM DEVELOPMENTALLY DISABLED (4612(a) WA)?
 YES NO

2. NAME: Last First Middle AKA D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

ADDRESS: Street City State DID VICTIM'S INJURIES RESULT IN DEATH? YES NO

PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER: IS VICTIM DEVELOPMENTALLY DISABLED (4612(a) WA)?
 YES NO

SUSPECTS

1. NAME: Last First Middle AKA D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

ADDRESS: Street City State HGT WGT EYES HAIR SOCIAL SECURITY NUMBER:

RELATIONSHIP TO VICTIM: (1) PARENT/STEPARENT (2) SIBLING (3) OTHER RELATIVE DRIVER'S LICENSE NUMBER:
 (4) FRIEND/ACQUAINTANCE (5) STRANGER (6) OTHER

2. NAME: Last First Middle AKA D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

ADDRESS: Street City State HGT WGT EYES HAIR SOCIAL SECURITY NUMBER:

RELATIONSHIP TO VICTIM: (1) PARENT/STEPARENT (2) SIBLING (3) OTHER RELATIVE DRIVER'S LICENSE NUMBER:
 (4) FRIEND/ACQUAINTANCE (5) STRANGER (6) OTHER

OTHER

1. NAME: Last First Middle (1) PARENT/STEPARENT D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

2. NAME: Last First Middle (1) PARENT/STEPARENT D O B MO DA YR APPROX. AGE MALE FEMALE RACE *

*RACE CODES: W-White, B-Black, H-Hispanic, I-American Indian, F-Filipino, P-Pacific Islander, C-Chinese, J-Japanese, A-Other Asian, Z-Asian Indian, D-Cambodian, G-Guamanian, U-Hawaiian, K-Korean, L-Laotian, S-Samoan, V-Vietnamese, O-Other, X-Unknown

CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.

88 8583 (Rev. 3/91) PINK COPY-DOJ; WHITE COPY-Police or Sheriff; BLUE COPY-County Welfare or Probation; GREEN COPY-Attorney's Office 91 91931

CHILD ABUSE INVESTIGATION REPORT
DEPARTMENT OF JUSTICE (DOJ) FORM SS 8583
Guidelines for Use and Completion of Form SS 8583

B 300894

(For Specific Requirements Refer to the Child Abuse Reporting Law, California Penal Code Section 11165 through 11174.5)

For immediate information on potential suspects/victims, please contact the Child Abuse Unit at (916) 739-5109.

Who Must Report

Interagency Reporting

- A child protective agency (CPA - i.e., police and sheriff's department, county welfare and probation department) must report every suspected incident of child abuse it receives to:
 - another CPA in the county
 - the agency responsible for investigations under Welfare and Institutions Code 300
 - the district attorney's office

DOJ Reporting

- A CPA must report every incident of suspected child abuse for which they conduct an active investigation to DOJ on the Form SS 8583.
- NOTE: Reports are not accepted from agencies other than CPAs.*

What Incidents Must Be Reported

- Abuse of a minor child, i.e., a person under the age of 18 years, involving any one of the below abuse types:

Interagency Reporting

- sexual abuse
- physical abuse
- general neglect
- mental/emotional abuse
- severe neglect

(Refer to Section 11165.1 through 11165.6 PC for PC citations and definitions)

DOJ Reporting

- All of the above, excluding general neglect.
- Deaths of minors resulting from abuse or neglect.

What Incidents Must Not Be Reported

Interagency Reporting

- Incidents specifically exempted under cooperative arrangements with CPAs in your jurisdiction.

DOJ Reporting

- Unfounded reports - Reports which are determined to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined under Section 11165.12 PC.
- Acts of consensual sexual behavior between minors under the age of 14 years who are of similar age.
- Acts of negligence by a pregnant woman or other person(s) which adversely effect the well-being of a fetus.
- Reports of adults who report themselves as the victims of prior child abuse.
- Child stealing as defined in Sections 277 PC and 278 PC; unless involving sexual abuse, physical abuse, mental/emotional abuse, and/or severe neglect.
- Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- Statutory rape, as defined in Section 261.5 PC.
- Mutual fights between minors (Section 11165.6 PC).

When Must the Report be Submitted

Interagency Reporting

- Telephone notification - Immediately or as soon as practical.
- Written notification - within 36 hours of receiving information concerning the incident. (The Form SS 8583 can be used for cross reporting purposes.)

DOJ Reporting

- A Form SS 8583 must be submitted as soon as an active investigation has been conducted and the incident has proven not to be unfounded.
- NOTE: No other form will be accepted in lieu of the Form SS 8583.*

What information is Required

General Instructions

- All information blocks contained on the Form SS 8583 should be completed by the investigating CPA. If information is not available, indicate "UNK" in the applicable information block.

Specific Instructions

- INFORMATION BLOCKS ON THE FORM SS 8583 WHICH ARE SHADED GRAY MUST BE COMPLETED (An exception are the VICTIMS and SUSPECTS information blocks. Either a victim or suspect must be entered on the form. If a date of birth for either is not known, enter an approximate age, otherwise "UNK" may be entered.)
- IF ANY ONE OF THESE BLOCKS IS NOT COMPLETED, THE FORM WILL BE RETURNED TO THE CONTRIBUTOR.

Section A, "INVESTIGATING AGENCY", information block 10, "ACTION TAKEN" must be completed in accordance with the following definitions. (Check one of the boxes):

| | |
|--|--|
| <p align="center">①</p> <p>10. ACTION TAKEN (check only one box):</p> <p><input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse)</p> <p><input type="checkbox"/> (2) UNSUBSTANTIATED (Insufficient evidence of abuse, not unfounded)</p> <p align="center">②</p> | <p align="center">③ ④ ⑤</p> <p>(3) SUPPLEMENTAL INFORMATION (Attach copy of original report)</p> <p><input type="checkbox"/> (a) UNSUBSTANTIATED <input type="checkbox"/> (c) ADDITIONAL INFORMATION</p> <p><input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)</p> <p align="center">⑥</p> |
|--|--|

- ① SUBSTANTIATED - Acts determined, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6 PC.
- ② UNSUBSTANTIATED - Acts determined not to be unfounded, but there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6 PC, has occurred.
- ③ SUPPLEMENTAL INFORMATION - Attached information is being provided to supplement a previously submitted Form SS 8583.
- ④ UNSUBSTANTIATED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" is being reclassified to "UNSUBSTANTIATED".
- ⑤ UNFOUNDED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" or "UNSUBSTANTIATED" is being reclassified to "UNFOUNDED".
- ⑥ ADDITIONAL INFORMATION - Supplementary information is being provided for a previously submitted Form SS 8583.

Where To Send The Report, Form SS 8583

(For DOJ reporting only)

Department of Justice
 Bureau of Criminal Statistics and Special Services
 P. O. Box 903417
 Sacramento, CA 94203-4170
 ATTENTION: Child Abuse Central Index

REMEMBER

Submit completed Forms SS 8583s to DOJ as soon as possible because the case information may contribute to the success of another investigation. It is essential that the reports be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects. If you have questions about DOJ REPORTING or need a victim or suspect name check, call the DOJ Child Abuse Unit at (916) 739-5109 or ATSS 497-5109.

Test Claim
Exhibit L

moved or operated upon a highway after January 1, 1982, unless the owner makes application for a license plate and, when received, attaches it to the motorized bicycle as provided in this article.

(c) Any motorized bicycle currently licensed pursuant to Division 16.7 (commencing with Section 39000) on July 1, 1981, may be operated upon a highway until July 1, 1982.

5038. The department shall establish a record system that provides for identification of stolen motorized bicycles.

5039. Notwithstanding any other provision of law, no dealer, manufacturer, salesman, or representative of motorized bicycles exclusively is required to be licensed or permitted pursuant to Chapter 4 (commencing with Section 11700) of Division 5.

SEC. 2. Section 39013 of the Vehicle Code is repealed.

SEC. 3. The sum of twenty-nine thousand five hundred sixty dollars (\$29,560) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles to implement Article 8.1 (commencing with Section 5030) of Chapter 1 of Division 3 of the Vehicle Code.

SEC. 4. No appropriation is made by this act pursuant to Section 2231 or 2234 of the Revenue and Taxation Code or Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 1071

An act to add Article 2.5 (commencing with Section 11165) to Chapter 2 of Title 1 of Part 4 of, and to repeal Sections 11161.5, 11161.6, and 11161.7 of, the Penal Code, relating to child abuse.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 11161.5 of the Penal Code is repealed.

SEC. 2. Section 11161.6 of the Penal Code is repealed.

SEC. 3. Section 11161.7 of the Penal Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 11165) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

11165. As
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 employee of
 foster parent

Article 2.5. Child Abuse Reporting

11165. As used in this article:

- (a) "Child" means a person under the age of 18 years.
- (b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 261.5 (unlawful sexual intercourse), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).
- (c) "Neglect" means the negligent failure of a person having the care or custody of any child to protect a child from severe malnutrition or medically diagnosed nonorganic failure to thrive. For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code shall not for that reason alone be considered a neglected child.
- (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that his or her person or health is endangered.
- (e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.
- (f) "Abuse in out-of-home care" means situations of suspected physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.
- (g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.
- (h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential

care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

11166. (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or its emotional well-being is endangered in any other way, may report such suspected instance of child abuse to a child protective agency.

(c) Any other person who had knowledge of or observes a child whom he or she reasonably suspects has been a victim of child abuse may report such suspected instance of child abuse to a child protective agency.

(d) When two or more persons who are required to report are present and jointly have knowledge of a suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make such report.

(e) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit such reporting duties and no person making such report shall be subject to any

sanction for malfeasance. A law enforcement officer who fails to facilitate reporting of suspected child abuse may be subject to disciplinary action. Reports may be made to a child protective agency with the provisions of this section.

(f) A county or city shall report or as soon as practicable the law enforcement officer of suspected child abuse to the agency governing the law enforcement officer. Section 300 of the Business and Professions Code shall not apply to a written report to a child protective agency concerning the incident.

A law enforcement officer who fails to facilitate reporting of suspected child abuse may be subject to disciplinary action. Reports may be made to a child protective agency with the provisions of this section. Welfare and Institutions Code, Section 16000, shall not apply to such agency.

11167. (a) A child protective agency shall include the name of the child, the nature of the injury, and any other information concerning such person to a child protective agency.

(b) Information concerning a suspected instance of child abuse shall be given to an investigating child protective agency.

(c) Persons who report child abuse under 11166 are not subject to disciplinary action unless the person is disclosed only to a child protective agency or the probation department.

11168. The information shall be submitted on a form provided by the Department of Social Services in consultation with the child protective agencies and associations and the county welfare departments and child protective agencies.

11169. A child protective agency shall report a suspected instance of child abuse to the Department of Social Services. A formal action shall be taken if the case proves to be a child abuse case. The Department of Social Services shall provide a copy of the report to the Department of Justice. A child protective agency shall report a suspected instance of child abuse to the Department of Social Services.

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

(f) A county probation or welfare department shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse as defined in Section 11165 reported to it to the law enforcement agency having jurisdiction over the case, and to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and shall send a written report thereof within 36 hours of receiving the information concerning the incident to that agency.

A law enforcement agency shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse reported to it to county social services and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and shall send a written report thereof within 36 hours of receiving the information concerning the incident to such agency.

11167. (a) A telephone report of suspected child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the suspected case of child abuse.

(c) Persons who may report pursuant to subdivision (c) of Section 11166 are not required to include their names. The identity of all persons who report under this article shall be confidential and disclosed only by court order or between child protective agencies or the probation department.

11168. The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies.

11169. A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of suspected child abuse which it investigates, whether or not any formal action is taken in the case. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the

Department of Justice.

11170. The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169 of any information maintained pursuant to Section 11110 which is relevant to the suspected instance of child abuse reported by the agency. The indexed reports retained by the Department of Justice shall be continually updated and shall not contain any unfounded reports. A child protective agency shall make such information available to the reporting medical practitioner, child custodian, or guardian ad litem appointed under Section 318 of the Welfare and Institutions Code, if he or she is treating or investigating a case of suspected child abuse.

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

11171. (a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse and determining the extent of such child abuse.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

11172. (a) No child care custodian, medical practitioner or nonmedical practitioner reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this section unless it can be proved that a false report was made and the person knew or should have known that the report was false. No person required to make a report pursuant to this section, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating such photographs with the reports required by this section. However, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of such photographs.

(b) Any person who fails to report as required by this article an instance of child abuse which he or she knows to exist or reasonably should know to exist is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars (\$500) or by both.

11174. The Department of Justice, in cooperation with the State

Ch. 1071]

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Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (g) of Section 11165, in group homes or institutions and shall ensure that every investigation of such alleged child abuse is conducted in accordance with such regulations and guidelines.

SEC. 5. In reenacting the child abuse reporting law, it is the intent of the Legislature to clarify the duties and responsibilities of those who are required to report child abuse. The new provisions are designed to foster cooperation between child protective agencies and other persons required to report. Such cooperation will insure that children will receive the collective judgment of all such agencies and persons regarding the course to be taken to protect the child's interest.

In enacting Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, the Legislature recognizes that the reporting of child abuse and any subsequent action by a child protective agency involves a delicate balance between the right of parents to control and raise their own children by imposing reasonable discipline and the social interest in the protection and safety of the child. Therefore, it is the intent of the Legislature to require the reporting of child abuse which is of a serious nature and is not conduct which constitutes reasonable parental discipline.

In repealing Sections 11161.5, 11161.6, and 11161.7 of, and in reenacting the Child Abuse Reporting Law in Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of, the Penal Code, it is not the intent of the Legislature to alter the holding in the decision of *Landeros v. Flood* (1976), 17 Cal. 3d 399, which imposes civil liability for a failure to report child abuse.

It is the intent of the Legislature to encourage each county welfare department to establish within the department a toll-free number for receiving reports of child abuse 24 hours a day, seven days a week.

It is the intent of the Legislature to encourage the board of supervisors of each county to establish a committee composed of representatives from the county welfare department, local law enforcement agencies, county probation department, county health department and other persons representative of the population to be served, and any other person the board of supervisors deems appropriate, which would establish guidelines for the sharing of information and the coordination of the investigation of cases of child abuse.

It is the intent of the Legislature to encourage the county welfare or probation departments to promptly perform for each mandated report they receive and each report received pursuant to subdivision (b) of Section 11166 a thorough assessment to determine all of the following:

- (a) The composition of the family or household, including the name, address, age, sex, and race of each child named in the report, and any siblings or other children in the same household or in the

care of the same adults.

(b) Whether there is reasonable suspicion to believe that any child in the family, household, or child-care facility is being abused or neglected and a determination of the person or persons apparently responsible for the abuse or neglect.

(c) The immediate and long-term risk to each child if he or she remains in the existing environment.

(d) The protective treatment and ameliorative services that appear necessary to help prevent further child abuse or neglect.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures, and because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

CHAPTER 1072

An act to add Section 1157.5 to the Health and Safety Code, and to amend Sections 16702 and 16704 of the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 1157.5 is added to the Health and Safety Code, to read:

1157.5. Upon request of the board of supervisors of any county which received public health services or funding, or both, during the fiscal year 1979-80 pursuant to Section 1157, the State Department of Health Services shall transfer the dollar value of such services or funding, or both, as an allocation to the county pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code. For purposes of this section, the dollar value of such services or funding, or both, shall include the direct and indirect costs appropriated to the State Department of Health Services to provide public health services to the county pursuant to Section 1157 for the fiscal year preceding the effective date of the request to transfer funds, less any funds allocated from appropriations for child health and disability prevention programs as described in Article 3.4

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Test Claim
Exhibit M

governmental entities or school districts by this act are such that related costs are incurred as part of their normal operating procedures.

CHAPTER 958

An act to amend Sections 11161.5 and 11161.7 of the Penal Code, relating to social services.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school, by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, by any peace officer, or by any probation officer, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, administrator of a public or private summer day camp or child care center, social worker, peace officer, or probation officer, from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county

welfare department, injury or injury other than a sexually molested, Section 273a without delay with the juvenile

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welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and with the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be proven that a false report was made and the person knew or should have known that the report was false.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his patient or client; any director of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

SEC. 2. Section 11161.7 of the Penal Code is amended to read:

11161.7. (a) The Department of Justice, in cooperation with the State Office of Child Abuse Prevention, shall adopt and cause to be printed, for dissemination through the various county welfare departments, a form which shall be used by reporting professional medical personnel in making reports required to be made pursuant to Section 11161.5.

(b) Failure by professional medical personnel to use such form in

reporting an incident of possible child abuse shall not constitute a violation of Section 11162.

SEC. 3. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to that section nor shall there be any appropriation made by this act because the duties, obligations, or responsibilities imposed on local government by this act are minor in nature and will not cause any financial burden on local government.

CHAPTER 959

An act making an appropriation for the support of rehabilitation facilities.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. The sum of ten thousand dollars (\$10,000) for expenditure during the 1977-78 fiscal year and twenty thousand dollars (\$20,000) for expenditure during the 1978-79 fiscal year is hereby appropriated from the General Fund in the State Treasury to the Department of Rehabilitation to be matched by available federal vocational rehabilitation funds for the purpose of implementing Article 1 (commencing with Section 19400) of Chapter 5 of Part 2 of Division 10 of the Welfare and Institutions Code. Such funds shall be utilized to establish a program which encourages purchases pursuant to Section 19403 of the Welfare and Institutions Code.

CHAPTER 960

An act to amend Section 1012 of the Military and Veterans Code, relating to veterans' institutions, and making an appropriation therefor.

[Approved by Governor September 21, 1977. Filed with Secretary of State September 21, 1977.]

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

SECTION 1. Section 1012 of the Military and Veterans Code is amended to read:

1012. The home is for aged and disabled persons who served in the armed forces of the United States during a war period or period of hostility, as defined by law, or in time of peace in a campaign or

expedition for service of the government of the United States from active duty or who are eligible for benefits from a facility in accordance with the State Veterans' Home Act. Residents of this state who are the subject of an application; and the following conditions:

- (a) Space is available;
 - (b) Joint resident with a family member, as determined by the board;
 - (c) The spouse or dependent child, for a period of years immediately preceding the date of application, has resided at the home, is married, and has been married for at least one year;
 - (d) The home is not being charged for joint occupancy.
- A resident spouse who dies shall be deemed to have died.

The property of the State of California. SEC. 2. The sum of twenty-five million dollars (\$25,000,000) for expenditure, during the 1977-78 fiscal year, for the purpose of making modifications of the General Fund of California.

An act to amend Section 205.5 of the Revenue and Taxation Code, relating to tax:

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

SECTION 1. Section 205.5 of the Revenue and Taxation Code is amended to read: 205.5. (a) For the purpose of this section, the principal place of residence of a person shall be the place where the person exceeds ten days in any calendar year in injury or illness, or the use of the property. (b) For pu

Test Claim
Exhibit N

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

SECTION 1. Section 1509 of the Corporations Code is amended to read:

1509. Dividends on shares of domestic or foreign corporations standing in the name of a married person may be paid in the same manner as if that person were unmarried.

SEC. 2. Section 2224 of the Corporations Code is amended to read:

2224. Shares standing in the name of a married person may be voted and all rights incident thereto may be exercised in the same manner as if that person were unmarried.

SEC. 3. Section 2415 of the Corporations Code is amended to read:

2415. Shares of stock in domestic or foreign corporations standing on the books of a corporation in the name of a married person may be transferred by that person or the agents of that person, without the signature of the spouse of that person, in the same manner as if that person were unmarried.

SEC. 4. Section 25246 is added to the Corporations Code, to read:

25246. It is unlawful for any person holding a certificate as an agent or broker-dealer under this part to require, as a condition to the purchase or sale of securities for and in the name of a married person, that the prior consent or authorization of the spouse of that person be obtained.

SEC. 5. There are no state-mandated local costs in this act that require reimbursement under Section 2231 of the Revenue and Taxation Code because there are no duties, obligations or responsibilities imposed on local government by this act.

CHAPTER 348

An act to amend Section 11161.5 of the Penal Code, relating to minors.

[Approved by Governor June 20, 1974. Filed with Secretary of State June 20, 1974.]

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

SECTION 1. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which a minor is brought to a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, or religious practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any case in which a minor is observed by any registered nurse when in the employ of a public health agency, school, or school district and when no physician

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and surgeon, resident, or intern is present, by any superintendent, any supervisor of child welfare and attendance, or any certificated pupil personnel employee of any public or private school system or any principal of any public or private school; by any teacher of any public or private school, by any licensed day care worker, by an administrator of a public or private summer day camp or child care center, or by any social worker, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, religious practitioner, registered nurse, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, school principal, teacher, licensed day care worker, by an administrator of a public or private summer day camp or child care center or social worker from observation of the minor that the minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that the minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall report such fact by telephone and in writing, within 36 hours, to both the local police authority having jurisdiction and to the juvenile probation department; or, in the alternative, either to the county welfare department, or to the county health department. The report shall state, if known, the name of the minor, his whereabouts and the character and extent of the injuries or molestation.

Whenever it is brought to the attention of a director of a county welfare department or health department that a minor has physical injury or injuries which appear to have been inflicted upon him by other than accidental means by any person, that a minor has been sexually molested, or that any injury prohibited by the terms of Section 273a has been inflicted upon a minor, he shall file a report without delay with the local police authority having jurisdiction and to the juvenile probation department as provided in this section.

No person shall incur any civil or criminal liability as a result of making any report authorized by this section.

Copies of all written reports received by the local police authority shall be forwarded to the Department of Justice. If the records of the Department of Justice maintained pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon, sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a upon, the same minor or any other minor in the same family by other than accidental means, or if the records reveal any arrest or conviction in other localities for a violation of Section 273a inflicted upon the same minor or any other minor in the same family, or if the records reveal any other pertinent information with respect to the same minor or any other minor in the same family, the local reporting agency and the local juvenile probation department shall be immediately notified of the fact.

Reports and other pertinent information received from the department shall be made available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, or religious practitioner with regard to his patient or client; any director

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of a county welfare department, school superintendent, supervisor of child welfare and attendance, certificated pupil personnel employee, or school principal having a direct interest in the welfare of the minor; and any probation department, juvenile probation department, or agency offering child protective services.

(b) If the minor is a person specified in Section 600 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 576.5 of the Welfare and Institutions Code and the report is made to the local police authority having jurisdiction, then the report required by subdivision (a) of this section shall be made to the county welfare department.

CHAPTER 349

An act to amend Section 8394 of the Fish and Game Code, relating to fish, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 20, 1974. Filed with
Secretary of State June 20, 1974.]

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

SECTION 1. Section 8394 of the Fish and Game Code is amended to read:

8394. Swordfish may be taken only under a revocable, nontransferable permit issued by the department subject to such regulations as the commission shall prescribe.

SEC. 2. Notwithstanding Section 2231 of the Revenue and Taxation Code, there shall be no reimbursement pursuant to this section nor shall there be an appropriation made by this act because the Legislature recognizes that during any legislative session a variety of changes to laws relating to crimes and infractions may cause both increased and decreased costs to local governmental entities which in the aggregate, do not result in significant identifiable cost changes.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

This act will afford the population of swordfish with needed protection by requiring a revocable, nontransferable permit for the taking of swordfish for commercial purposes. In order, therefore, to afford necessary protection for the swordfish population at the earliest possible time, it is necessary that this act go into immediate effect.

Test Claim
Exhibit O

The enactment of this section is intended to prohibit, and the provisions of this section shall be construed as prohibiting, the state from providing capital outlay expenditures for any limited residence program in the area of a military installation which is designed primarily for the benefit of military and nonmilitary personnel at such installation.

The effect of this section is limited to the classes provided by California Polytechnic State University at Vandenberg Air Force Base.

If any provision of this section or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

SEC. 10. Section 24000 of the Education Code is amended to read:

24000. The trustees may accept on behalf of the state any gift, bequest, devise, or donation of real or personal property whenever such gift and the terms and conditions thereof will aid in carrying out the primary functions of the state colleges as specified in Section 22606. Neither Section 11005 of the Government Code nor any other provision of law requiring approval by a state officer of gifts, bequests, devises, or donations shall apply to such gifts, bequests, devises, or donations. Such gifts, bequests, devises, or donations, and the disposition thereof, shall be annually reported to the California Postsecondary Education Commission, the Joint Legislative Budget Committee and the Department of Finance by the fifth calendar day of each regular session of the Legislature.

SEC. 11. It is the intent of the Legislature that the amendments to Sections 13105 and 23753.1 of the Education Code, as proposed by Sections 2 and 9, respectively, of this bill, and which amendments incorporate the amendments to Sections 13105 and 23753.1, as proposed by Assembly Bill No. 541, shall become operative only if this bill and Assembly Bill No. 541 are both chaptered and take effect on or before January 1, 1975.

SEC. 12. Except as provided by Section 11 of this act, any section of any other act enacted by the Legislature in 1974 at its 1973-74 Regular Session, which takes effect on or before January 1, 1975, and which amends or repeals a section amended by this act, shall prevail over this act whether such act is enacted prior or subsequent to this act.

CHAPTER 836

An act to add Section 11161.7 to the Penal Code, relating to child abuse.

[Approved by Governor September 18, 1974. Filed with Secretary of State September 18, 1974.]

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

SECTION 1. Section 11161.7 is added to the Penal Code, to read:
11161.7. (a) The Department of Justice shall prescribe by regulation a form which may be used by reporting professional medical personnel in making reports required to be made pursuant to Section 11161.5.

(b) As used in this section "professional medical personnel" means a physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, and registered nurse.

(c) Failure by professional medical personnel to use such form in reporting an incident of possible child abuse shall not constitute a violation of Section 11162.

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CHAPTER 837

An act to add Section 2860.7 to the Business and Professions Code, relating to vocational nurses.

[Approved by Governor September 18, 1974. Filed with Secretary of State September 18, 1974.]

An act

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

SECTION 1. Section 2860.7 is added to the Business and Professions Code, to read:

2860.7. (a) A licensed vocational nurse, acting under the direction of a physician may perform: (1) tuberculin skin tests, coccidioidin skin tests, and histoplasmin skin tests, providing such administration is within the course of a tuberculosis control program, and (2) immunization techniques, providing such administration is upon standing orders of a supervising physician, or pursuant to written guidelines adopted by a hospital or medical group with whom the supervising physician is associated.

(b) The supervising physician under whose direction the licensed vocational nurse is acting pursuant to subdivision (a) shall require such nurse to:

(1) Satisfactorily demonstrate competence in the administration of immunizing agents, including knowledge of all indications and contraindications for the administration of such agents, and in the recognition and treatment of any emergency reactions to such agents which constitute a danger to the health or life of the person receiving the immunization; and

(2) Possess such medications and equipment as required, in the medical judgment of the supervising physician and surgeon, to treat any emergency conditions and reactions caused by the immunizing agents and which constitute a danger to the health or life of the person receiving the immunization, and to demonstrate the ability

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