

SixTen and Associates

Mandate Reimbursement Services

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Original Via Federal Express

Copies Via Certified Mail #7001 0360 0000 5999 9925

June 27, 2002

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

Re: TEST CLAIM OF SAN BERNARDINO COMMUNITY COLLEGE DISTRICT
Chapter 754, Statutes of 2001
Penal Code Sections 273a, 11161.5 et al.
Child Abuse and Neglect Reporting

Dear Ms. Higashi:

Enclosed are the original and seven copies of the San Bernardino Community College District test claim for the above referenced mandate.

I have been appointed by the District as its representative for the test claim. The District requests that all correspondence originating from your office and documents subject to service by other parties be directed to me, with copies to:

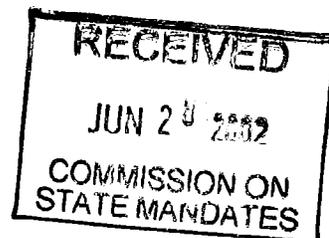
Raymond Eberhard, Business Manager
San Bernardino Community College District
114 S. Del Rosa Drive
San Bernardino, California 92408

Sincerely,



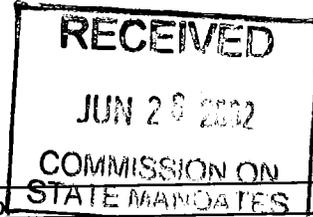
Keith B. Petersen

C: Dr. Carol Berg, Consultant, Education Mandated Cost Network
Raymond Eberhard, San Bernardino Community College District



State of California
COMMISSION ON STATE MANDATES
980 Ninth Street, Suite 300
Sacramento, CA 95814
(916) 323-3562
CSM 2 (1/91)

For Official Use Only



10:20 AM

TEST CLAIM FORM

Claim No.

01-TC-21

Local Agency or School District Submitting Claim

SAN BERNARDINO COMMUNITY COLLEGE DISTRICT

Contact Person

Telephone Number

Keith B. Petersen, President
SixTen and Associates
5252 Balboa Avenue, Suite 807
San Diego, California 92117

Voice: 858-514-8605
Fax: 858-514-8645

Claimant Address

Raymond Eberhard, Business Manager
San Bernardino Community College District
114 S. Del Rosa Drive
San Bernardino, California 92408

Representative Organization to be Notified

Dr. Carol Berg, Consultant, Education Mandated Cost Network
c/o School Services of California
1121 L Street, Suite 1060
Sacramento, CA 95814

Voice: 916-446-7517
Fax: 916-446-2011

This claim alleges the existence of a reimbursable state mandated program 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 citation(s) within the chaptered bill, if applicable. **Child Abuse and Neglect Reporting**

See: Attached

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

Name and Title of Authorized Representative

Telephone No.

Raymond Eberhard
Business Manager

(909) 382-4021
FAX: (909) 382-0174

Signature of Authorized Representative

Date

X

June 15, 2002

Attached Exhibit to Form CSM; 2(2/91)
Test Claim Form
Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001

Chaptered Bills:

Chapter 754, Statutes of 2001
Chapter 133, Statutes of 2001
Chapter 916, Statutes of 2000
Chapter 287, Statutes of 2000
Chapter 311, Statutes of 1998
Chapter 134, Statutes of 1997
Chapter 83, Statutes of 1997
Chapter 1090, Statutes of 1996
Chapter 1081, Statutes of 1996
Chapter 1080, Statutes of 1996
Chapter 1263, Statutes of 1994
Chapter 1253, Statutes of 1993
Chapter 510, Statutes of 1993
Chapter 346, Statutes of 1993
Chapter 459, Statutes of 1992
Chapter 1102, Statutes of 1991
Chapter 132, Statutes of 1991
Chapter 1603, Statutes of 1990
Chapter 931, Statutes of 1990
Chapter 1580, Statutes of 1988
Chapter 269, Statutes of 1988
Chapter 39, Statutes of 1988
Chapter 1459, Statutes of 1987
Chapter 1444, Statutes of 1987
Chapter 1418, Statutes of 1987
Chapter 1020, Statutes of 1987
Chapter 640, Statutes of 1987
Chapter 1289, Statutes of 1986
Chapter 248, Statutes of 1986
Chapter 1598, Statutes of 1985
Chapter 1572, Statutes of 1985
Chapter 1528, Statutes of 1985
Chapter 1420, Statutes of 1985
Chapter 1068, Statutes of 1985
Chapter 464, Statutes of 1985
Chapter 189, Statutes of 1985
Chapter 1718, Statutes of 1984
Chapter 1613, Statutes of 1984
Chapter 1423, Statutes of 1984
Chapter 1391, Statutes of 1984
Chapter 1170, Statutes of 1984
Chapter 905, Statutes of 1982
Chapter 435, Statutes of 1981
Chapter 29, Statutes of 1981
Chapter 1117, Statutes of 1980
Chapter 1071, Statutes of 1980
Chapter 855, Statutes of 1980
Chapter 373, Statutes of 1979
Chapter 136, Statutes of 1978
Chapter 958, Statutes of 1977
Chapter 1139, Statutes of 1976
Chapter 242, Statutes of 1976
Chapter 226, Statutes of 1975

Code Sections:

Penal Code Section 273a
Penal Code Section 11161.5
Penal Code Section 11161.6
Penal Code Section 11161.7
Penal Code Section 11164
Penal Code Section 11165
Penal Code Section 11165.1
Penal Code Section 11165.2
Penal Code Section 11165.3
Penal Code Section 11165.4
Penal Code Section 11165.5
Penal Code Section 11165.6
Penal Code Section 11165.7
Penal Code Section 11165.9
Penal Code Section 11165.14
Penal Code Section 11166
Penal Code Section 11166.5
Penal Code Section 11168
Penal Code Section 11174.3

1 Claim Prepared By:
Keith B. Petersen
2 SixTen and Associates
5252 Balboa Avenue, Suite 807
3 San Diego, CA 92117
Voice: (858) 514-8605
4 Fax: (858) 514-8645

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6
7
8 BEFORE THE
9 COMMISSION ON STATE MANDATES
10 STATE OF CALIFORNIA

11 Test Claim of:

12
13
14
15
16 San Bernardino Community College
District

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19 Test Claimant.
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25
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27
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No. CSM. 01-TC-21

Chapter 754, Statutes of 2001
Chapter 133, Statutes of 2001
Chapter 916, Statutes of 2000
Chapter 287, Statutes of 2000
Chapter 311, Statutes of 1998
Chapter 134, Statutes of 1997
Chapter 83, Statutes of 1997
Chapter 1090, Statutes of 1996
Chapter 1081, Statutes of 1996
Chapter 1080, Statutes of 1996
Chapter 1263, Statutes of 1994
Chapter 1253, Statutes of 1993
Chapter 510, Statutes of 1993
Chapter 346, Statutes of 1993
Chapter 459, Statutes of 1992
Chapter 1102, Statutes of 1991
Chapter 132, Statutes of 1991
Chapter 1603, Statutes of 1990
Chapter 931, Statutes of 1990
Chapter 1580, Statutes of 1988
Chapter 269, Statutes of 1988
Chapter 39, Statutes of 1988
Chapter 1459, Statutes of 1987
Chapter 1444, Statutes of 1987
Chapter 1418, Statutes of 1987
(Continued on next page)

Child Abuse and Neglect Reporting

TEST CLAIM FILING

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 1020, Statutes of 1987
4 Chapter 640, Statutes of 1987
5 Chapter 1289, Statutes of 1986
6 Chapter 248, Statutes of 1986
7 Chapter 1598, Statutes of 1985
8 Chapter 1572, Statutes of 1985
9 Chapter 1528, Statutes of 1985
10 Chapter 1420, Statutes of 1985
11 Chapter 1068, Statutes of 1985
12 Chapter 464, Statutes of 1985
13 Chapter 189, Statutes of 1985
14 Chapter 1718, Statutes of 1984
15 Chapter 1613, Statutes of 1984
16 Chapter 1423, Statutes of 1984
17 Chapter 1391, Statutes of 1984
18 Chapter 1170, Statutes of 1984
19 Chapter 905, Statutes of 1982
20 Chapter 435, Statutes of 1981
21 Chapter 29, Statutes of 1981
22 Chapter 1117, Statutes of 1980
23 Chapter 1071, Statutes of 1980
24 Chapter 855, Statutes of 1980
25 Chapter 373, Statutes of 1979
26 Chapter 136, Statutes of 1978
27 Chapter 958, Statutes of 1977
28 Chapter 1139, Statutes of 1976
Chapter 242, Statutes of 1976
Chapter 226, Statutes of 1975

Penal Code Sections 273a,
11161.5, 11161.6, 11161.7,
11164, 11165, 11165.1, 11165.2,
11165.3, 11165.4, 11165.5,
11165.6, 11165.7, 11165.9,
11165.14, 11166, 11166.5,
11168 and 11174.3

22 **PART I. AUTHORITY FOR THE CLAIM**

23 The Commission on State Mandates has the authority pursuant to Government
24 Code Section 17551(a) to "...hear and decide upon a claim by a local agency or school
25 district that the local agency or school district is entitled to be reimbursed by the state for
26 costs mandated by the state as required by Section 6 of Article XIII B of the California
27 Constitution." San Bernardino Community College District is a "school district" as
28

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 defined in Government Code section 17519.¹

5 **PART II. LEGISLATIVE HISTORY OF THE CLAIM**

6 Legal Requirements Prior to 1975

7 Penal Code Section 273a² provided that any person who willfully causes or
8 permits any child to suffer, inflicts thereon unjustifiable physical pain or mental suffering,
9 or having the care or custody of a child willfully causes or permits the person or health of
10 that child to be injured, or willfully causes or permits that child to be placed in a situation
11 where his or her person or health is endangered shall be punished by imprisonment for
12 the specified term. Penal Code Section 11161.5³ provided that in any

13 _____
14 ¹ Government Code Section 17519, as added by Chapter 1459/84:

15 "School District" means any school district, community college district, or county
16 superintendent of schools.

17 _____
18 ² Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as amended
19 by Chapter 697, Statutes of 1965, Section 1:

20 "(a) Any person who, under circumstances or conditions likely to produce great bodily
21 harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable
22 physical pain or mental suffering, or having the care or custody of any child, willfully causes
23 or permits the person or health of such child to be injured, or willfully causes or permits that
24 child to be placed in such situation that its person or health is endangered, is punishable
25 by imprisonment in the county jail not exceeding 1 year, or in the state prison for not less
26 than 1 year nor more than 10 years.

27 "(b) Any person who, under circumstances or conditions other than those likely to
28 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 or 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."

_____ ³ Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section 1,
as amended by Chapter 348, Statutes of 1974, Section 1:

"(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 and surgeon, resident, or intern is present, by any superintendent,

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 case in which a minor was observed by any registered nurse when in the employ of a

4 _____
5 any supervisor of child welfare and attendance, or any certificated pupil personnel employee
6 of any public or private school system or any principal of any public or private school, by
7 any teacher of any public or private school, by any licensed day care worker, by an
8 administrator of a public or private summer day camp or child care center, or by any social
9 worker, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist,
10 chiropractor, religious practitioner, registered nurse, school superintendent, supervisor of
11 child welfare and attendance, certificated pupil personnel employee, school principal,
12 teacher, licensed day care worker, by an administrator of a public or private summer day
13 camp or child care center or social worker from observation of the minor that the minor has
14 physical injury or injuries which appear to have been inflicted upon him by other than
15 accidental means by any person, that the minor has been sexually molested, or that any
16 injury prohibited by the terms of Section 273a has been inflicted upon the minor, he shall
17 report such fact by telephone and in writing, within 36 hours, to both the local police
18 authority having jurisdiction and to the juvenile probation department; or, in the alternative,
19 either to the county welfare department, or to the county health department. The report shall
20 state, if known, the name of the minor, his whereabouts and the character and extent of the
21 injuries or molestation.

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

28 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 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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 school district, or any superintendent, supervisor of child welfare and attendance,
4 principal, teacher, or certificated pupil personnel employee of any public or private
5 school system, and it appeared to the registered nurse, school superintendent,
6 certificated pupil personnel employee, school principal or teacher that the minor had
7 physical injury or injuries which appeared to have been inflicted upon him by other than
8 accidental means by any person, that the minor had been sexually molested, or that any
9 injury prohibited by the terms of Section 273a had been inflicted upon the minor, he or
10 she was required to report such fact by telephone and in writing, within 36 hours, to both
11 the local police authority having jurisdiction and to the juvenile probation department; or,
12 in the alternative, either to the county welfare department, or to the county health
13 department. The report was required to state, if known, the name of the minor, his
14 whereabouts and the character and extent of the injuries or molestation.

15 Penal Code Section 11161.7⁴ provided for the adoption and use of forms to be
16 used by professional medical personnel when reporting incidents described in section
17 11161.5.

18 Legal Requirements After 1974

19 Chapter 226, Statutes of 1975, Section 1 amended Penal Code Section 11161.5⁵

20 _____
21 ⁴ Penal Code Section 11161.7, added by Chapter 836, Statutes of 1974, Section 2:

22 (a) The Department of Justice shall prescribe by regulation, a form which may be
23 used by reporting professional medical personnel in making reports required to be made
pursuant to Section 11161.5.

24 (b) As used in this section 'professional medical personnel' means a physician and
surgeon, dentist, resident, intern, podiatrist, chiropractor, and registered nurse.

25 (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.

26 ⁵ Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section 1,
27 as amended by Chapter 226, Statutes of 1976, Section 1:

28 "(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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
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5 or treatment, or is under his charge or care, or in any case in which a minor is observed by
6 any registered nurse when in the employ of a public health agency, school, or school district
7 and when no physician and surgeon, resident, or intern is present, by any superintendent,
8 any supervisor of child welfare and attendance, or any certificated pupil personnel employee
9 of any public or private school system or any principal of any public or private school, by
10 any teacher of any public or private school, by any licensed day care worker, by an
11 administrator of a public or private summer day camp or child care center, or by any social
12 worker, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist,
13 chiropractor, religious practitioner, registered nurse, school superintendent, supervisor of
14 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.

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

21 No person shall incur any civil or criminal liability as a result of making any report
22 authorized by this section unless it can be proven that a false report was made with malice.

23 Copies of all written reports received by the local police authority shall be forwarded
24 to the Department of Justice. If the records of the Department of Justice maintained
25 pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon,
26 sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a
27 upon, the same minor or any other minor in the same family by other than accidental
28 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.

24 Reports and other pertinent information received from the department shall be made
25 available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist,
26 chiropractor, or religious practitioner with regard to his patient or client; any director of a
27 county welfare department, school superintendent, supervisor of child welfare and
28 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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to require proof of malice as a prerequisite to imposing civil or criminal liability as a result
5 of making any report authorized by Section 11161.5.

6 Chapter 226, Statutes of 1975, Section 2 added Penal Code Section 11161.6⁶ to permit
7 probation officers to report child abuse as defined in Section 11161.5.

8 Chapter 242, Statutes of 1976, Section 1 amended Penal Code Section 11161.5⁷

9 is made to the local police authority having jurisdiction, then the report required by
10 subdivision (a) of this section shall be made to the county welfare department.”

11 ⁶ Penal Code Section 11161.6, added by Chapter 226, Statutes of 1975, Section 2:

12 “In any case in which a minor is observed by a probation officer and it appears to the
13 probation officer from observation of the minor that the minor has a physical injury or
14 injuries which appear to have been inflicted upon him by other than accidental means by
15 any person, that the minor has been sexually molested, or that any injury prohibited by the
16 terms of Section 273a has been inflicted upon the minor, he may report such injury to the
17 agencies designated in Section 11161.5.

18 No person shall incur any civil or criminal liability as a result of making any report
19 authorized by this section unless it can be proven that a false report was made with malice.”

20 ⁷ Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section
21 1, as amended by Chapter 242, Statutes of 1976, Section 1:

22 “(a) In any case in which a minor is brought to a physician and surgeon, dentist,
23 resident, intern, podiatrist, chiropractor, or religious practitioner for diagnosis, examination
24 or treatment, or is under his charge or care, or in any case in which a minor is observed by
25 any registered nurse when in the employ of a public health agency, school, or school district
26 and when no physician and surgeon, resident, or intern is present, by any superintendent,
27 any supervisor of child welfare and attendance, or any certificated pupil personnel employee
28 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.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to require proof of a false report as well as proof that the person making the report knew
5 or should have known the report was false as a condition precedent to imposing civil or
6 criminal liability as a result of making any report authorized by Section 11161.5.

7 Chapter 242, Statutes of 1976, Section 2 amended Penal Code Section 11161.6⁸

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

14 No person shall incur any civil or criminal liability as a result of making any report
15 authorized by this section ~~unless it can be proven that a false report was made with malice~~
16 unless it can be proven that a false report was made and the person knew or should have
17 known that the report was false.

18 Copies of all written reports received by the local police authority shall be forwarded
19 to the Department of Justice. If the records of the Department of Justice maintained
20 pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon,
21 sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a
22 upon, the same minor or any other minor in the same family by other than accidental
23 means, or if the records reveal any arrest or conviction in other localities for a violation of
24 Section 273a inflicted upon the same minor or any other minor in the same family, or if the
25 records reveal any other pertinent information with respect to the same minor or any other
26 minor in the same family, the local reporting agency and the local juvenile probation
27 department shall be immediately notified of the fact.

28 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 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.”

⁸ Penal Code Section 11161.6, added by Chapter 226, Statutes of 1975, Section 2
and last amended by Chapter 242, Statutes of 1976, Section 2:

“ In any case in which a minor is observed by a probation officer or any person other
than a person described in Section 11161.5 and it appears to the probation officer or person
from observation of the minor that the minor has a 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to permit any other person, in addition to those described in Section 11161.5, to report
4 suspected cases of child abuse to the specified agencies.

5 Chapter 1139, Statutes of 1976, Section 165 amended Penal Code Section 273a⁹
6 to make technical changes and to remove references to state prison term limits.

7 Chapter 958, Statutes of 1977, Section 1 amended Penal Code Section
8 11161.5¹⁰ to add marriage, family or child counselors, psychologists, peace officers,

9 _____
10 has been inflicted upon the minor, he may report such injury to the agencies designated in
Section 11161.5.

11 No probation officer or person shall incur any civil or criminal liability as a result of
12 making any report authorized by this section unless it can be proven that a false report was
13 made and the probation officer or person knew or should have known that the report was
false."

14 ⁹ Penal Code Section 273a added by Chapter 568, Statutes of 1905 as amended by
Chapter 1139, Statutes of 1976, Section 165:

15
16 "(a) (1) Any person who, under circumstances or conditions likely to produce great
17 bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon
18 unjustifiable physical pain or mental suffering, or having the care or custody of any child,
19 willfully causes or permits the person or health of such child to be injured, or willfully causes
20 or permits such child to be placed in such situation that its person or health is endangered,
21 is punishable by imprisonment in the county jail not exceeding one year, or in the state
22 prison for not less than 1 year nor more than 10 years.

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

10 Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section 1,
as amended by Chapter 958, Statutes of 1977, Section 1:

24 "(a) In any case in which a minor is brought to a physician and surgeon, dentist,
25 resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist,
26 or religious practitioner for diagnosis, examination or treatment, or is under his charge or
27 care, or in any case in which a minor is observed by any registered nurse when in the
28 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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and probation officers to the list of persons required to report observations of child

4
5 or private summer day camp or child care center, or by any social worker, by any peace
6 officer, or by any probation officer, and it appears to the physician and surgeon, dentist,
7 resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist,
8 religious practitioner, registered nurse, school superintendent, supervisor of child welfare
9 and attendance, certificated pupil personnel employee, school principal, teacher, licensed
10 day care worker, by an administrator of a public or private summer day camp or child care
11 center, or social worker, peace officer, or probation officer, from observation of the minor
12 that the minor has physical injury or injuries which appear to have been inflicted upon him
13 by other than accidental means by any person, that the minor has been sexually molested,
14 or that any injury prohibited by the terms of Section 273a has been inflicted upon the minor,
15 he shall report such fact by telephone and in writing, within 36 hours, to both the local police
16 authority having jurisdiction and to the juvenile probation department; or, in the alternative,
17 either to the county welfare department, or to the county health department. The report shall
18 state, if known, the name of the minor, his whereabouts and the character and extent of the
19 injuries or molestation.

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

26 No person shall incur any civil or criminal liability as a result of making any report
27 authorized by this section unless it can be proven that a false report was made and the
28 person knew or should have known that the report was false.

29 Copies of all written reports received by the local police authority shall be forwarded
30 to the Department of Justice. If the records of the Department of Justice maintained
31 pursuant to Section 11110 reveal any reports of suspected infliction of physical injury upon,
32 sexual molestation of, or infliction of any injury prohibited by the terms of Section 273a
33 upon, the same minor or any other minor in the same family by other than accidental
34 means, or if the records reveal any arrest or conviction in other localities for a violation of
35 Section 273a inflicted upon the same minor or any other minor in the same family, or if the
36 records reveal any other pertinent information with respect to the same minor or any other
37 minor in the same family, the local reporting agency and the local juvenile probation
38 department shall be immediately notified of the fact.

39 Reports and other pertinent information received from the department shall be made
40 available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist,
41 chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with
42 regard to his patient or client; any director of a county welfare department, school
43 superintendent, supervisor of child welfare and attendance, certificated pupil personnel
44 employee, or school principal having a direct interest in the welfare of the minor; and any
45 probation department, juvenile probation department, or agency offering child protective
46 services.

47 (b) If the minor is a person specified in Section 600 of the Welfare and Institutions
48 Code and the duty of the probation officer has been transferred to the county welfare
49 department pursuant to Section 576.5 of the Welfare and Institutions Code and the report
50 is made to the local police authority having jurisdiction, then the report required by
51 subdivision (a) of this section shall be made to the county welfare department."

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 abuse.

5 Chapter 958, Statutes of 1977, Section 2 amended Penal Code Section
6 11161.7¹¹ to require the Department of Justice to establish the reporting forms to be
7 used by professional medical personnel in cooperation with the State Office of Child
8 Abuse Prevention.

9 Chapter 136, Statutes of 1978, Section 1 amended Penal Code Section
10 11161.5¹² to grant immunity to persons taking photographs of a suspected victim of

11 ¹¹ Penal Code Section 11161.7, added by Chapter 836, Statutes of 1974, Section 2
12 and amended by Chapter 958, Statutes of 1977, Section 2:

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

18 ~~"(b) As used in this section 'professional medical personnel' means a physician and~~
19 ~~surgeon, dentist, resident, intern, podiatrist, chiropractor, and registered nurse.~~

20 ~~"(b) Failure by professional medical personnel to use such form in reporting an~~
21 ~~incident of possible child abuse shall not constitute a violation of Section 11162."~~

22 ¹² Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section
23 1, as amended by Chapter 136, Statutes of 1978, Section 1:

24 "(a) In any case in which a minor is brought to a physician and surgeon, dentist,
25 resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist,
26 or religious practitioner for diagnosis, examination or treatment, or is under his charge or
27 care, or in any case in which a minor is observed by any registered nurse when in the
28 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, by an administrator of a public or private summer day camp or child care
center, or 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,

1
2 **Test Claim of San Bernardino Community College District**
3 **Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting**

4 child abuse without parental consent.

5
6 **Chapter 373, Statutes of 1979, Section 251 amended Penal Code Section**

7 he shall report such fact by telephone and in writing, within 36 hours, to both the local police
8 authority having jurisdiction and to the juvenile probation department; or, in the alternative,
9 either to the county welfare department, or to the county health department. The report shall
10 state, if known, the name of the minor, his whereabouts and the character and extent of the
11 injuries or molestation.

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

18 No person shall incur any civil or criminal liability as a result of making any report
19 authorized by this section unless it can be proven that a false report was made and the
20 person knew or should have known that the report was false.

21 No person required to make a report pursuant to this section, nor any person taking
22 photographs at his or her direction, shall incur any civil or criminal liability for taking
23 photographs of a suspected victim of child abuse, or causing photographs to be taken of
24 a suspected victim of child abuse, without parental consent, or for disseminating such
25 photographs with the reports required by this section. However, the provisions of this
26 section shall not be construed to grant immunity from such liability with respect to any other
27 use of such photographs.

28 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."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 11161.5¹³ to make technical changes.
4

5 ¹³ Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section
6 1, as amended by Chapter 373, Statutes of 1979, Section 251:

7 "(a) In any case in which a minor is brought to a physician and surgeon, dentist, resident,
8 intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious
9 practitioner for diagnosis, examination or treatment, or is under his charge or care, or in any
10 case in which a minor is observed by any registered nurse when in the employ of a public
11 health agency, school, or school district and when no physician and surgeon, resident, or
12 intern is present, by any superintendent, any supervisor of child welfare and attendance,
13 or any certificated pupil personnel employee of any public or private school system or any
14 principal of any public or private school, by any teacher of any public or private school, by
15 any licensed day care worker, by an administrator of a public or private summer day camp
16 or child care center, or by any social worker, by any peace officer, or by any probation
17 officer, and it appears to the physician and surgeon, dentist, resident, intern, podiatrist,
18 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,
by an administrator of a public or private summer day camp or child care center, or 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.

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

25 No person shall incur any civil or criminal liability as a result of making any report
26 authorized by this section unless it can be proven that a false report was made and the
27 person knew or should have known that the report was false.

28 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.

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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 **Chapter 855, Statutes of 1980, Section 1 amended Penal Code Section**

4 **11161.5¹⁴ to add optometrists to the list of persons required to report child abuse,**

5
6 upon, the same minor or any other minor in the same family by other than accidental
7 means, or if the records reveal any arrest or conviction in other localities for a violation of
8 Section 273a inflicted upon the same minor or any other minor in the same family, or if the
9 records reveal any other pertinent information with respect to the same minor or any other
10 minor in the same family, the local reporting agency and the local juvenile probation
11 department shall be immediately notified of the fact.

12 Reports and other pertinent information received from the department shall be made
13 available to: any licensed physician and surgeon, dentist, resident, intern, podiatrist,
14 chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with
15 regard to his patient or client; any director of a county welfare department, school
16 superintendent, supervisor of child welfare and attendance, certificated pupil personnel
17 employee, or school principal having a direct interest in the welfare of the minor; and any
18 probation department, juvenile probation department, or agency offering child protective
19 services.

20 (b) If the minor is a person specified in Section 600 300 of the Welfare and
21 Institutions Code and the duty of the probation officer has been transferred to the county
22 welfare department pursuant to Section 576.5 272 of the Welfare and Institutions Code and
23 the report is made to the local police authority having jurisdiction, then the report required
24 by subdivision (a) of this section shall be made to the county welfare department.”

25 ¹⁴ Penal Code Section 11161.5, added by Chapter 576, Statutes of 1963, Section 1,
26 as amended by Chapter 855, Statutes of 1980, Section 1:

27
28 “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 or any public or~~
~~private school system or any principal 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, 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 any person coming~~
~~within the provisions of subdivision (c) acquires in his or her professional capacity~~
~~reasonable cause to believe that a minor has physical injury or injuries which appear to~~
~~have been inflicted upon him or her 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 or she shall report such fact by telephone and in~~
~~writing, withing 36 hours, to both the local police authority having jurisdiction and to the~~

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
4

5 juvenile probation department; or, in the alternative, either to the county welfare
6 department, or to the county health department. The report shall state, if known, the name
7 of the minor, his or her whereabouts and the character and extent of the injuries or
8 molestation.

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

16 ~~No person shall incur any civil or criminal liability as a result of making any report
17 authorized by this section required by this section to make a report shall incur any civil or
18 criminal liability as a result of making such report. No other person making a report of child
19 abuse or molestation shall incur any civil or criminal liability as a result of making the report
20 unless it can be proven that a false report was made and that the person knew or should
21 have known that the report was false.~~

22 No person required to make a report pursuant to this section, nor any person taking
23 photographs at his or her direction, shall incur any civil or criminal liability for taking
24 photographs of a suspected victim of child abuse, or causing photographs to be taken of
25 a suspected victim of child abuse, without parental consent, or for disseminating such
26 photographs with the reports required by this section. However, the provisions of this
27 section shall not be construed to grant immunity from such liability with respect to any other
28 use of such photographs.

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 all of the following: any licensed physician and surgeon, dentist, resident, intern,
podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious
practitioner with regard to his or her 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 300 of the Welfare and Institutions
Code and the duty of the probation officer has been transferred to the county welfare
department pursuant to Section 272 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) shall be made to the county welfare department

(c) The provisions of subdivision (a) are applicable to all of the following persons:

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 as well as amending Section 11161.5 to make technical changes.

5 Chapter 1071, Statutes of 1980, Sections 1, 2, and 3, repealed Penal Code
6 Sections 11161.5, 11161.6, and 11161.7.

7 Chapter 1117, Statutes of 1980, Section 4 amended Penal Code Section 273a¹⁵
8 to specify possible state prison terms for a violation of Section 273a.

9
10 (1) Physicians and surgeons.
11 (2) Dentists and dental hygienists.
12 (3) Residents and interns.
13 (4) Podiatrists.
14 (5) Chiropractors.
15 (6) Optometrists.
16 (7) Persons licensed as marriage, family, and child counselors pursuant to Chapter
17 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions
18 Code.

19 (8) Psychologists.
20 (9) Religious practitioners.
21 (10) Registered nurses.
22 (11) Superintendents, supervisors of child welfare and attendance, and certificated
23 pupil personnel employees of any public or private school.
24 (12) Teachers and principals of any public or private school.
25 (13) Licensed day care workers.
26 (14) Administrators of public or private summer day camps or child care centers.
27 (15) Social workers.
28 (16) Peace officers.
(17) Probation officers.
(18) Priests, ministers, or rabbis or any religious denomination.

¹⁵ Penal Code Section 273a added by Chapter 576, Statutes of 1963, Section 1 as
amended by Chapter 1117, Statutes of 1980, Section 4:

“(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 or custody of any child, willfully causes
or permits such child to be placed in such situation that its person or health is endangered,
is punishable by imprisonment in the county jail not exceeding one year, or in the state
prison for 2, 3, or 4 years.

(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 or 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 such situation that its person or health may be
endangered, is guilty of a misdemeanor.”

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 Chapter 1071, Statutes of 1980, Section 4 added Article 2.5 to Chapter 2 of Title
5 1 of Part 4 of the Penal Code (Penal Code sections 11165 through 11174). Section
6 11165¹⁶ provides the definitions of terms relevant to child abuse and child abuse

7 ¹⁶ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4:

8 "As used in this article:

9 (a) "Child" means a person under the age of 18 years.

10 (b) "Sexual assault" means conduct in violation of the following sections of the Penal
11 Code: Section 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
12 a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a
13 genital or anal opening by a foreign object), and 647a (child molestation).

14 (c) "Neglect" means the negligent failure of a person having the care or custody of
15 any child to protect a child from severe malnutrition or medically diagnosed nonorganic
16 failure to thrive. For the purposes of this chapter, a child receiving treatment by spiritual
17 means as provided in Section 16508 of the Welfare and Institutions Code shall not for that
18 reason alone be considered a neglected child.

19 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
20 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
21 pain or mental suffering, or having the care or custody of any child, willfully causes or
22 permits the person or health of such child to be placed in such situation that his or her
23 person or health is endangered.

24 (e) "Corporal punishment or injury" means a situation where any person willfully
25 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
26 traumatic condition.

27 (f) "Abuse in out-of-home care" means situations of suspected physical injury on a
28 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 the 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 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 reporting used throughout the Article. Subdivision (a) defines a "child" to mean a person
4 under the age of 18 years. Subdivision (b) for the first time defines "sexual assault" to
5 include Penal Code Sections 261 (rape), Section 261.5 (unlawful sexual intercourse),
6 Section 264.1 (rape in concert), Section 285 (incest), Section 286 (sodomy),
7 subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14
8 years of age), Section 288a (oral copulation), and Section 289 (penetration of a genital
9 or anal opening by a foreign object). Subdivision (c) of Penal Code Section 11165
10 defines "neglect" as the negligent failure of a person having the care or custody of any
11 child to protect a child from severe malnutrition or medically diagnosed nonorganic
12 failure to thrive. Subdivision (d) defines "willful cruelty or the unjustifiable punishment of
13 a child" to include unjustifiable physical pain and mental suffering, or willfully causing or
14 permitting the person or health of a child to be placed in such situation that his or her
15 person or health is endangered. Subdivision (e) for the first time defines "corporal
16 punishment or injury" to mean a situation where any person willfully inflicts upon any
17 child any cruel or inhuman corporal punishment or injury resulting in a traumatic
18 condition. Subdivision (f) defines "abuse in out-of-home care" to mean situations of
19 suspected physical injury on a child which is inflicted by other than accidental means, or
20 of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as
21 defined in this article, where the person responsible for the child's welfare is a foster
22 parent or the administrator or an employee of a public or private residential home,
23 school, or other institution or agency. Subdivision (g) continues to define "child abuse"

24
25 _____
26 (j) "Nonmedical practitioner" means a state or county public health employee who
27 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
28 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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 as physical injury which is inflicted by other than accidental means on a child by another
4 person and any act or omission proscribed by Section 273a. For the first time "Child
5 abuse" is also defined to include the sexual assault of a child or the neglect of a child.
6 Subdivision (h) defines "child care custodians" to include teachers, administrative
7 officers, supervisors of child welfare and attendance, certificated pupil personnel
8 employees of any public or private school, and others.

9 Penal Code Section 11166¹⁷ subdivision (a) requires "child care custodians"
10

11 ¹⁷ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4:

12 "(a) Except as provided in subdivision (b), any child care custodian, medical
13 practitioner, nonmedical practitioner, or employee of a child protective agency who has
14 knowledge of or observes a child in his or her professional capacity or within the scope of
15 his or her employment whom he or she reasonably suspects has been the victim of child
16 abuse shall report such suspected instance of child abuse to a child protective agency
17 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.

18 (b) Any child care custodian, medical practitioner, nonmedical practitioner, or
19 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.

20 (c) Any other person who had knowledge of or observes a child whom he or she
21 reasonably suspects has been a victim of child abuse may report such suspected instance
of child abuse to a child protective agency.

22 (d) When two or more persons who are required to report are present and jointly
23 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
24 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.

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

28 (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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 which, by definition, includes teachers, administrative officers, supervisors of child
4 welfare and attendance, or certificated pupil personnel employees of any public or
5 private schools to report "child abuse" to a "child protective agency". Therefore, for the
6 first time, child care custodians were required to report suspected cases of "sexual
7 assault" defined to include rape (Penal Code Section 261), unlawful sexual intercourse
8 (Penal Code Section 261.5), rape in concert (Penal Code Section 264.1), incest (Penal
9 Code Section 285), sodomy (Penal Code Section 286), lewd or lascivious acts upon a
10 child under 14 years of age (subdivisions (a) and (b) of Penal Code Section 288), oral
11 copulation (Penal Code Section 288a), and penetration of a genital or anal opening by a
12 foreign object (Section 289). Also for the first time, child care custodians were required
13 to report suspected cases of "corporal punishment or injury" as defined in Penal Code
14 Section 273d; and "neglect" as defined in subdivision (c) of Section 11165.

15 Section 11168¹⁸ requires the written reports required by Section 11166 to be
16 submitted on forms adopted by the Department of Justice and distributed by the child
17 protective agencies. Therefore, for the first time child care custodians are required to
18 submit their written reports on forms adopted by the Department of Justice and
19

20 _____
21 case, and to the agency given responsibility for investigation of cases under Section 300
22 of the Welfare and Institutions Code, and shall send a written report thereof within 36 hours
23 or receiving the information concerning the incident to that agency.

24 A law enforcement agency shall immediately or as soon as practically possible report
25 by telephone every instance of suspected child abuse reported to it to county social
26 services and the agency given responsibility for investigation of cases under Section 300
27 of the Welfare and Institutions Code and shall send a written report thereof within 36 hours
28 of receiving the information concerning the incident to such agency."

25 ¹⁸ Penal Code Section 11168, added by Chapter 1071, Statutes of 1980, Section 4:
26 "The written reports required by Section 11166 shall be submitted on forms adopted by the
27 Department of Justice after consultation with representatives of the various professional
28 medical associations and hospital associations and county probation or welfare
departments. Such forms shall be distributed by the child protective agencies."

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 distributed by the child protective agencies.

5 Chapter 29, Statutes of 1981, Section 1 amended subdivision (b) of Penal Code
6 Section 11165¹⁹ by removing Penal Code Section 261.5 (unlawful sexual intercourse)

7 ¹⁹ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
8 as amended by Chapter 29, Statutes of 1981, Section 1:

9 "As used in this article:

10 (a) "Child" means a person under the age of 18 years.

11 (b) "Sexual assault" means conduct in violation of the following sections of the Penal
12 Code: Section 261 (rape), ~~261.5 (unlawful sexual intercourse)~~, 264.1 (rape in concert), 285
13 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon
14 a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a
15 genital or anal opening by a foreign object), and 647a (child molestation).

16 (c) "Neglect" means the negligent failure of a person having the care or custody of
17 any child to protect a child from severe malnutrition or medically diagnosed nonorganic
18 failure to thrive. For the purposes of this chapter, a child receiving treatment by spiritual
19 means as provided in Section 16508 of the Welfare and Institutions Code shall not for that
20 reason alone be considered a neglected child.

21 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
22 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
23 pain or mental suffering, or having the care or custody of any child, willfully causes or
24 permits the person or health of such child to be placed in such situation that his or her
25 person or health is endangered.

26 (e) "Corporal punishment or injury" means a situation where any person willfully
27 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
28 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 the 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 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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 from the definition of "sexual assault."

5 Chapter 435, Statutes of 1981, Section 1 amended Penal Code Section 11165²⁰

6 the Business and Professions Code.

7 (j) "Nonmedical practitioner" means a state or county public health employee who
8 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
9 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."

10 ²⁰ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
11 as amended by Chapter 435, Statutes of 1981, Section 1:

"As used in this article:

12 (a) "Child" means a person under the age of 18 years.

13 (b) "Sexual assault" means conduct in violation of the following sections of the Penal
14 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
15 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
16 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
object), and 647a (child molestation).

17 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
18 person responsible for the child's welfare under circumstances indicating harm or
19 threatened harm to the child's health or welfare. The term includes both acts and omissions
20 on the part of the responsible person.

(1) "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 subdivision (d), including the intentional failure to provide
adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or
custody of a child to provide adequate food, clothing, shelter, 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 16508 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.

(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 a situation such 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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to distinguish between the meaning of the terms "neglect," "severe neglect," and
5 "general neglect" and amended subdivision (h) to add "licensing workers or licensing
6 evaluators" to the definition of "child care custodian," as well as other technical changes.

7 Chapter 435, Statutes of 1981, Section 2 amended Penal Code Section 11166²¹

8 child which is inflicted by other than accidental means, or of sexual ~~abuse~~ assault or neglect
9 or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where
10 the person responsible for the child's welfare is a foster parent or the administrator or an
11 employee of a public or private residential home, school, or other institution or agency.

12 (g) "Child abuse" means the physical injury which is inflicted by other than accidental
13 means on a child by another person. "Child abuse" also means the sexual assault of a child
14 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
15 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
16 a child or abuse in out-of-home care, as defined in this article.

17 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
18 welfare and attendance, or certificated pupil personnel employee of any public or private
19 school; an administrator of public or private day camp; a licensed day care worker; an
20 administrator of a community care facility licensed to care for children; headstart teacher;
21 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
22 institution including, but not limited to, foster parents, group home personnel and personnel
23 of residential care facilities; a social worker or a probation officer.

24 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
25 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
26 other person who is currently licensed under Division 2 (commencing with Section 500) of
27 the Business and Professions Code.

28 (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."

²¹ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4
as amended by Chapter 435, Statutes of 1981, Section 2:

"(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 knows or reasonably suspects has been the victim
of child abuse shall report ~~such~~ 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. 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.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to make technical changes and to require child care custodians to report known and
5 suspected instances of child abuse. Therefore, for the first time, persons required to
6 report suspected instances of child abuse were required to report instances of both

7
8 (b) Any child care custodian, medical practitioner, nonmedical practitioner, or
9 employee of a child protective agency who has knowledge of or who reasonably suspects
10 that mental suffering has been inflicted on a child or his or her ~~its~~ emotional well-being is
11 endangered in any other way, may report such suspected instance of child abuse to a child
12 protective agency.

13 (c) Any other person who ~~had~~ has knowledge of or observes a child whom he or she
14 knows or reasonably suspects has been a victim of child abuse may report the known or
15 ~~such~~ suspected instance of child abuse to a child protective agency.

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

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

27 (f) A county probation or welfare department shall immediately or as soon as
28 practically possible report by telephone to the law enforcement agency having jurisdiction
over the case, and to the agency given the responsibility for investigation of cases under
Section 300 of the Welfare and Institutions Code every known or suspected instance of
suspected child abuse as defined in Section 11165, except acts or omissions coming within
the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be
reported to the county welfare department. A county probation or welfare department 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. ~~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 to county social services the county welfare department and the agency given
responsibility for investigation of cases under Section 300 of the Welfare and Institutions
Code, every known or suspected instance of suspected child abuse reported to it, except
acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section
11165, which shall only be reported to the county welfare department. A law enforcement
agency shall also send a written report thereof within 36 hours of receiving the information
required to make a telephone report under this subdivision. ~~and shall send a written report~~
~~thereof within 36 hours of receiving the information concerning the incident to such agency."~~

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 known and suspected child abuse to a child protective agency.

5 Chapter 905, Statutes of 1982, Section 1 amended Penal Code Section 11165²²

6 ²² Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
7 as amended by Chapter 905, Statutes of 1982, Section 1:

8 "As used in this article:

9 (a) "Child" means a person under the age of 18 years.

10 (b) "Sexual assault" means conduct in violation of the following sections of the Penal
11 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
12 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
13 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
14 object), and 647a (child molestation).

15 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
16 person responsible for the child's welfare under circumstances indicating harm or
17 threatened harm to the child's health or welfare. The term includes both acts and omissions
18 on the part of the responsible person.

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

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

For the purposes of this chapter, a child receiving treatment by spiritual means as
provided in Section 16508 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.

(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 a situation such 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 physical injury on a child which
is inflicted by other than accidental means, or of sexual assault 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 the 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

1
2 **Test Claim of San Bernardino Community College District**
3 **Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting**

4 to add subdivision (l) to define "commercial film and photographic print processor."

5 Chapter 905, Statutes of 1982, Section 2 amended subdivision (c) of Section
6 11166²³ of the Penal Code to require "commercial film and photographic print

7 a child or abuse in out-of-home care, as defined in this article.

8 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
9 welfare and attendance, or certificated pupil personnel employee of any public or private
10 school; an administrator of public or private day camp; a licensed day care worker; an
11 administrator of a community care facility licensed to care for children; headstart teacher;
12 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
13 institution including, but not limited to, foster parents, group home personnel and personnel
14 of residential care facilities; a social worker or a probation officer.

15 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
16 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
17 other person who is currently licensed under Division 2 (commencing with Section 500) of
18 the Business and Professions Code.

19 (j) "Nonmedical practitioner" means a state or county public health employee who
20 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
21 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
22 or treats children.

23 (k) "Child protective agency" means a police or sheriff's department, a county
24 probation department, or a county welfare department.

25 (l) "Commercial film and photographic print processor" means any person who
26 develops exposed photographic film into negatives, slides, or prints, or who makes prints
27 from negatives or slides, for compensation. The term includes any employee of such a
28 person; it does not include a person who develops film or makes prints for a public agency."

²³ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 905, Statutes of 1982, Section 2:

20 "(a) Except as provided in subdivision (b), any child care custodian, medical
21 practitioner, nonmedical practitioner, or employee of a child protective agency who has
22 knowledge of or observes a child in his or her professional capacity or within the scope of
23 his or her employment whom he or she knows or reasonably suspects has been the victim
24 of child abuse shall report the known or suspected instance of child abuse to a child
25 protective agency immediately or as soon as practically possible by telephone and shall
26 prepare and send a written report thereof within 36 hours of receiving the information
27 concerning the incident. For the purposes of this article, "reasonable suspicion" means that
28 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 his or her emotional well-being is
endangered in any other way, may report such suspected instance of child abuse to a child
protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 processors" to report observations of negatives or slides depicting a child under the age

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5 observes, within the scope of his or her professional capacity or employment, any film,
6 photographic, video tape, negative or slide depicting a child under the age of 14 years
7 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
8 to the law enforcement agency having jurisdiction over the case immediately or as soon as
9 practically possible by telephone and shall prepare and send a written report of it with a
10 copy of the film, photograph, video tape, negative or slide attached within 36 hours of
11 receiving the information concerning the incident. As used in this subdivision, "sexual
12 conduct" means any of the following:

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

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

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

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

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

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

24 (d) (e) When two or more persons who are required to report are present and jointly
25 have knowledge of a known or suspected instance of child abuse, and when there is
26 agreement among them, the telephone report may be made by a member of the team
27 selected by mutual agreement and a single report may be made and signed by such
28 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) (f) 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 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) (g) 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, and to the agency given the responsibility for investigation of cases under
Section 300 of the Welfare and Institutions Code every known or suspected instance of
child abuse as defined in Section 11165, except acts or omissions coming within the
provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported
to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report
by telephone to the county welfare department and the agency given responsibility for
investigation of cases under Section 300 of the Welfare and Institutions Code, every known
or suspected instance of child abuse reported to it, except acts or omissions coming within
the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be
reported to the county welfare department. A law enforcement agency shall also send a
written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 of 14 years engaged in an act of sexual conduct, as defined.

5 Chapter 1170, Statutes of 1984, Section 1 amended subdivision (i) of Section
6 11165²⁴ of the Penal Code to add a psychological assistant registered pursuant to

7 ²⁴ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
8 as amended by Chapter 1170, Statutes of 1984, Section 1:

9 "As used in this article:

10 (a) "Child" means a person under the age of 18 years.

11 (b) "Sexual assault" means conduct in violation of the following sections of the Penal
12 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
13 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
14 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
15 object), and 647a (child molestation).

16 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
17 person responsible for the child's welfare under circumstances indicating harm or
18 threatened harm to the child's health or welfare. The term includes both acts and omissions
19 on the part of the responsible person.

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

27 (2) "General neglect" means the negligent failure of a person having the care or
28 custody of a child to provide adequate food, clothing, shelter, 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 16508 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.

(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 a situation such 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 physical injury on a child which
is inflicted by other than accidental means, or of sexual assault 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 the 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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 Section 2913 of the Business and Professions Code to the meaning of "medical
5 practitioner."

6 Chapter 1391, Statutes of 1984, Section 23 amended subdivision (i) of Section
7 11165²⁵ of the Penal Code to add any Emergency Medical Technician I or II,

8 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
9 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
10 a child or abuse in out-of-home care, as defined in this article.

11 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
12 welfare and attendance, or certificated pupil personnel employee of any public or private
13 school; an administrator of public or private day camp; a licensed day care worker; an
14 administrator of a community care facility licensed to care for children; headstart teacher;
15 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
16 institution including, but not limited to, foster parents, group home personnel and personnel
17 of residential care facilities; a social worker or a probation officer.

18 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
19 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
20 other person who is currently licensed under Division 2 (commencing with Section 500) of
21 the Business and Professions Code, or a psychological assistant registered pursuant to
22 Section 2913 of the Business and Professions Code.

23 (j) "Nonmedical practitioner" means a state or county public health employee who
24 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
25 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
26 or treats children.

27 (k) "Child protective agency" means a police or sheriff's department, a county
28 probation department, or a county welfare department.

(l) "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."

²⁵ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1391, Statutes of 1984, Section 23:

"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: Section 261 (rape), 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 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.

(1) "Severe neglect" means the negligent failure of a person having the care or

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting
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5 custody of a child to protect the child from severe malnutrition or medically diagnosed
6 nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where
7 any person having the care or custody of a child willfully causes or permits the person or
8 health of the child to be placed in a situation such that his or her person or health is
9 endangered, as proscribed by subdivision (d), including the intentional failure to provide
10 adequate food, clothing, or shelter.

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

14 For the purposes of this chapter, a child receiving treatment by spiritual means as
15 provided in Section 16508 of the Welfare and Institutions Code or not receiving specified
16 medical treatment for religious reasons, shall not for that reason alone be considered a
17 neglected child.

18 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
19 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
20 pain or mental suffering, or having the care or custody of any child, willfully causes or
21 permits the person or health of such child to be placed in a situation such that his or her
22 person or health is endangered.

23 (e) "Corporal punishment or injury" means a situation where any person willfully
24 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
25 traumatic condition.

26 (f) "Abuse in out-of-home care" means situations of physical injury on a child which
27 is inflicted by other than accidental means, or of sexual assault or neglect or the willful
28 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, 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, or a psychological assistant registered pursuant to Section 2913
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,

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
4 1797) of the Health and Safety Code to the meaning of "medical practitioner."

5 Chapter 1391, Statutes of 1984, Section 24 made several changes to Penal
6 Code Section 11165²⁶. Subdivision (b) was amended to define "sexual abuse" to

7
8 or treats children.

9 (k) "Child protective agency" means a police or sheriff's department, a county
probation department, or a county welfare department.

10 (l) "Commercial film and photographic print processor" means any person who
develops exposed photographic film into negatives, slides, or prints, or who makes prints
11 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."

12 ²⁶ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1391, Statutes of 1984, Section 24:

13 "As used in this article:

14 (a) "Child" means a person under the age of 18 years.

15 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
following:

16 ~~Penal Code~~ this code: (1) "Sexual assault" means conduct in violation of the following sections of the
17 Penal Code: Section 261 (rape), 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).

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

19 (A) 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).

20 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

23 (C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
or exchanges, any film, photograph, videotape, 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.

26 (c) "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
27 threatened harm to the child's health or welfare. The term includes both acts and omissions
on the part of the responsible person.

28 (1) "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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

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5 nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where
6 any person having the care or custody of a child willfully causes or permits the person or
7 health of the child to be placed in a situation such that his or her person or health is
8 endangered, as proscribed by subdivision (d), including the intentional failure to provide
9 adequate food, clothing, or shelter, or medical care.

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

13 For the purposes of this chapter, a child receiving treatment by spiritual means as
14 provided in Section 16508 of the Welfare and Institutions Code or not receiving specified
15 medical treatment for religious reasons, shall not for that reason alone be considered a
16 neglected child. An informed and appropriate medical decision made by a parent or
17 guardian after consultation with a physician or physicians who have examined the minor
18 shall not constitute neglect.

19 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
20 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
21 pain or mental suffering, or having the care or custody of any child, willfully causes or
22 permits the person or health of such child to be placed in a situation such that his or her
23 person or health is endangered.

24 (e) "Corporal punishment or injury" means a situation where any person willfully
25 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
26 traumatic condition.

27 (f) "Abuse in out-of-home care" means situations of physical injury on a child which
28 is inflicted by other than accidental means, or of sexual ~~assault~~ 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, 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, ~~or a psychological assistant registered pursuant to Section 2913~~
~~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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 include "sexual assault" and "sexual exploitation." Subdivision (c)(1) was amended to
4 define "severe neglect" to include the intentional failure of a person having the care or
5 custody of a child to provide adequate medical care.

6 Chapter 1423, Statutes of 1984, Section 2 amended subdivision (2) of Section
7 273a²⁷ of the Penal Code to make technical changes.

8 Section 9 amended subdivision (g) of Section 11166²⁸ of the Penal Code to add
9

10 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
or treats children.

11 (k) "Child protective agency" means a police or sheriff's department, a county
probation department, or a county welfare department.

12 (l) "Commercial film and photographic print processor" means any person who
13 develops exposed photographic film into negatives, slides, or prints, or who makes prints
14 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."

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16 ²⁷ Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as amended
by Chapter 1423, Statutes of 1984, Section 2:

17 "(1) Any person who, under circumstances or conditions likely to produce great bodily
18 harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable
19 physical pain or mental suffering, or having the care or custody of any child, willfully causes
or permits such child to be placed in such situation that its person or health is endangered,
is punishable by imprisonment in the county jail not exceeding one year, or in the state
prison for 2, 3, 4 or 6 years..

20 (2) Any person who, under circumstances or conditions other than those likely to
21 produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts
22 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 injured, or willfully
causes or permits such child to be placed in such situation that its person or health may be
23 endangered, is guilty of a misdemeanor."

24 ²⁸ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1423, Statutes of 1984, Section 9:

25 "(a) Except as provided in subdivision (b), any child care custodian, medical
26 practitioner, nonmedical practitioner, or employee of a child protective agency who has
27 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
28 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

5 concerning the incident. For the purposes of this article, "reasonable suspicion" means that
6 it is objectively reasonable for a person to entertain such a suspicion, based upon facts that
7 could cause a reasonable person in a like position, drawing when appropriate on his or her
8 training and experience, to suspect child abuse.

9 (b) Any child care custodian, medical practitioner, nonmedical practitioner, or
10 employee of a child protective agency who has knowledge of or who reasonably suspects
11 that mental suffering has been inflicted on a child or his or her emotional well-being is
12 endangered in any other way, may report such suspected instance of child abuse to a child
13 protective agency.

14 (c) Any commercial film and photographic print processor who has knowledge of or
15 observes, within the scope of his or her professional capacity or employment, any film,
16 photographic, video tape, negative or slide depicting a child under the age of 14 years
17 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
18 to the law enforcement agency having jurisdiction over the case immediately or as soon as
19 practically possible by telephone and shall prepare and send a written report of it with a
20 copy of the film, photograph, video tape, negative or slide attached within 36 hours of
21 receiving the information concerning the incident. As used in this subdivision, "sexual
22 conduct" means any of the following:

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

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

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

28 (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.

(d) 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.

(e) 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 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.

(f) 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 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.

(g) 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, and 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, except acts or
omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165,
which shall only be reported to the county welfare department. A county probation or
welfare department shall also send a written report thereof within 36 hours of receiving the

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 the district attorney's office to the list of persons to which county probation or welfare
4 departments and law enforcement agencies are required to report every known or
5 suspected instance of child abuse.

6 Chapter 1613, Statutes of 1984, Section 2 amended Penal Code Section 11165²⁹

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8 information concerning the incident to any agency to which it is required to make a
9 telephone report under this subdivision.

10 A law enforcement agency shall immediately or as soon as practically possible report
11 by telephone to the county welfare department, and the agency given responsibility for
12 investigation of cases under Section 300 of the Welfare and Institutions Code, and to the
13 district attorney's office every known or suspected instance of child abuse reported to it,
14 except acts or omissions coming within the provisions of paragraph (2) of subdivision (c)
15 of Section 11165, which shall only be reported to the county welfare department. A law
16 enforcement agency shall also send a written report thereof within 36 hours of receiving the
17 information required to make a telephone report under this subdivision.

18
19 ²⁹ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
20 as amended by Chapter 1613, Statutes of 1984, Section 2:

21 "As used in this article:

22 (a) "Child" means a person under the age of 18 years.

23 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
24 following:

25 (1) "Sexual assault" means conduct in violation of the following sections of the Penal
26 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
27 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
28 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
object), and 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
or exchanges, any film, photograph, videotape, 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.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a

5 person responsible for the child's welfare under circumstances indicating harm or
6 threatened harm to the child's health or welfare. The term includes both acts and omissions
7 on the part of the responsible person.

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

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

18 For the purposes of this chapter, a child receiving treatment by spiritual means as
19 provided in Section ~~46508~~ 16509.1 of the Welfare and Institutions Code or not receiving
20 specified medical treatment for religious reasons, shall not for that reason alone be
21 considered a neglected child. An informed and appropriate medical decision made by a
22 parent or guardian after consultation with a physician or physicians who have examined the
23 minor shall not constitute neglect.

24 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
25 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
26 pain or mental suffering, or having the care or custody of any child, willfully causes or
27 permits the person or health of such child to be placed in a situation such that his or her
28 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 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, ~~any Emergency Medical Technician I or II, paramedic,~~

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to make technical changes.

5 Section 2.2 amended subdivision (i) of Section 11165³⁰ of the Penal Code to add

6
7 ~~or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the~~
8 ~~Health and Safety Code:~~

9 (j) "Nonmedical practitioner" means a state or county public health employee who
10 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
11 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
12 or treats children.

13 (k) "Child protective agency" means a police or sheriff's department, a county
14 probation department, or a county welfare department.

15 (l) "Commercial film and photographic print processor" means any person who
16 develops exposed photographic film into negatives, slides, or prints, or who makes prints
17 from negatives or slides, for compensation. The term includes any employee of such a
18 person; it does not include a person who develops film or makes prints for a public agency."

19
20 ³⁰ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
21 as amended by Chapter 1613, Statutes of 1984, Section 2.2:

22 "As used in this article:

23 (a) "Child" means a person under the age of 18 years.

24 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
25 following:

26 (1) "Sexual assault" means conduct in violation of the following sections of the Penal
27 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
28 (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).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
or exchanges, any film, photograph, videotape, 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.

(c) "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

5 on the part of the responsible person.

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

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

16 For the purposes of this chapter, a child receiving treatment by spiritual means as
17 provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified
18 medical treatment for religious reasons, shall not for that reason alone be considered a
19 neglected child. An informed and appropriate medical decision made by a parent or
20 guardian after consultation with a physician or physicians who have examined the minor
21 shall not constitute neglect.

22 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
23 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
24 pain or mental suffering, or having the care or custody of any child, willfully causes or
25 permits the person or health of such child to be placed in a situation such that his or her
26 person or health is endangered.

27 (e) "Corporal punishment or injury" means a situation where any person willfully
28 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 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, or a psychological assistant registered pursuant to
Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 psychological assistants registered pursuant to Section 2913 of the Business and
5 Professions Code to the definition of "medical practitioner."

6 Section 2.4 amended subdivision (i) of Section 11165³¹ of the Penal Code to add

7 _____
8 treats a minor for venereal disease or any other condition; a coroner; a paramedic; a
9 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
10 or treats children.

11 (k) "Child protective agency" means a police or sheriff's department, a county
12 probation department, or a county welfare department.

13 (l) "Commercial film and photographic print processor" means any person who
14 develops exposed photographic film into negatives, slides, or prints, or who makes prints
15 from negatives or slides, for compensation. The term includes any employee of such a
16 person; it does not include a person who develops film or makes prints for a public agency."

17 ³¹ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
18 as amended by Chapter 1613, Statutes of 1984, Section 2.4:

19 "As used in this article:

20 (a) "Child" means a person under the age of 18 years.

21 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
22 following:

23 (1) "Sexual assault" means conduct in violation of the following sections of the Penal
24 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
25 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
26 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
27 object), and 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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

5 nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where
6 any person having the care or custody of a child willfully causes or permits the person or
7 health of the child to be placed in a situation such that his or her person or health is
8 endangered, as proscribed by subdivision (d), including the intentional failure to provide
adequate food, clothing, or shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or
custody of a child to provide adequate food, clothing, shelter, 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 a parent or
guardian after consultation with a physician or physicians who have examined the minor
shall not constitute neglect.

(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 a situation such 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 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, or any emergency medical technician I or II, or
paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
1797) of the Health and Safety Code or a psychological assistant registered pursuant to
Section 2913 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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 any emergency medical technician I or II, or paramedic, or other person certified
4 pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code
5 to the meaning of "medical practitioner" and to remove psychological assistants
6 registered pursuant to Section 2913 of the Business and Professions Code.

7 Section 2.6 amended subdivision (i) of Section 11165³² of the Penal Code to add
8 _____

9 marriage, family, or child counselor; or a religious practitioner who diagnoses, examines,
10 or treats children.

11 (k) "Child protective agency" means a police or sheriff's department, a county
12 probation department, or a county welfare department.

13 (l) "Commercial film and photographic print processor" means any person who
14 develops exposed photographic film into negatives, slides, or prints, or who makes prints
15 from negatives or slides, for compensation. The term includes any employee of such a
16 person; it does not include a person who develops film or makes prints for a public agency."

17 ³² Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
18 as amended by Chapter 1613, Statutes of 1984, Section 2.6:

19 "As used in this article:

20 (a) "Child" means a person under the age of 18 years.

21 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
22 following:

23 (1) "Sexual assault" means conduct in violation of the following sections of the Penal
24 Code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions
25 (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
26 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
27 object), and 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
or exchanges, any film, photograph, videotape, 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.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
4

5 person responsible for the child's welfare under circumstances indicating harm or
6 threatened harm to the child's health or welfare. The term includes both acts and omissions
7 on the part of the responsible person.

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

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

18 For the purposes of this chapter, a child receiving treatment by spiritual means as
19 provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified
20 medical treatment for religious reasons, shall not for that reason alone be considered a
21 neglected child. An informed and appropriate medical decision made by a parent or
22 guardian after consultation with a physician or physicians who have examined the minor
23 shall not constitute neglect.

24 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
25 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
26 pain or mental suffering, or having the care or custody of any child, willfully causes or
27 permits the person or health of such child to be placed in a situation such that his or her
28 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 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 the 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 public or private day camp; a licensed day care worker; an
administrator of a community care facility licensed to care for children; headstart teacher;
a licensing worker or licensing evaluator; 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, or any emergency medical technician I or II, or

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 psychological assistants registered pursuant to Section 2913 of the Business and
4 Professions Code to the meaning of "medical practitioner."

5 Chapter 1718, Statutes of 1984, Section 1 added Penal Code Section 11166.5³³
6

7 paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
8 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to
Section 2913 of the Business and Professions Code.

9 (j) "Nonmedical practitioner" means a state or county public health employee who
10 treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or
11 child counselor; or a religious practitioner who diagnoses, examines, or treats children.

12 (k) "Child protective agency" means a police or sheriff's department, a county
13 probation department, or a county welfare department.

14 (l) "Commercial film and photographic print processor" means any person who
15 develops exposed photographic film into negatives, slides, or prints, or who makes prints
16 from negatives or slides, for compensation. The term includes any employee of such a
17 person; it does not include a person who develops film or makes prints for a public agency."

18 ³³ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
19 1:

20 "Any person who enters into employment on and after January 1, 1985, as a child
21 care custodian, medical practitioner, nonmedical practitioner, or with a child protective
22 agency, prior to commencing his or her employment, and as a prerequisite to that
23 employment, shall sign a statement on a form provided to him or her by his or her employer
24 to the effect that he or she has knowledge of the provisions of Section 11166 and will
25 comply with its provisions.

26 The statement shall include the following provisions:

27 Section 11166 of the Penal Code requires any child care custodian, medical
28 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 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.

"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; licensed day care workers;
administrators of community 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.

"Nonmedical practitioner" includes state or county public health employees who treat

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to require any person who enters into employment as a child care custodian to sign a
4 statement on a form provided to him or her by his or her employer to the effect that he or
5 she has knowledge of the provisions of Penal Code Section 11166 and will comply with
6 its provisions. Section 11166.5 also requires the cost of printing, distribution, and filing to
7 these statements to be borne by the employer. Therefore, for the first time, employers of
8 child care custodians are required to obtain written statements from child care
9 custodians, incur the costs of printing, distribution, and the filing of the statements
10 required.

11 Chapter 189, Statutes of 1985, Section 1 amended Penal Code Section 11165³⁴

12
13 minors for venereal disease or any other condition; coroners; paramedics; marriage, family
or child counselors; and religious practitioners who diagnose, examine, or treat children.

14 The signed statements shall be retained by the employer. The cost of printing,
distribution, and filing of these statements shall be borne by the employer.

15 This subdivision is not applicable to persons employed by child protective agencies
16 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.

17 (b) On and after January 1, 1986, when a person is issued a state license or
18 certificate to engage in a profession or occupation the members of which are required to
19 make a report pursuant to Section 11166, the state agency issuing the license or certificate
20 shall send a statement substantially similar to the one contained in Section 11166.5 to the
21 person at the same time as it transmits the document indicating licensure or certification to
22 the person. In addition to the requirements contained in Section 11166.5, the statement
23 shall also indicate that failure to comply with the requirements of Section 11166 is a
24 misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
25 (\$1,000) or by both.

26 (c) As an alternative to the procedure required by subdivision (b), a state agency
27 may cause the required statement to be printed on all application forms for a license or
28 certificate printed on or after January 1, 1986.

34 Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 189, Statutes of 1985, Section 1:

“As used in this article:

(a) “Child” means a person under the age of 18 years.

(b) “Sexual abuse” means sexual assault or sexual exploitation as defined by the
following:

(1) “Sexual assault” means conduct in violation of the following sections of the Penal
Code: Section 261 (rape), 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
3

4
5 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
6 object), and 647a (child molestation).

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

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

11 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
12 induces, or coerces a child, or any parent or guardian of a child under his or her control who
13 knowingly permits or encourages a child to engage in, or assist others to engage in,
14 prostitution or to either pose or model alone or with others for purposes of preparing a film,
15 photograph, negative, slide, or live performance involving obscene sexual conduct for
16 commercial purposes.

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

22 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
23 person responsible for the child's welfare under circumstances indicating harm or
24 threatened harm to the child's health or welfare. The term includes both acts and omissions
25 on the part of the responsible person.

26 (1) "Severe neglect" means the negligent failure of a person having the care or
27 custody of a child to protect the child from severe malnutrition or medically diagnosed
28 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 subdivision (d), including the intentional failure to provide
adequate food, clothing, or shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or
custody of a child to provide adequate food, clothing, shelter, 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 a parent or
guardian after consultation with a physician or physicians who have examined the minor
shall not constitute neglect.

(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 a situation such 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 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to make technical changes and to add any person who is an administrator or presenter
4 of, or an counselor in, a child abuse prevention program in any public or private school
5 to the meaning of "child care custodian." Therefore, for the first time, any person who is
6 an administrator or presenter of, or a counselor in, a child abuse prevention program in
7 any public or private school is a child care custodian required to report child abuse.

8 Chapter 464, Statutes of 1985, Section 1 amended Penal Code Section
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13 responsible for the child's welfare is a foster parent or the administrator or an employee of
14 a public or private residential home, school, or other institution or agency.

15 (g) "Child abuse" means the physical injury which is inflicted by other than accidental
16 means on a child by another person. "Child abuse" also means the sexual assault of a child
17 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
18 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
19 a child or abuse in out-of-home care, as defined in this article.

20 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
21 welfare and attendance, or certificated pupil personnel employee of any public or private
22 school; an administrator of public or private day camp; a licensed day care worker; an
23 administrator of a community care facility licensed to care for children; headstart teacher;
24 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
25 institution including, but not limited to, foster parents, group home personnel and personnel
26 of 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 prevention program in any
public or private school.

27 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
28 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, or any emergency medical technician I or II, or
paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
1797) of the Health and Safety Code, or a psychological assistant registered pursuant to
Section 2913 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 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.

(l) "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."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 11166.5³⁵ to make technical changes and to add subdivision (b) to require a state

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5 ³⁵ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
6 1, as amended by Chapter 464, Statutes of 1985, Section 1:

7 **“(a) Any person who enters into employment on and after January 1, 1985, as a child**
8 **care custodian, medical practitioner, nonmedical practitioner, or with a child protective**
9 **agency, prior to commencing his or her employment, and as a prerequisite to that**
10 **employment, shall sign a statement on a form provided to him or her by his or her employer**
11 **to the effect that he or she has knowledge of the provisions of Section 11166 and will**
12 **comply with its provisions.**

13 The statement shall include the following provisions:

14 Section 11166 of the Penal Code requires any child care custodian, medical
15 practitioner, nonmedical practitioner, or employee of a child protective agency who has
16 knowledge of or observes a child in his or her professional capacity or within the scope of
17 his or her employment whom he or she knows or reasonably suspects has been the victim
18 of child abuse to report the known or suspected instance of child abuse to a child protective
19 agency immediately or as soon as practically possible by telephone and to prepare and
20 send a written report thereof within 36 hours of receiving the information concerning the
21 incident.

22 “Child care custodian” includes teachers; administrative officers, supervisors of child
23 welfare and attendance, or certificated pupil personnel employees of any public or private
24 school; administrators of a public or private day camp; licensed day care workers;
25 administrators of community care facilities licensed to care for children; headstart teachers;
26 licensing workers or licensing evaluators; public assistance workers; employees of a child
27 care institution including, but not limited to, foster parents, group home personnel, and
28 personnel of residential care facilities; and social workers or probation officers.

“Medical practitioner” includes physicians and surgeons, psychiatrists, psychologists,
dentists, residents, interns, podiatrist, 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.

“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 signed statements shall be retained by the employer. The cost of printing,
distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies
as members of the support staff or maintenance staff 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 Section 11166.5 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 Section 11166.5, the statement
shall also indicate that failure to comply with the requirements of Section 11166 is a
misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
(\$1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency

1
2 **Test Claim of San Bernardino Community College District**
3 **Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting**

4 agency issuing a professional license or certificate to sign a statement substantially
5 similar to the one contained in Section 11166.5.

6 Chapter 1068, Statutes of 1985, Section 2 added Penal Code Section 11165.3³⁶
7 to change the meaning the sexual exploitation given in Section 11165 of the Penal Code
8 and to change the definition of abuse in out-of-home care made in Section 11165 so
9 that it is applicable to acts of an administrator or an employer of a public or private
10 home, school, or institution only when the home, school, or institution is a residential
11 institution.

12 Chapter 1420, Statutes of 1985, Section 1 added Penal Code Section 11165.5³⁷

13 may cause the required statement to be printed on all application forms for a license or
14 certificate printed on or after January 1, 1986.

15 ³⁶ Penal Code Section 11165.3, added by Chapter 1068, Statutes of 1985, Section
16 2:

17 “(a) Notwithstanding the provisions of subparagraph (B) of paragraph (2) of
18 subdivision (b) of Section 11165, on and after the effective date of this section, instead of
19 the meaning given in that subparagraph sexual exploitation refers to any person who
20 knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a
21 child, or any person responsible for a child’s welfare who knowingly permits or encourages
22 a child to engage in, or assist others to engage in, prostitution or a live performance
23 involving obscene sexual conduct or to either pose or model alone or with others for
24 purposes of preparing a film, photograph, negative, slide, drawing, painting, or other
25 pictorial depiction, involving obscene sexual conduct. For the purpose of this section,
26 “person responsible for a child’s welfare” means a parent, guardian, foster parent, or a
27 licensed administrator, or employee of a public or private residential home, residential
28 school, or other residential institution.

29 (b) Notwithstanding the provisions of Section 11165, on and after the effective date
30 of this section, the definition of abuse in out-of-home care made in that section is applicable
31 to acts of an administrator or an employer of a public or private home, school, or institution
32 only when the home, school, or institution is a residential institution. The definition is not
33 applicable to an agency.”

34 ³⁷ Penal Code Section 11165.5, added by Chapter 1420, Statutes of 1985, Section
35 1:

36 “As used in Sections 11165 and 11166.5, “child care custodian,” in addition to the
37 persons specified therein, means an instructional aide, a teacher’s aide, or a teacher’s

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to add to the definition of "child care custodian" instructional aides, a teacher's aide, or
4 teacher's assistants employed by any public or private school who have been trained in
5 the duties imposed by this article, if the school district has so warranted to the State
6 Department of Education. The term "Child care custodian" was also amended to include
7 a classified employee of any public school who has been trained in the duties imposed
8 by this article if the school has so warranted to the State Department of Education.
9 Therefore, for the first time, instructional aides, teacher's aides, teacher's assistants,
10 and classified employees of any public or private school trained in the reporting duties
11 imposed by this articles are included in the definition of "child care custodian," if the
12 school district has so warranted to the State Department of Education.

13 Chapter 1528, Statutes of 1985, Section 2 amended subdivision (f) of Section
14 11165³⁸ of the Penal Code to add the term "corporal punishment or injury" to the

15 _____
16 assistant employed by any public or private school, who has been trained in the duties
17 imposed by this article, if the school district has so warranted to the State Department of
18 Education. It also includes 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."

19 ³⁸ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
20 as amended by Chapter 1528, Statutes of 1985, Section 2:

"As used in this article:

- 21 (a) "Child" means a person under the age of 18 years.
22 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
following:
23 (1) "Sexual assault" means conduct in violation of the following sections of this code:
24 Section 261 (rape), 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
25 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
object), and 647a (child molestation).
26 (2) "Sexual exploitation" refers to any of the following:
27 (A) Conduct involving matter depicting a minor engaged in obscene acts in violation
28 of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of
Section 311.4 (employment of minor to perform obscene acts).
(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,

5 prostitution or to either pose or model alone or with others for purposes of preparing a film,
6 photograph, negative, slide, or live performance involving obscene sexual conduct for
7 commercial purposes.

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

13 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
14 person responsible for the child's welfare under circumstances indicating harm or
15 threatened harm to the child's health or welfare. The term includes both acts and omissions
16 on the part of the responsible person.

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

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

27 For the purposes of this chapter, a child receiving treatment by spiritual means as
28 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 a parent or
guardian after consultation with a physician or physicians who have examined the minor
shall not constitute neglect.

(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 a situation such 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 physical injury on a child which
is inflicted by other than accidental means, or of sexual abuse, or neglect, or 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 a licensed community care or child day care facility, or the
administrator or an employee of a public or private school, 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 the 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 meaning of "abuse in out-of-home care," and to amend the meaning of the term "abuse
4 in out-of-home care" to mean situations where the person responsible for the child's
5 welfare is a licensee, administrator, or employee of a licensed community care or child
6 day care facility, or the administrator or an employee of a public or private school.

7 Section 2 also amended subdivision (h) to remove any person who is an administrator or
8 presenter of, or a counselor in, a child abuse prevention program in any public or private
9 school from the meaning of "child care custodian."

10 Chapter 1528, Statutes of 1985, Section 2.5 amended subdivision (h) of Section
11 11165³⁹ of the Penal Code to add any person who is an administrator or presenter of, or

12
13 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
14 welfare and attendance, or certificated pupil personnel employee of any public or private
15 school; an administrator of public or private day camp; a licensed day care worker; an
16 administrator of a community care facility licensed to care for children; headstart teacher;
17 a licensing worker or licensing evaluator; 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, ~~or 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 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
19 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
20 other person who is currently licensed under Division 2 (commencing with Section 500) of
the Business and Professions Code, or any emergency medical technician I or II, or
paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
1797) of the Health and Safety Code, or a psychological assistant registered pursuant to
Section 2913 of the Business and Professions Code.

21 (j) "Nonmedical practitioner" means a state or county public health employee who
22 treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or
child counselor; or a religious practitioner who diagnoses, examines, or treats children.

23 (k) "Child protective agency" means a police or sheriff's department, a county
probation department, or a county welfare department.

24 (l) "Commercial film and photographic print processor" means any person who
25 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."

26 ³⁹ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
27 as amended by Chapter 1528, Statutes of 1985, Section 2.5:

28 "As used in this article:

(a) "Child" means a person under the age of 18 years.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting
4

5 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
6 following:

7 (1) "Sexual assault" means conduct in violation of the following sections of this code:
8 Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a)
9 and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
10 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
11 object), and 647a (child molestation).

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

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

16 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
17 induces, or coerces a child, or any parent or guardian of a child under his or her control who
18 knowingly permits or encourages a child to engage in, or assist others to engage in,
19 prostitution or to either pose or model alone or with others for purposes of preparing a film,
20 photograph, negative, slide, or live performance involving obscene sexual conduct for
21 commercial purposes.

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

27 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
28 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.

(1) "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 subdivision (d), including the intentional failure to provide
adequate food, clothing, or shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or
custody of a child to provide adequate food, clothing, shelter, 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 a parent or
guardian after consultation with a physician or physicians who have examined the minor
shall not constitute neglect.

(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 a situation such that his or her
person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 a counselor in, a child abuse presentation program in any public or private school.

4 Chapter 1572, Statutes of 1985, Section 2 added Penal Code Section 11165.1⁴⁰

5
6 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
7 traumatic condition.

7 (f) "Abuse in out-of-home care" means situations of physical injury on a child which
8 is inflicted by other than accidental means, or of sexual abuse, or neglect, or corporal
9 punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined
10 in this article, where the person responsible for the child's welfare is a licensee,
11 administrator, or employee of a licensed community care or child day care facility, or the
12 administrator or an employee of a public or private school, or other institution or agency.

10 (g) "Child abuse" means the physical injury which is inflicted by other than accidental
11 means on a child by another person. "Child abuse" also means the sexual assault of a child
12 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
13 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
14 a child or abuse in out-of-home care, as defined in this article.

13 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
14 welfare and attendance, or certificated pupil personnel employee of any public or private
15 school; an administrator of public or private day camp; a licensed day care worker; an
16 administrator of a community care facility licensed to care for children; headstart teacher;
17 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
18 institution including, but not limited to, foster parents, group home personnel and personnel
19 of residential care facilities; a social worker or a probation officer, or any person who is an
20 administrator or presenter of, or a counselor in, a child abuse presentation program in any
21 public or private school.

17 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
18 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
19 other person who is currently licensed under Division 2 (commencing with Section 500) of
20 the Business and Professions Code, or any emergency medical technician I or II, or
21 paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
22 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to
23 Section 2913 of the Business and Professions Code.

21 (j) "Nonmedical practitioner" means a state or county public health employee who
22 treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or
23 child counselor; or a religious practitioner who diagnoses, examines, or treats children.

22 (k) "Child protective agency" means a police or sheriff's department, a county
23 probation department, or a county welfare department.

23 (l) "Commercial film and photographic print processor" means any person who
24 develops exposed photographic film into negatives, slides, or prints, or who makes prints
25 from negatives or slides, for compensation. The term includes any employee of such a
26 person; it does not include a person who develops film or makes prints for a public agency."

26 ⁴⁰ Penal Code Section 11165.1, added by Chapter 1572, Statutes of 1985, Section
27 2:

27 "In addition to those persons specified in the definition of "child care custodian"
28 contained in Section 11165, the term also includes any person who is an administrator or
presenter of, or a counselor in, a child abuse prevention program in any public or private

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to add any person who is an administrator or presentor of, or a counselor in, a child
4 abuse prevention program in any public or private school to the definition of "child care
5 custodian."

6 Chapter 1598, Statutes of 1985, Section 5.1 amended Penal Code Section
7 11166.5⁴¹ to make technical changes.

8 _____
9 school."

10 ⁴¹ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
11 1, as amended by Chapter 1598, Statutes of 1985, Section 5.1:

12 "(a) Any person who enters into employment on and after January 1, 1985, as a child
13 care custodian, medical practitioner, nonmedical practitioner, or with a child protective
14 agency, prior to commencing his or her employment, and as a prerequisite to that
15 employment, shall sign a statement on a form provided to him or her by his or her employer
16 to the effect that he or she has knowledge of the provisions of Section 11166 and will
17 comply with its provisions.

18 The statement shall include the following provisions:

19 Section 11166 of the Penal Code requires any child care custodian, medical
20 practitioner, nonmedical practitioner, or employee of a child protective agency who has
21 knowledge of or observes a child in his or her professional capacity or within the scope of
22 his or her employment whom he or she knows or reasonably suspects has been the victim
23 of child abuse to report the known or suspected instance of child abuse to a child protective
24 agency immediately or as soon as practically possible by telephone and to prepare and
25 send a written report thereof within 36 hours of receiving the information concerning the
26 incident.

27 "Child care custodian" includes teachers; administrative officers, supervisors of child
28 welfare and attendance, or certificated pupil personnel employees of any public or private
29 school; administrators of a public or private day camp; ~~licensed day care workers;~~
30 ~~administrators of community care facilities licensed to care for children;~~ licensees,
31 administrators, and employees of community care facilities or child day care facilities
32 licensed to care for children; headstart teachers; licensing workers or licensing evaluators;
33 public assistance workers; employees of a child care institution including, but not limited to,
34 foster parents, group home personnel, and personnel of residential care facilities; and social
35 workers or probation officers.

36 "Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists,
37 dentists, residents, interns, podiatrist, chiropractors, licensed nurses, dental hygienists, or
38 any other person who is licensed under Division 2 (commencing with Section 500) of the
39 Business and Professions Code or emergency medical technicians I or II, paramedics, or
40 other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the
41 Health and Safety Code, or psychological assistants registered pursuant to Section 2913
42 of the Business and Professions Code.

43 "Nonmedical practitioner" includes state or county public health employees who treat
44 minors for venereal disease or any other condition; coroners; paramedics; marriage, family
45 or child counselors; and religious practitioners who diagnose, examine, or treat children.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 248, Statutes of 1986, Section 168 amended Penal Code Section
4 11166.5⁴² to make technical changes.

5
6 The signed statements shall be retained by the employer. The cost of printing,
distribution, and filing of these statements shall be borne by the employer.

7 This subdivision is not applicable to persons employed by child protective agencies
8 as members of the support staff or maintenance staff who do not work with, observe, or
have knowledge of children as part of their official duties.

9 (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
10 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 Section 11166.5 to the
11 person at the same time as it transmits the document indicating licensure or certification to
the person. In addition to the requirements contained in Section 11166.5, the statement
12 shall also indicate that failure to comply with the requirements of Section 11166 is a
misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
(\$1,000) or by both.

13 (c) As an alternative to the procedure required by subdivision (b), a state agency
14 may cause the required statement to be printed on all application forms for a license or
certificate printed on or after January 1, 1986.

15 ⁴² Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
16 1, as amended by Chapter 248, Statutes of 1986, Section 168:

17 "(a) Any person who enters into employment on and after January 1, 1985, as a child
care custodian, medical practitioner, nonmedical practitioner, or with a child protective
18 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
19 to the effect that he or she has knowledge of the provisions of Section 11166 and will
comply with its provisions.

The statement shall include the following provisions:

20 Section 11166 of the Penal Code requires any child care custodian, medical
practitioner, nonmedical practitioner, or employee of a child protective agency who has
21 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
22 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
23 send a written report thereof within 36 hours of receiving the information concerning the
incident.

24 "Child care custodian" includes teachers; administrative officers, supervisors of child
welfare and attendance, or certificated pupil personnel employees of any public or private
25 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
26 children; headstart teachers; licensing workers or licensing evaluators; public assistance
workers; employees of a child care institution including, but not limited to, foster parents,
27 group home personnel, and personnel of residential care facilities; and social workers or
probation officers.

28 "Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists,

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 **Chapter 1289, Statutes of 1986, Section 1 amended Penal Code Section**

4 **11165.5⁴³ to add subdivision (b) which provides that training in the duties imposed**
5 **includes training in child abuse identification and training in child abuse reporting and**
6 **includes a requirement that all trainees be provided with a written copy of the reporting**

7 _____
8 **dentists, residents, interns, podiatrist, chiropractors, licensed nurses, dental hygienists, or**
9 **any other person who is licensed under Division 2 (commencing with Section 500) of the**
10 **Business and Professions Code or emergency medical technicians I or II, paramedics, or**
11 **other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the**
12 **Health and Safety Code, or psychological assistants registered pursuant to Section 2913**
13 **of the Business and Professions Code.**

14 **"Nonmedical practitioner" includes state or county public health employees who treat**
15 **minors for venereal disease or any other condition; coroners; paramedics; marriage, family**
16 **or child counselors; and religious practitioners who diagnose, examine, or treat children.**

17 **The signed statements shall be retained by the employer. The cost of printing,**
18 **distribution, and filing of these statements shall be borne by the employer.**

19 **This subdivision is not applicable to persons employed by child protective agencies**
20 **as members of the support staff or maintenance staff who do not work with, observe, or**
21 **have knowledge of children as part of their official duties.**

22 **(b) On and after January 1, 1986, when a person is issued a state license or**
23 **certificate to engage in a profession or occupation the members of which are required to**
24 **make a report pursuant to Section 11166, the state agency issuing the license or certificate**
25 **shall send a statement substantially similar to the one contained in ~~Section 11166.5~~**
26 **subdivision (a) to the person at the same time as it transmits the document indicating**
27 **licensure or certification to the person. In addition to the requirements contained in Section**
28 **11166.5, the statement shall also indicate that failure to comply with the requirements of**
Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one
thousand dollars (\$1,000) or by both.

(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.

⁴³ **Penal Code Section 11165.5, added by Chapter 1420, Statutes of 1985, Section**
1, as amended by Chapter 1289, Statutes of 1986, Section 1:

"(a) As used in Sections 11165 and 11166.5, "child care custodian," in addition to the
persons specified therein, means 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. It also includes 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.

(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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 requirements and a written disclosure of the employees' confidentiality rights.

4 Therefore, for the first time, employers who provide training to their employees are
5 required to provide written copies of reporting requirements and a written disclosure of
6 employees' confidentiality rights.

7 Section 2 amended subdivision (f) of Section 11166⁴⁴ of the Penal Code to
8

9 ⁴⁴ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
10 as amended by Chapter 1289, Statutes of 1986, Section 2:

11 "(a) Except as provided in subdivision (b), any child care custodian, medical
12 practitioner, nonmedical practitioner, or employee of a child protective agency who has
13 knowledge of or observes a child in his or her professional capacity or within the scope of
14 his or her employment whom he or she knows or reasonably suspects has been the victim
15 of child abuse shall report the known or suspected instance of child abuse to a child
16 protective agency immediately or as soon as practically possible by telephone and shall
17 prepare and send a written report thereof within 36 hours of receiving the information
18 concerning the incident. For the purposes of this article, "reasonable suspicion" means that
19 it is objectively reasonable for a person to entertain such a suspicion, based upon facts that
20 could cause a reasonable person in a like position, drawing when appropriate on his or her
21 training and experience, to suspect child abuse.

22 (b) Any child care custodian, medical practitioner, nonmedical practitioner, or
23 employee of a child protective agency who has knowledge of or who reasonably suspects
24 that mental suffering has been inflicted on a child or his or her emotional well-being is
25 endangered in any other way, may report such suspected instance of child abuse to a child
26 protective agency.

27 (c) Any commercial film and photographic print processor who has knowledge of or
28 observes, within the scope of his or her professional capacity or employment, any film,
29 photographic, video tape, negative or slide depicting a child under the age of 14 years
30 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
31 to the law enforcement agency having jurisdiction over the case immediately or as soon as
32 practically possible by telephone and shall prepare and send a written report of it with a
33 copy of the film, photograph, video tape, negative or slide attached within 36 hours of
34 receiving the information concerning the incident. As used in this subdivision, "sexual
35 conduct" means any of the following:

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

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

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

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

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

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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 require internal child abuse reporting procedures established by employers not to require
4 the reporting employee to disclose his or her identity to the employer.

5 Chapter 640, Statutes of 1987, Section 2, added Penal Code Section 11174.3⁴⁵
6

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

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

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

19 (g) A county probation or welfare department shall immediately or as soon as
20 practically possible report by telephone to the law enforcement agency having jurisdiction
21 over the case, to the agency given the responsibility for investigation of cases under
22 Section 300 of the Welfare and Institutions Code, and to the district attorney's office every
23 known or suspected instance of child abuse as defined in Section 11165, except acts or
24 omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165,
25 which shall only be reported to the county welfare department. A county probation or
26 welfare department shall also send a written report thereof within 36 hours of receiving the
27 information concerning the incident to any agency to which it is required to make a
28 telephone report under this subdivision.

A law enforcement agency shall immediately or as soon as practically possible report
by telephone to the county welfare department, 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 the provisions of paragraph (2) of subdivision (c)
of Section 11165, which shall only be reported to the county welfare department. A law
enforcement agency shall also send a written report thereof within 36 hours of receiving the
information required to make a telephone report under this subdivision."

24 ⁴⁵ Penal Code Section 11174.3, added by Chapter 640, Statutes of 1987, Section 2:

25 "(a) Whenever a representative of a child protective agency deems it necessary, a
26 suspected victim of child abuse may be interviewed during school hours, on school
27 premises, concerning a report of suspected child abuse that occurred within the child's
28 home. 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 shall inform the child of that right prior to the interview. The purpose of

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 which requires a member of the staff of a school, including any certificated or classified
5 employee or volunteer aide, to be present, when a child requests him or her to be
6 present, during an interview by a representative of a child protective agency
7 investigating a report of suspected child abuse that occurred in the child's home.
8 Therefore, for the first time, a representative of the school is required to inform that
9 member of the staff, and the member requested is required to be present, when a child
10 is being interviewed by a representative of a child protective agency.

11 Chapter 1020, Statutes of 1987, Section 1 amended subdivision (f) of Section
12 11165⁴⁶ of the Penal Code to include any facility responsible for a child's welfare that is

13 the staff person's presence at the interview is to lend support to the child and enable him
14 or her to be as comfortable as possible; however, the member of the staff so elected shall
15 not participate in the interview. The member of the staff so present shall not discuss the
16 facts or circumstances of the case with the child. The member of the staff so present,
17 including, but not limited to, a volunteer aide, is subject to the confidentiality requirements
18 of this article, a violation of which is punishable as specified in Section 11167.5. A
19 representative of the school shall inform a member of the staff so selected by a child of the
20 requirements of this section prior to the interview. A staff member selected by a child may
21 decline the request to be present at the interview. If the staff person selected agrees to be
22 present, the interview shall be held at a time during school hours when it does not involve
23 an expense to the school. Failure to comply with the requirements of this section does not
24 affect the admissibility of evidence in a criminal or civil proceeding.

25 (b) The Superintendent of Public Instruction shall notify each school district, and
26 each child protective agency shall notify each of its employees who participate in the
27 investigation of reports of child abuse, of the requirements of this section."

28 ⁴⁶ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1020, Statutes of 1987, Section 1:

"As used in this article:

- 29 (a) "Child" means a person under the age of 18 years.
30 (b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
31 following:
32 (1) "Sexual assault" means conduct in violation of the following sections of this code:
33 Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a)
34 and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and
35 Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
36 object), and 647a (child molestation).
37 (2) "Sexual exploitation" refers to any of the following:
38 (A) 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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3
4
5 **Section 311.4 (employment of minor to perform obscene acts).**

6 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
7 induces, or coerces a child, or any parent or guardian of a child under his or her control who
8 knowingly permits or encourages a child to engage in, or assist others to engage in,
9 prostitution or to either pose or model alone or with others for purposes of preparing a film,
10 photograph, negative, slide, or live performance involving obscene sexual conduct for
11 commercial purposes.

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

17 (c) "Neglect" means the negligent treatment or the maltreatment of a child by a
18 person responsible for the child's welfare under circumstances indicating harm or
19 threatened harm to the child's health or welfare. The term includes both acts and omissions
20 on the part of the responsible person.

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

28 (2) "General neglect" means the negligent failure of a person having the care or
custody of a child to provide adequate food, clothing, shelter, 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 a parent or
guardian after consultation with a physician or physicians who have examined the minor
shall not constitute neglect.

(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 a situation such 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 physical injury on a child which
is inflicted by other than accidental means, or of sexual abuse, or neglect, or 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 a licensed community care, or child day care facility, or any
other facility licensed to care for children, or the administrator or an employee of a public
or private school, or other institution or agency.

(g) "Child abuse" means the physical injury which is inflicted by other than accidental

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 licensed to care for children to the definition of the term "abuse in out-of-home care."

5 Chapter 1418, Statutes of 1987, Section 9 amended subdivision (f) of Section
6 11165⁴⁷ of the Penal Code to remove "any facility licensed to care for children"

7 means on a child by another person. "Child abuse" also means the sexual assault of a child
8 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
9 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
10 a child or abuse in out-of-home care, as defined in this article.

11 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
12 welfare and attendance, or certificated pupil personnel employee of any public or private
13 school; an administrator of public or private day camp; a licensed day care worker; an
14 administrator of a community care facility licensed to care for children; headstart teacher;
15 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
16 institution including, but not limited to, foster parents, group home personnel and personnel
17 of residential care facilities; a social worker or a probation officer, or any person who is an
18 administrator or presenter of, or a counselor in, a child abuse presentation program in any
19 public or private school.

20 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
21 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any
22 other person who is currently licensed under Division 2 (commencing with Section 500) of
23 the Business and Professions Code, or any emergency medical technician I or II, or
24 paramedic, or other person certified pursuant to Division 2.5 (commencing with Section
25 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to
26 Section 2913 of the Business and Professions Code.

27 (j) "Nonmedical practitioner" means a state or county public health employee who
28 treats a minor for venereal disease or any other condition; a coroner; 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.

(l) "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."

⁴⁷ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1418, Statutes of 1987, Section 9:

"As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the
following:

(1) "Sexual assault" means conduct in violation of the following sections of this code:
Section 261 (rape), 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).

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

1
2 Test Claim of San Bernardino Community College District
Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting
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5 (A) 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).

6 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
7 induces, or coerces a child, or any parent or guardian of a child under his or her control who
knowingly permits or encourages a child to engage in, or assist others to engage in,
8 prostitution or to either pose or model alone or with others for purposes of preparing a film,
photograph, negative, slide, or live performance involving obscene sexual conduct for
commercial purposes.

9 (C) Any person who depicts a child in, or who knowingly develops, duplicates, prints,
10 or exchanges, any film, photograph, videotape, 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
11 (e) of Section 311.3.

12 (c) "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
13 threatened harm to the child's health or welfare. The term includes both acts and omissions
on the part of the responsible person.

14 (1) "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
15 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
16 health of the child to be placed in a situation such that his or her person or health is
endangered, as proscribed by subdivision (d), including the intentional failure to provide
adequate food, clothing, or shelter, or medical care.

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

19 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
20 medical treatment for religious reasons, shall not for that reason alone be considered a
neglected child. An informed and appropriate medical decision made by a parent or
guardian after consultation with a physician or physicians who have examined the minor
21 shall not constitute neglect.

22 (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
23 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 a situation such that his or her
person or health is endangered.

24 (e) "Corporal punishment or injury" means a situation where any person willfully
25 inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a
traumatic condition.

26 (f) "Abuse in out-of-home care" means situations of physical injury on a child which
is inflicted by other than accidental means, or of sexual abuse, or neglect, or corporal
27 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,
28 administrator, or employee of a licensed community care or child day care facility, or any
other facility licensed to care for children, or the administrator or an employee of a public

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 from the definition of "abuse in out-of-home care" and to amend subdivision (i) to add
4 optometrists to the definition of "medical practitioner."

5 Chapter 1444, Statutes of 1987, Section 1.5 added Penal Code Section 11164⁴⁸
6 which required the Article to be known and cited as the "Child Abuse and Neglect

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8 or private school, or other institution or agency.

9 (g) "Child abuse" means the physical injury which is inflicted by other than accidental
10 means on a child by another person. "Child abuse" also means the sexual assault of a child
11 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
12 of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of
13 a child or abuse in out-of-home care, as defined in this article.

14 (h) "Child care custodian" means a teacher, administrative officer, supervisor of child
15 welfare and attendance, or certificated pupil personnel employee of any public or private
16 school; an administrator of public or private day camp; a licensed day care worker; an
17 administrator of a community care facility licensed to care for children; headstart teacher;
18 a licensing worker or licensing evaluator; public assistance worker; employee of a child care
19 institution including, but not limited to, foster parents, group home personnel and personnel
20 of residential care facilities; a social worker or a probation officer, or any person who is an
21 administrator or presenter of, or a counselor in, a child abuse presentation program in any
22 public or private school.

23 (i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist,
24 dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist,
25 optometrist, or any other person who is currently licensed under Division 2 (commencing
26 with Section 500) of the Business and Professions Code, or any emergency medical
27 technician I or II, or paramedic, or other person certified pursuant to Division 2.5
28 (commencing with Section 1797) of the Health and Safety Code, or a psychological
assistant registered pursuant to Section 2913 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 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.

(l) "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."

24 ⁴⁸ Penal Code Section 11164, added by Chapter 1444, Statutes of 1987, Section
25 1.5:

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

28 (b) The intent and purpose of this article is to protect children from abuse. In any
investigation of suspected child abuse, 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."

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 Reporting Act.”

5 Chapter 1444, Statutes of 1987, Section 2 amended Penal Code Section 11165⁴⁹

6 ⁴⁹ Penal Code Section 11165, added by Chapter 1071, Statutes of 1980, Section 4
7 and amended by Chapter 1444, Statutes of 1987, Section 2:

8 “As used in this article:

9 (a) “Child” means a person under the age of 18 years.

10 (b) “Sexual abuse” means sexual assault or sexual exploitation as defined by the

11 following:
12 (1) “Sexual assault” means conduct in violation of one or more of the following
13 sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286
14 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under
15 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by
16 a foreign object), or 647a (child molestation).

17 (2) “Sexual exploitation” refers to any of the following:

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

21 (B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades,
22 induces, or coerces a child, or any parent or guardian of a child under his or her control who
23 knowingly permits or encourages a child to engage in, or assist others to engage in,
24 prostitution or to either pose or model alone or with others for purposes of preparing a film,
25 photograph, negative, slide, or live performance involving obscene sexual conduct for
26 commercial purposes.

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

32 (c) “Neglect” means the negligent treatment or the maltreatment of a child by a
33 person responsible for the child’s welfare under circumstances indicating harm or
34 threatened harm to the child’s health or welfare. The term includes both acts and omissions
35 on the part of the responsible person.

36 (1) “Severe neglect” means the negligent failure of a person having the care or
37 custody of a child to protect the child from severe malnutrition or medically diagnosed
38 nonorganic failure to thrive. “Severe neglect” also means those situations of neglect where
39 any person having the care or custody of a child willfully causes or permits the person or
40 health of the child to be placed in a situation such that his or her person or health is
41 endangered, as proscribed by subdivision (d), including the intentional failure to provide
42 adequate food, clothing, shelter, or medical care.

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

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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

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5 guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

6 (d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any
7 person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical
8 pain or mental suffering, or having the care or custody of any child, willfully causes or
9 permits the person or health of the child to be placed in a situation such that his or her
10 person or health is endangered.

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

19 (f) "Abuse in out-of-home care" means a situation of physical injury on a child which
20 is inflicted by other than accidental means, or of sexual abuse or neglect, or corporal
21 punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined
22 in this article, where the person responsible for the child's welfare is a licensee,
23 administrator, or employee of a licensed community care or child day care facility, or the
24 administrator or an employee of a public or private school, or other institution or agency.

25 (g) "Child abuse" means a physical injury which is inflicted by other than accidental
26 means on a child by another person. "Child abuse" also means the sexual abuse of a child
27 or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment
28 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, a certificated pupil personnel employee of any public or private
school; an administrator or 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; and 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 or any person
who is an administrator or presenter of, or counselor in, a child abuse prevention program
in any public or private school.

(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, 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, or a psychological assistant registered pursuant to Section 2913
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 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. It does not include a school district
police or security department.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to change the term "sexual assault" to "sexual abuse" which, by definition, includes both
4 sexual assault and, for the first time, "sexual exploitation" as defined in Penal Code
5 Section 11165 subdivision (b)(2) to include conduct involving matter depicting a minor
6 engaged in obscene acts in violation of Penal Code Section 311.2 or the employment of
7 minors to perform obscene acts in violation of subdivision (a) of Section 311.4. "Sexual
8 exploitation" is also defined to include the knowing promotion, aiding, assisting,
9 employing, use, persuasion, inducement, or coercion of a child, or if any parent or
10 guardian of a child under his or her control knowingly permits or encourages a child to
11 engage in, or assist others to engage in, prostitution or to either pose or model alone or
12 with others for purposes of preparing a film, photograph, negative, slide, or live
13 performance involving obscene sexual conduct for commercial purposes. "Sexual
14 exploitation" is also defined to include the depiction of a child in, or knowing
15 development, duplication, printing, or exchange of, any film, photograph, videotape,
16 negative, or slide in which a child is engaged in an act of obscene sexual conduct.
17 Therefore, for the first time, "child care custodians" were also required to report
18 instances of sexual exploitation. Subdivision (h), of section 11165, was amended to add,
19 for the first time, persons who are administrators, presenters of, or counselors in, a child
20 abuse prevention program in any public or private school to the list of "child care
21 custodians."

22 Chapter 1459, Statutes of 1987 made numerous changes to the Child Abuse and
23 Neglect Reporting Act. Section 1 repealed former Section 11165 of the Penal Code.

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26 _____
27 (l) "Commercial film and photographic print processor" means any person who
28 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."

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 Section 2 added a new Penal Code section 11165⁵⁰ to define "child" as a person under
5 the age of 18 years (formerly, subdivision (a) of Section 11165).

6 Section 3 repealed Penal Code Section 11165.1 and Section 5, added a new
7 Penal Code Section 11165.1⁵¹ which is substantially similar to subdivision (b) of former

8 ⁵⁰ Penal Code Section 11165, added by Chapter 1459, Statutes of 1987, Section 2:

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

10 ⁵¹ Penal Code Section 11165.1, added by Chapter 1459, Statutes of 1987, Section
11 5:

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

14 (a) "Sexual assault" means conduct in violation of one or more of the following
15 sections : Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy),
16 subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years
17 of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign
18 object), or 647a (child molestation).

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

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

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

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

28 (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 the 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 11165, to define "sexual abuse" to mean sexual assault or sexual exploitation.

4 Section 7 added Penal Code Section 11165.2⁵², which is substantially similar to
5 subdivision (c) of former Section 11165 to define "neglect", "severe neglect", and
6 "general neglect."

7 Section 8 repealed Penal Code Section 11165.3 and Section 9 added a new
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11 other pictorial depiction, involving obscene sexual conduct. For the purpose of this section,
12 "person responsible for a child's welfare" means a parent, guardian, foster parent, or a
13 licensed administrator or employee of a public or private residential home, residential
14 school, or other residential institution.

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

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⁵² Penal Code Section 11165.2, added by Chapter 1459, Statutes of 1987, Section
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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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Penal Code Section 11165.3⁵³, which is substantially similar to subdivision (d) of former
4 Section 11165, to define “willful cruelty or unjustifiable punishment of a child.”

5 Section 10 added Penal Code Section 11165.4⁵⁴, which is substantially similar to
6 subdivision (e) of former Section 11165, which defines “unlawful corporal punishment or
7 injury.”

8 Section 11 repealed Penal Code Section 11165.5 and Section 12 added a new
9 Penal Code Section 11165.5⁵⁵, which is substantially similar to subdivision (f) of former
10 Section 11165 to define “abuse in out-of-home care.”

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12 _____
13 ⁵³ Penal Code Section 11165.3, added by Chapter 1459, Statutes of 1987, Section
14 9:

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

20 ⁵⁴ Penal Code Section 11165.4, added by Chapter 1459, Statutes of 1987, Section
21 10:

22 “As used in this article, “unlawful corporal punishment or injury” means a situation
23 where any person willfully inflicts upon any child any cruel or inhuman corporal punishment
24 or injury resulting in a traumatic condition. It does not include an amount of force that is
25 reasonable and necessary for a person employed by or engaged in a public school to quell
26 a disturbance threatening physical injury to person or damage to property, for purposes of
27 self-defense, or to obtain possession of weapons or other dangerous objects within the
28 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.”

29 ⁵⁵ Penal Code Section 11165.5, added by Chapter 1459, Statutes of 1987, Section
30 12:

31 “As used in this article, “abuse in out-of-home care” means a situation of physical
32 injury on a child which is inflicted by other than accidental means, or of sexual abuse or
33 neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable
34 punishment of a child, as defined in this article, where the person responsible for the child’s
35 welfare is a licensee, administrator, or employee of any facility licensed to care for children,
36 or an administrator or employee of a public or private school or other institution or agency.”

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 13 added Penal Code Section 11165.6⁵⁶, which is substantially similar to
4 subdivision (g) of former Section 11165, to define "child abuse."

5 Section 14 added Penal Code Section 11165.7⁵⁷, which is substantially similar to
6 subdivision (h) of former Section 11165, to define "child care custodian." Subdivision (a)
7 defines "child care custodian" to again include "teachers" only when trained in the duties
8 imposed by the article and to again include instructional aides, teacher aides and
9 teacher assistants employed by any public or private school only when trained in the

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12 ⁵⁶ Penal Code Section 11165.6, added by Chapter 1459, Statutes of 1987, Section
13 13:

14 "As used in this article, "child abuse" means a physical injury which is inflicted by
15 other than accidental means on a child by another person. "Child abuse" also means the
16 sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or
17 unjustifiable punishment of a child) or 273d (unlawful corporal punishment or injury). "Child
18 abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this
19 article. "Child abuse" does not mean a mutual affray between minors."

20 ⁵⁷ Penal Code Section 11165.7, added by Chapter 1459, Statutes of 1987, Section
21 14:

22 "(a) As used in this article, "child care custodian" means a teacher; an instructional
23 aide, a teacher's aide, or a teacher's assistant employed by any public or private school,
24 who has been trained in the duties imposed by this article, if the school district has so
25 warranted to the State Department of Education; a classified employee of any public school
26 who has been trained in the duties imposed by this article, if the school has so warranted
27 to the State Department of Education; an administrative officer, supervisor of child welfare
28 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 licensed community care of child day care facility; 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 of
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 prevention program in any
public or private school.

(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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 duties imposed by the article. Subdivision (a) also expands the definition to include
4 classified employees who have been trained in the duties imposed by this article and all
5 administrative officers, supervisors of child welfare and attendance and certificated pupil
6 personnel employees of any public or private school. Subdivision (b) describes the
7 training required and, for the first time, requires school districts to provide to all
8 employees being trained a written copy of the reporting requirements and a written
9 disclosure of the employees' confidentiality rights. Subdivision (c) for the first time
10 requires school districts who do not train employees specified in subdivision (a) in the
11 duties of child care custodians to report to the State Department of Education the
12 reasons why this training is not provided. Therefore, for the first time, classified
13 employees (who have been trained in the duties imposed by this article) were required
14 to report child abuse to a child protection agency. Also, for the first time, school districts
15 are required either to train child care custodians under the child abuse reporting laws or
16 report to the State Department of Education why this training is not provided.

17 Section 16 added Penal Code Section 11165.9⁵⁸ to define "child protective
18 agency" as a police or sheriff's department, a county probation department, or a county
19 welfare department. School district police or security departments are not included in the
20 definition of "child protective agency" as defined in Section 11165.9.

21 Section 20 amended Penal Code Section 11166⁵⁹ to substitute the term "health
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23 ⁵⁸ Penal Code Section 11165.9, added by Chapter 1459, Statutes of 1987, Section
24 16:

25 "As used in this article, "child protective agency" means a police or sheriff's
26 department, a county probation department, or a county welfare department. It does not
include a school district police or security department."

27 ⁵⁹ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1459, Statutes of 1987, Section 20:

28 "(a) Except as provided in subdivision (b), any child care custodian, medical

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
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5 ~~practitioner, nonmedical practitioner,~~ health practitioner, or employee of a child protective
6 agency who has knowledge of or observes a child in his or her professional capacity or
7 within the scope of his or her employment whom he or she knows or reasonably suspects
8 has been the victim of child abuse shall report the known or suspected instance of child
9 abuse to a child protective agency immediately or as soon as practically possible by
10 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. For the purpose
of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of
reasonable suspicion of sexual abuse.

11 (b) Any child care custodian, ~~medical practitioner, nonmedical practitioner~~ health
12 practitioner, or employee of a child protective agency who has knowledge of or who
13 reasonably suspects that mental suffering has been inflicted on a child or his or her
14 emotional well-being is endangered in any other way, may report such suspected instance
of child abuse to a child protective agency.

15 (c) Any commercial film and photographic print processor who has knowledge of or
16 observes, within the scope of his or her professional capacity or employment, any film,
17 photographic, video tape, negative or slide depicting a child under the age of 14 years
engaged in an act of sexual conduct, shall report such 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, video tape, 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:

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

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

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

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

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

25 (d) Any other person who has knowledge of or observes a child whom he or she
26 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.

27 (e) When two or more persons who are required to report are present and jointly
28 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 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.

(f) 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 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.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 practitioner” for the terms “medical practitioner” and “nonmedical practitioner” and other
5 technical changes.

6 Section 21 amended Penal Code Section 11166.5⁶⁰ to make technical changes,

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

9 (g) A county probation or welfare department shall immediately or as soon as
10 practically possible report by telephone to the law enforcement agency having jurisdiction
11 over the case, to the agency given the responsibility for investigation of cases under
12 Section 300 of the Welfare and Institutions Code, and to the district attorney’s office every
13 known or suspected instance of child abuse as defined in Section ~~44165~~ 11165.6, except
14 acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section
15 ~~44165~~ subdivision (b) of Section 11165.2, which shall only be reported to the county welfare
16 department. A county probation or welfare department shall also send a written report
17 thereof within 36 hours of receiving the information concerning the incident to any agency
18 to which it is required to make a telephone report under this subdivision.

19 A law enforcement agency shall immediately or as soon as practically possible report
20 by telephone to the ~~county welfare department~~, the agency given responsibility for
21 investigation of cases under Section 300 of the Welfare and Institutions Code, and to the
22 district attorney’s office every known or suspected instance of child abuse reported to it,
23 except acts or omissions coming within the provisions of paragraph (2) of subdivision (c)
24 of Section ~~44165~~ subdivision (b) of Section 11165.2, which shall only be reported to the
25 county welfare department. A law enforcement agency shall report to the county welfare
26 department every known or suspected instance of child abuse reported to it which is alleged
27 to have occurred as a result of the action of a person responsible for the child’s welfare, or
28 as the result 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 shall also send a written report thereof within 36 hours of receiving the information
required to make a telephone report under this subdivision.”

60 Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
1, and amended by Chapter 1459, Statutes of 1987, Section 21:

“(a) Any person who enters into employment on and after January 1, 1985, as a child
care custodian, ~~medical practitioner, nonmedical practitioner, health practitioner~~, or with
a child protective agency, prior to commencing his or her employment, and as 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, ~~medical
practitioner, nonmedical practitioner, health 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 knows or reasonably suspects
has been the victim of child abuse to report the known or suspected instance of child abuse

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
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5 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.

6 "Child care custodian" includes teachers; an instructional aide, a teacher's aide, or
7 a teachers's assistant employed by any public or private school, who has been trained in
8 the duties imposed by this article, if the school district has so warranted to the State
9 Department of Education; a classified employee of any public school who has been trained
10 in the duties imposed by this article, if the school has so warranted to the State Department
11 of Education; administrative officers, supervisors of child welfare and attendance, or
12 certificated pupil personnel employees of any public or private school; administrators of a
13 public or private day camp; licensees, administrators, and employees of licensed community
14 care or child day care facilities; headstart teachers; licensing workers or licensing
15 evaluators; public assistance workers; employees of a child care institution including, but
16 not limited to, foster parents, group home personnel, and personnel of residential care
17 facilities; and social workers or probation officers; or any person who is an administrator or
18 presenter of, or a counselor in, a child abuse prevention program in any public or private
19 school.

20 "Medical practitioner" "Health care practitioner" includes physicians and surgeons,
21 psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed
22 nurses, dental hygienists, optometrists, or any other person who is licensed under Division
23 2 (commencing with Section 500) of the Business and Professions Code, nonmedical
24 practitioner includes state or county public health employees who treat minors for venereal
25 disease or any other condition; coroners; paramedics; marriage, family or child counselors;
26 and religious practitioners who diagnose, examine, or treat children marriage, family and
27 child counselors; emergency medical technicians I or II, paramedics, or other persons
28 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; paramedics; and religious practitioners who
diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing,
distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies
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 shall
also indicate that failure to comply with the requirements of Section 11166 is a
misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
(\$1,000) or both.

(c) As an alternative to the procedure required by subdivision (b), a state agency

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and to update the content of the form required to be signed by child care custodians,
4 upon being employed, to conform to other changes made by the chapter.

5 Chapter 39, Statutes of 1988, Sections 1, 2 and 3 amended Penal Code Sections
6 11165.4⁶¹, 11165.5⁶², and 11165.6⁶³ to provide exemptions for specified peace officer

7 _____
8 may cause the required statement to be printed on all application forms for a license or
9 certificate printed on or after January 1, 1986.”

10 ⁶¹ Penal Code Section 11165.4, added by Chapter 1459, Statutes of 1987, Section
11 10, as amended by Chapter 39, Statutes of 1988, Section 1:

12 “As used in this article, “unlawful corporal punishment or injury” means a situation
13 where any person willfully inflicts upon any child any cruel or inhuman corporal punishment
14 or injury resulting in a traumatic condition. It does not include an amount of force that is
15 reasonable and necessary for a person employed by or engaged in a public school to quell
16 a disturbance threatening physical injury to person or damage to property, for purposes
17 of self-defense, or to obtain possession of weapons or other dangerous objects within the
18 control of the pupil, as authorized by Section 49001 of the Education Code. It also does not
19 include the exercise of the degree of physical control authorized by Section 44807 of the
20 Education Code. It also does not include an amount of force that is reasonable and
necessary for a peace officer to quell a disturbance threatening physical injury to person
or damage to property to prevent physical injury to person or damage to property, for
purposes of self-defense, to obtain possession of weapons or other dangerous objects
within the control of the child, or to apprehend an escapee.

21 ⁶² Penal Code Section 11165.5, added by Chapter 1459, Statutes of 1987, Section
22 12, as amended by Chapter 39, Statutes of 1988, Section 2:

23 “As used in this article, “abuse in out-of-home care” means a situation of physical
24 injury on a child which is inflicted by other than accidental means, or of sexual abuse or
25 neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable
26 punishment of a child, as defined in this article, where the person responsible for the child’s
27 welfare is a licensee, administrator, or employee of any facility licensed to care for children,
28 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 to quell a disturbance threatening physical injury to a person
or damage to property, to prevent physical injury to person or damage to property, for
purposes of self-defense, to obtain possession of weapons or other dangerous objects
within the control of a child, or to apprehend an escapee.

29 ⁶³ Penal Code Section 11165.6, added by Chapter 1459, Statutes of 1987, Section
30 13, as amended by Chapter 39, Statutes of 1988, Section 3:

31 “As used in this article, “child abuse” means a physical injury which is inflicted by

1
2 **Test Claim of San Bernardino Community College District**
3 **Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting**

4 activities.

5 Chapter 269, Statutes of 1988, Section 1 amended subdivision (f) of Section
6 11166⁶⁴ of the Penal Code to add that any supervisor or administrator who impedes or

7 other than accidental means on a child by another person. "Child abuse" also means the
8 sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or
9 unjustifiable punishment of a child) or 273d (unlawful corporal punishment or injury). "Child
10 abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this
11 article. "Child abuse" does not mean a mutual affray between minors. "Child abuse" does
12 not include an injury caused by reasonable and necessary force used by a peace officer to
13 quell a disturbance threatening physical injury to person or damage to property, to prevent
14 physical injury to person or damage to property, for purposes of self-defense, to obtain
15 possession of weapons or other dangerous objects within the control of a child, or to
16 apprehend an escapee.

17 ⁶⁴ Penal Code Section 11166, added by Chapter 1459, Statutes of 1987, Section 20,
18 as amended by Chapter 269, Statutes of 1988, Section 1:

19 "(a) Except as provided in subdivision (b), any child care custodian, health
20 practitioner, or employee of a child protective agency who has knowledge of or observes
21 a child in his or her professional capacity or within the scope of his or her employment
22 whom he or she knows or reasonably suspects has been the victim of child abuse shall
23 report the known or suspected instance of child abuse to a child protective agency
24 immediately or as soon as practically possible by telephone and shall prepare and send a
25 written report thereof within 36 hours of receiving the information concerning the incident.
26 For the purposes of this article, "reasonable suspicion" means that it is objectively
27 reasonable for a person to entertain such a suspicion, based upon facts that could cause
28 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 the basis of reasonable suspicion of sexual
abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may
report such suspected instance of child abuse to a child protective agency.

(c) 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,
photographic, video tape, negative or slide depicting a child under the age of 14 years
engaged in an act of sexual conduct, shall report such 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, video tape, 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 inhibits the reporting duties of another person is guilty of a misdemeanor.
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6 (2) Penetration of the vagina or rectum by any object.
7 (3) Masturbation, for the purpose of sexual stimulation of the viewer.
8 (4) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
9 (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of
sexual stimulation of the viewer.

10 (d) 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.

11 (e) 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 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.

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

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

16 (2) Any supervisor or administrator who violates paragraph (1) is guilty of a
17 misdemeanor which is punishable by confinement in the county jail for a term not to exceed
six months or by a fine of not more than one thousand dollars (\$1,000) or by both.

18 (g) 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
19 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, which shall only be reported
20 to the county welfare department. A county probation or welfare department shall also send
a written report thereof within 36 hours of receiving the information concerning the incident
21 to any agency to which it is required to make a telephone report under this subdivision.

22 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
23 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
24 subdivision (b) of Section 11165.2, which shall only be reported to the county welfare
department. A law enforcement agency shall report to the county welfare department every
25 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 the
26 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
27 known that the minor was in danger of abuse. A law enforcement agency shall also send
a written report thereof within 36 hours of receiving the information required to make a
28 telephone report under this subdivision."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 1580, Statutes of 1988, Section 2 amended subdivision (a) of Section
4 11166⁶⁵ of the Penal Code to require that a child protective agency be notified and

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6 ⁶⁵ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1580, Statutes of 1988, Section 2:

7
8 “(a) Except as provided in subdivision (b), any child care custodian, health
9 practitioner, or employee of a child protective agency who has knowledge of or observes
10 a child in his or her professional capacity or within the scope of his or her employment
11 whom he or she knows or reasonably suspects has been the victim of child abuse shall
12 report the known or suspected instance of child abuse to a child protective agency
13 immediately or as soon as practically possible by telephone and shall prepare and send a
14 written report thereof within 36 hours of receiving the information concerning the incident.
15 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
16 purposes of this article, “reasonable suspicion” means that it is objectively reasonable for
17 a person to entertain such a suspicion, based upon facts that could cause a reasonable
18 person in a like position, drawing when appropriate on his or her training and experience,
19 to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not,
20 in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

21 (b) Any child care custodian, health practitioner, or employee of a child protective
22 agency who has knowledge of or who reasonably suspects that mental suffering has been
23 inflicted on a child or his or her emotional well-being is endangered in any other way, may
24 report such suspected instance of child abuse to a child protective agency.

25 (c) Any commercial film and photographic print processor who has knowledge of or
26 observes, within the scope of his or her professional capacity or employment, any film,
27 photographic, video tape, negative or slide depicting a child under the age of 14 years
28 engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 a report shall be prepared even if the child has expired and regardless of whether the
4 possible abuse was a contributing factor to the death. Subdivision (f) was amended to
5 remove paragraph (2) regarding criminal liability of supervisors and to make technical
6 changes.

7 Chapter 931, Statutes of 1990, Section 1, amended Penal Code Section

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11 selected by mutual agreement and a single report may be made and signed by such
12 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.

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

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

16 ~~(2) Any supervisor or administrator who violates paragraph (1) is guilty of a~~
17 ~~misdemeanor which is punishable by confinement in the county jail for a term not to exceed~~
~~six months or by a fine of not more than one thousand dollars (\$1,000) or by both.~~

18 (g) A county probation or welfare department shall immediately or as soon as
19 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
20 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
21 omissions coming within subdivision (b) of Section 11165.2, which shall only be reported
to the county welfare department. A county probation or welfare department shall also send
a written report thereof within 36 hours of receiving the information concerning the incident
22 to any agency to which it is required to make a telephone report under this subdivision.

23 A law enforcement agency shall immediately or as soon as practically possible report
24 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
25 suspected instance of child abuse reported to it, except acts or omissions coming within
subdivision (b) of Section 11165.2, which shall only be reported to the county welfare
26 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
27 as a result of the action of a person responsible for the child's welfare, or as the result the
failure of a person responsible for the child's welfare to adequately protect the minor from
28 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 shall also send
a written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 11166.5⁶⁶ to include administrators and employees of public or private youth centers,
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5 ⁶⁶ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
6 1, as amended by Chapter 931, Statutes of 1990, Section 1:

7 “(a) Any person who enters into employment on and after January 1, 1985, as a child
8 care custodian, health practitioner, or with a child protective agency, prior to commencing
9 his or her employment, and as prerequisite to that employment, shall sign a statement on
10 a form provided to him or her by his or her employer to the effect that he or she has
11 knowledge of the provisions of Section 11166 and will comply with its provisions.

12 The statement shall include the following provisions:

13 Section 11166 of the Penal Code requires any child care custodian, health
14 practitioner, or employee of a child protective agency who has knowledge of or observes
15 a child in his or her professional capacity or within the scope of his or her employment
16 whom he or she knows or reasonably suspects has been the victim of child abuse to report
17 the known or suspected instance of child abuse to a child protective agency immediately
18 or as soon as practically possible by telephone and to prepare and send a written report
19 thereof within 36 hours of receiving the information concerning the incident.

20 “Child care custodian” includes teachers; an instructional aide, a teacher’s aide, or
21 a teachers’s assistant employed by any public or private school, who has been trained in
22 the duties imposed by this article, if the school district has so warranted to the State
23 Department of Education; a classified employee of any public school who has been trained
24 in the duties imposed by this article, if the school has so warranted to the State Department
25 of Education; administrative officers, supervisors of child welfare and attendance, or
26 certificated pupil personnel employees of any public or private school; administrators of a
27 public or private day camp; administrators and employees of public or private youth centers,
28 youth recreation programs, and youth organizations 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; and social workers or probation officers; or any person who is an administrator or
presenter of, or a counselor in, a child abuse prevention program in any public or private
school.

“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; paramedics; and religious practitioners who diagnose, examine, or treat
children.

The signed statements shall be retained by the employer. The cost of printing,
distribution, and filing of these statements shall be borne by the employer.

1
2 Test Claim of San Bernardino Community College District
Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting

3 youth recreation programs, and youth organizations in the definition of the term "child
4 care custodian."

5 Chapter 1603, Statutes of 1990, Section 3 amended subdivision (g) of Section
6 11166⁶⁷ of the Penal Code to require county probation and welfare departments to

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8 This subdivision is not applicable to persons employed by child protective agencies,
9 public or private youth centers, youth recreation programs, and youth organizations as
10 members of the support staff or maintenance staff and who do not work with, observe, or
11 have knowledge of children as part of their official duties.

12 (b) On and after January 1, 1986, when a person is issued a state license or
13 certificate to engage in a profession or occupation, the members of which are required to
14 make a report pursuant to Section 11166, the state agency issuing the license or certificate
15 shall send a statement substantially similar to the one contained in subdivision (a) to the
16 person at the same time as it transmits the document indicating licensure or certification to
17 the person. In addition to the requirements contained in subdivision (a), the statement shall
18 also indicate that failure to comply with the requirements of Section 11166 is a
19 misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
20 (\$1,000) or both.

21 (c) As an alternative to the procedure required by subdivision (b), a state agency
22 may cause the required statement to be printed on all application forms for a license or
23 certificate printed on or after January 1, 1986."

24
25 ⁶⁷ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
26 as amended by Chapter 1603, Statutes of 1990, Section 3:

27
28 "(a) Except as provided in subdivision (b), any child care custodian, health
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 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 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. For the purpose of this article, the pregnancy of a minor does not,
in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may
report such suspected instance of child abuse to a child protective agency.

(c) Any commercial film and photographic print processor who has knowledge of or

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5 observes, within the scope of his or her professional capacity or employment, any film,
6 photographic, video tape, negative or slide depicting a child under the age of 14 years
7 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
8 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, video tape, 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:

9 (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.

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

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

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

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

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

17 (e) When two or more persons who are required to report are present and jointly
18 have knowledge of a known or suspected instance of child abuse, and when there is
19 agreement among them, the telephone report may be made by a member of the team
20 selected by mutual agreement and a single report may be made and signed by such
designated 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.

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

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

27 (g) A county probation or welfare department shall immediately or as soon as
28 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 relate solely to the inability of the parent
to provide the child regular care due to the parent's substance abuse, which shall only be
reported to the county welfare department. A county probation or welfare department 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 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 report instances of child abuse based on the risk to a child which relates solely to the
4 inability of the parent to provide the child with regular care due to the parent's substance
5 abuse to the county welfare department.

6 Chapter 132, Statutes of 1991, Section 1 amended subdivision (a) of Section
7 11165.7⁶⁸ of the Penal Code to add administrators or employees of a public or private

8
9 subdivision (b) of Section 11165.2, which shall only be reported to the county welfare
10 department. A law enforcement agency shall report to the county welfare department every
11 known or suspected instance of child abuse reported to it which is alleged to have occurred
12 as a result of the action of a person responsible for the child's welfare, or as the result the
13 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 shall also send
a written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

14 ⁶⁸ Penal Code Section 11165.7, added by Chapter 1459, Statutes of 1987, Section
15 14, as amended by Chapter 132, Statutes of 1991, Section 1:

16 "(a) As used in this article, "child care custodian" means a teacher; an instructional
17 aide, a teacher's aide, or a teacher's assistant employed by any public or private school,
18 who has been trained in the duties imposed by this article, if the school district has so
19 warranted to the State Department of Education; a classified employee of any public school
20 who has been trained in the duties imposed by this article, if the school has so warranted
21 to the State Department of Education; an administrative officer, supervisor of child welfare
22 and attendance, or certificated pupil personnel employee of any public or private school; an
23 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; and 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 of child day care facility; 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 of residential care
facilities; a social worker or a probation officer, or parole officer; an employee of a school
district police or security department; or any person who is an administrator or presenter
of, or a counselor in, a child abuse prevention program in any public or private school.

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

27 (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.

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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 youth centers, youth recreation programs, or youth organizations to the definition of
4 "child care custodian."

5 Section 2 amended Penal Code Section 11166.5⁶⁹ to make technical changes

6
7 of child abuse."

8 ⁶⁹ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
9 1, as amended by Chapter 132, Statutes of 1991, Section 2:

10 "(a) Any person who enters into employment on and after January 1, 1985, as a child
11 care custodian, health practitioner, or with a child protective agency, prior to commencing
12 his or her employment, and as prerequisite to that employment, shall sign a statement on
13 a form provided to him or her by his or her employer to the effect that he or she has
14 knowledge of the provisions of Section 11166 and will comply with its provisions.

15 The statement shall include the following provisions:

16 Section 11166 of the Penal Code requires any child care custodian, health
17 practitioner, or employee of a child protective agency who has knowledge of or observes
18 a child in his or her professional capacity or within the scope of his or her employment
19 whom he or she knows or reasonably suspects has been the victim of child abuse to report
20 the known or suspected instance of child abuse to a child protective agency immediately
21 or as soon as practically possible by telephone and to prepare and send a written report
22 thereof within 36 hours of receiving the information concerning the incident.

23 "Child care custodian" includes teachers; an instructional aide, a teacher's aide, or
24 a teachers's assistant employed by any public or private school, who has been trained in
25 the duties imposed by this article, if the school district has so warranted to the State
26 Department of Education; a classified employee of any public school who has been trained
27 in the duties imposed by this article, if the school has so warranted to the State Department
28 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, and 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; and social workers, probation officer,
or parole officer; an employee of a school district police department or security department;
or any person who is an administrator or presenter of, or a counselor in, a child abuse
prevention program in any public or private school.

"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;

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and to add administrators and employees of public and private organizations whose
4 duties require direct contact and supervision of children, parole officers, and employees
5 of a school district police or security department to the definition of "child care custodian"
6 in the statement required of child care custodians upon employment.

7 Chapter 1102, Statutes of 1991, Section 5, added Penal Code Section
8 11165.14⁷⁰ which requires the local child protective agency to investigate a child abuse

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10 _____
11 marriage, family and child counselor trainees as defined in subdivision (c) of Section
12 4980.03 of the Business and Professions Code; unlicensed marriage, family and child
13 counselor interns registered under Section 4980.44 of the Business and Professions Code;
14 state or county public health employees who treat minors for venereal disease or any other
15 condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat
16 children.

17 The signed statements shall be retained by the employer. The cost of printing,
18 distribution, and filing of these statements shall be borne by the employer.

19 This subdivision is not applicable to persons employed by child protective agencies,
20 public or private youth centers, youth recreation programs, and youth organizations as
21 members of the support staff or maintenance staff and who do not work with, observe, or
22 have knowledge of children as part of their official duties.

23 (b) On and after January 1, 1986, when a person is issued a state license or
24 certificate to engage in a profession or occupation, the members of which are required to
25 make a report pursuant to Section 11166, the state agency issuing the license or certificate
26 shall send a statement substantially similar to the one contained in subdivision (a) to the
27 person at the same time as it transmits the document indicating licensure or certification to
28 the person. In addition to the requirements contained in subdivision (a), the statement shall
also indicate that failure to comply with the requirements of Section 11166 is a
misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars
(\$1,000) or both.

(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."

23 ⁷⁰ Penal Code Section 11165.14, added by Chapter 1102, Statutes of 1991, Section
24 5:

25 "The local child protective agency shall investigate a child abuse complaint filed by a parent
26 or guardian of a pupil with a school or a local child protective agency against a school
27 employee or other person that commits an act of child abuse, as defined in this article,
28 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."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 complaint filed by a parent or guardian against a school employee or other person that
4 commits an act of child abuse at a schoolsite. Therefore, for the first time, school
5 districts are required to assist and cooperate in investigations conducted by a child
6 protective agency of alleged acts of child abuse committed at a schoolsite.

7 Chapter 459, Statutes of 1992, Section 1 amended subdivision (a) of Section
8 11165.7⁷¹ of the Penal Code to expand the definition of "child care custodian" to now
9 include district attorney investigators, inspectors, or family support officers.

10 _____
11 ⁷¹ Penal Code Section 11165.7, added by Chapter 1459, Statutes of 1987, Section
12 14, as amended by Chapter 459, Statutes of 1992, Section 1:

13 "(a) As used in this article, "child care custodian" means a teacher; an instructional
14 aide, a teacher's aide, or a teacher's assistant employed by any public or private school,
15 who has been trained in the duties imposed by this article, if the school district has so
16 warranted to the State Department of Education; a classified employee of any public school
17 who has been trained in the duties imposed by this article, if the school has so warranted
18 to the State Department of Education; an administrative officer, supervisor of child welfare
19 and attendance, or certificated pupil personnel employee of any public or private school; an
20 administrator of a public or private day camp; an administrator or employee of a public or
21 private youth center, youth recreation program, or youth organization; and administrator or
22 employee of a public or private organization whose duties require direct contact and
23 supervision of children; a licensee, an administrator, or an employee of a licensed
community care of child day care facility; 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 of residential care
facilities; a social worker or a probation officer, or parole officer; an employee of a school
district police or security department; or 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.

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

28 (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 child are encouraged to obtain training in the identification and reporting
of child abuse."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 **Section 3 amended Penal Code Section 11166⁷² to make technical changes**
4

5 ⁷² Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
6 as amended by Chapter 459, Statutes of 1992, Section 3:

7 "(a) Except as provided in subdivision (b), any child care custodian, health
8 practitioner, or employee of a child protective agency, or child visitation monitor who has
9 knowledge of or observes a child in his or her professional capacity or within the scope of
10 his or her employment whom he or she knows or reasonably suspects has been the victim
11 of child abuse shall report the known or suspected instance of child abuse to a child
12 protective agency immediately or as soon as practically possible by telephone and shall
13 prepare and send a written report thereof within 36 hours of receiving the information
14 concerning the incident. A child protective agency shall be notified and a report shall be
15 prepared and sent even if the child has expired, regardless of whether or not the possible
16 abuse was a factor contributing to the death, and even if suspected child abuse was
17 discovered during an autopsy. For the purposes of this article, "reasonable suspicion"
18 means that it is objectively reasonable for a person to entertain such a suspicion, based
19 upon facts that could cause a reasonable person in a like position, drawing when
20 appropriate on his or her training and experience, to suspect child abuse. For the purpose
21 of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of
22 reasonable suspicion of sexual abuse.

23 (b) Any child care custodian, health practitioner, or employee of a child protective
24 agency, or child visitation monitor who has knowledge of or who reasonably suspects that
25 mental suffering has been inflicted on a child or his or her emotional well-being is
26 endangered in any other way, may report such suspected instance of child abuse to a child
27 protective agency.

28 (c) 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,
photographic, video tape, negative or slide depicting a child under the age of 14 years
engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to require child visitation monitors to report child abuse.

4 Section 4 amended Penal Code Section 11166.5⁷³ to make technical changes

5
6 selected by mutual agreement and a single report may be made and signed by ~~such~~
7 ~~the~~ selected member of the reporting team. Any member who has knowledge that the
8 member designated to report has failed to do so, shall thereafter make such report.

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

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

16 (g) A county probation or welfare department shall immediately or as soon as
17 practically possible report by telephone to the law enforcement agency having jurisdiction
18 over the case, to the agency given the responsibility for investigation of cases under
19 Section 300 of the Welfare and Institutions Code, and to the district attorney's office every
20 known or suspected instance of child abuse as defined in Section 11165.6, except acts or
21 omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to
22 Section 11165.13 based on risk to a child which relate solely to the inability of the parent
23 to provide the child regular care due to the parent's substance abuse, which shall only be
24 reported to the county welfare department. A county probation or welfare department shall
25 also send a written report thereof within 36 hours of receiving the information concerning
26 Sections 11165.4, 11165.5 and 11165.6 to provide the incident to any agency to which it
27 is required to make a telephone report under this subdivision.

28 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 only be reported 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 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 shall also send
a written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

⁷³ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
1, as amended by Chapter 459, Statutes of 1992, Section 4:

"(a) ~~On and after January 1, 1985~~ any person who enters into employment ~~on and~~
~~after January 1, 1985~~, as a child care custodian, health practitioner, or with a child
protective agency, prior to commencing his or her employment, and as 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 its provisions.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
4

5 On and after January 1, 1993, any person who acts as a child visitation monitor, as
6 defined in Section 11165.15, prior to engaging in monitoring the first visit case, shall sign
7 a statement on a form provided to him or her by the court which ordered the presence of
8 that third person during the visit, to the effect that he or she has knowledge of the
9 provisions of Section 11166 and will comply with those provisions.

10 The statement shall include the following provisions:

11 Section 11166 of the Penal Code requires any child care custodian, health
12 practitioner, or employee of a child protective agency, or child visitation monitor who has
13 knowledge of or observes a child in his or her professional capacity or within the scope of
14 his or her employment whom he or she knows or reasonably suspects has been the victim
15 of child abuse to report the known or suspected instance of child abuse to a child protective
16 agency immediately or as soon as practically possible by telephone and to prepare and
17 send a written report thereof within 36 hours of receiving the information concerning the
18 incident.

19 "Child care custodian" includes teachers; an instructional aide, a teacher's aide, or
20 a teachers's assistant employed by any public or private school, who has been trained in
21 the duties imposed by this article, if the school district has so warranted to the State
22 Department of Education; a classified employee of any public school who has been trained
23 in the duties imposed by this article, if the school has so warranted to the State Department
24 of Education; administrative officers, supervisors of child welfare and attendance, or
25 certificated pupil personnel employees of any public or private school; administrators of a
26 public or private day camp; administrators and employees of public or private youth centers,
27 youth recreation programs, or youth organizations; administrators and employees of public
28 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; and social workers, probation officer, or parole
officer; an employee of a school district police department or security department; or 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.

"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; paramedics; and religious practitioners who diagnose, examine, or treat

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and to require child visitation monitors to sign a statement to the effect that he or she
4 has knowledge of the provisions of Section 11166 and will comply with those provisions.
5 Section 11166.5 was also amended to expand the definition of "child care custodian" to
6 now include district attorney investigators, inspectors, and family support officers.
7 Subdivision (d) was added to require child visitation monitors to receive training in the
8 duties imposed by this article, including training in child abuse identification and child
9 abuse reporting.

10 Chapter 346, Statutes of 1993, Sections 1, 2 and 3 amended Penal Code

11
12 _____
13 children.

14 "Child visitation monitor" means any person as defined in Section 11165.15.

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.

16 This subdivision is not applicable to persons employed by child protective agencies,
17 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.

18 (b) On and after January 1, 1986, when a person is issued a state license or
19 certificate to engage in a profession or occupation, the members of which are required to
20 make a report pursuant to Section 11166, the state agency issuing the license or certificate
21 shall send a statement substantially similar to the one contained in subdivision (a) to the
22 person at the same time as it transmits the document indicating licensure or certification to
23 the person. In addition to the requirements contained in subdivision (a), the statement shall
24 also indicate that failure to comply with the requirements of Section 11166 is a
25 misdemeanor, punishable by up to six months in a county jail, or by a fine of one thousand
26 dollars (\$1,000), or by both that imprisonment and fine.

27 (c) As an alternative to the procedure required by subdivision (b), a state agency
28 may cause the required statement to be printed on all application forms for a license or
certificate printed on or after January 1, 1986.

29 (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 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Sections 11165.4⁷⁴, 11165.5⁷⁵ and 11165.6⁷⁶ to provide additional exemptions for peace
4

5 ⁷⁴ Penal Code Section 11165.4, added by Chapter 1459, Statutes of 1987, Section
10, as amended by Chapter 346, Statutes of 1993, Section 1:

6
7 "As used in this article, "unlawful corporal punishment or injury" means a situation
8 where any person willfully inflicts upon any child any cruel or inhuman corporal punishment
9 or injury resulting in a traumatic condition. It does not include an amount of force that is
10 reasonable and necessary for a person employed by or engaged in a public school to quell
11 a disturbance threatening physical injury to person or damage to property, for purposes of
12 self-defense, or to obtain possession of weapons or other dangerous objects within the
13 control of the pupil, as authorized by Section 49001 of the Education Code. It also does not
14 include the exercise of the degree of physical control authorized by Section 44807 of the
Education Code. ~~It also does not include an amount of force that is reasonable and
necessary for a peace officer to quell a disturbance threatening physical injury to person
or damage to property to prevent physical injury to person or damage to property, for
purposes of self-defense, to obtain possession of weapons or other dangerous objects
within the control of the child, or to apprehend an escapee. Is 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.~~

15 ⁷⁵ Penal Code Section 11165.5, added by Chapter 1459, Statutes of 1987, Section
12, as amended by Chapter 346, Statutes of 1993, Section 2:

16 "As used in this article, "abuse in out-of-home care" means a situation of physical
17 injury on a child which is inflicted by other than accidental means, or of sexual abuse or
18 neglect, or unlawful corporal punishment or injury, or the willful cruelty or unjustifiable
19 punishment of a child, as defined in this article, where the person responsible for the child's
20 welfare is a licensee, administrator, or employee of any facility licensed to care for children,
21 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
22 force used by a peace officer to quell a disturbance threatening physical injury to a person
23 or damage to property, to prevent physical injury to person or damage to property, for
24 purposes of self-defense, to obtain possession of weapons or other dangerous objects
25 within the control of a child, or to apprehend an escapee acting within the course and scope
26 of his or her employment as a peace officer.

27 ⁷⁶ Penal Code Section 11165.6, added by Chapter 1459, Statutes of 1987, Section
28 13, as amended by Chapter 346, Statutes of 1993, Section 3:

24 "As used in this article, "child abuse" means a physical injury which is inflicted by
25 other than accidental means on a child by another person. "Child abuse" also means the
26 sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or
27 unjustifiable punishment of a child) or 273d (unlawful corporal punishment or injury). "Child
28 abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this
article. "Child abuse" does not mean a mutual affray between minors. "Child abuse" does
not include an injury caused by reasonable and necessary force used by a peace officer to
quell a disturbance threatening physical injury to person or damage to property, to prevent
physical injury to person or damage to property, for purposes of self-defense, to obtain

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 officers acting within the course and scope of their employment.

5 Chapter 510, Statutes of 1993, Section 1.5 amended subdivision (a) of Section
6 11166⁷⁷ of the Penal Code to include firefighters, animal control officers, and humane

7 ~~possession of weapons or other dangerous objects within the control of a child, or to~~
8 ~~apprehend an escapee acting within the course and scope of his or her employment as a~~
9 ~~peace officer.~~

10 ⁷⁷ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
11 as amended by Chapter 510, Statutes of 1993, Section 1.5:

12 “(a) Except as provided in subdivision (b), any child care custodian, health
13 practitioner, or employee of a child protective agency, or child visitation monitor, firefighter,
14 animal control officer, or humane society officer who has knowledge of or observes a child
15 in his or her professional capacity or within the scope of his or her employment whom he
16 or she knows or reasonably suspects has been the victim of child abuse shall report the
17 known or suspected instance of child abuse to a child protective agency immediately or as
18 soon as practically possible by telephone and shall prepare and send a written report
19 thereof within 36 hours of receiving the information concerning the incident. A child
20 protective agency shall be notified and a report shall be prepared and sent even if the child
21 has expired, regardless of whether or not the possible abuse was a factor contributing to
22 the death, and even if suspected child abuse was discovered during an autopsy. For the
23 purposes of this article, “reasonable suspicion” means that it is objectively reasonable for
24 a person in a like position, drawing when appropriate on his or her training and experience,
25 to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not,
26 in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

27 (b) Any child care custodian, health practitioner, or employee of a child protective
28 agency, or 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 on a child or his or her emotional well-being is endangered in any other way, may
report such suspected instance of child abuse to a child protective agency.

(c) 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,
photographic, video tape, negative or slide depicting a child under the age of 14 years
engaged in an act of sexual conduct, shall report such 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, video tape, 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 society officers to the list of persons required to report known or reasonably suspected
4 instances of child abuse.

5
6
7 (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of
sexual stimulation of the viewer.

8 (d) Any other person who has knowledge of or observes a child whom he or she
9 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.

10 (e) When two or more persons who are required to report are present and jointly
11 have knowledge of a known or suspected instance of child abuse, and when there is
12 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 such report.

13 (f) The reporting duties under this section are individual, and no supervisor or
14 administrator may impede or inhibit such reporting duties, and no person making such
report shall be subject to any 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.

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

16 (g) A county probation or welfare department shall immediately or as soon as
17 practically possible report by telephone to the law enforcement agency having jurisdiction
18 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
19 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
20 Section 11165.13 based on risk to a child which relate solely to the inability of the parent
to provide the child regular care due to the parent's substance abuse, which shall only be
21 reported to the county welfare department. A county probation or welfare department 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.

22 A law enforcement agency shall immediately or as soon as practically possible report
23 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
24 suspected instance of child abuse reported to it, except acts or omissions coming within
subdivision (b) of Section 11165.2, which shall only be reported to the county welfare
25 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
26 as a result of the action of a person responsible for the child's welfare, or as the result the
failure of a person responsible for the child's welfare to adequately protect the minor from
27 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 shall also send
28 a written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 2 amended Penal Code Section 11166.5⁷⁸ to include firefighters, animal
4

5 ⁷⁸ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
6 1, as amended by Chapter 510, Statutes of 1993, Section 2:

7 “(a) On and after January 1, 1985 any person who enters into employment as a child
8 care custodian, health practitioner, firefighter, animal control officer, or humane society
9 officer, or with a child protective agency, prior to commencing his or her employment, and
10 as prerequisite to that employment, shall sign a statement on a form provided to him or her
11 by his or her employer to the effect that he or she has knowledge of the provisions of
12 Section 11166 and will comply with its provisions.

13 On and after January 1, 1993, any person who acts as a child visitation monitor, as
14 defined in Section 11165.15, prior to engaging in monitoring the first visit case, shall sign
15 a statement on a form provided to him or her by the court which ordered the presence of
16 that third person during the visit, to the effect that he or she has knowledge of the
17 provisions of Section 11166 and will comply with those provisions.

18 The statement shall include the following provisions:

19 Section 11166 of the Penal Code requires any child care custodian, health
20 practitioner, firefighter, animal control officer, or humane society officer, employee of a child
21 protective agency, or child visitation monitor who has knowledge of or observes a child in
22 his or her professional capacity or within the scope of his or her employment whom he or
23 she knows or reasonably suspects has been the victim of child abuse to report the known
24 or suspected instance of child abuse to a child protective agency immediately or as soon
25 as practically possible by telephone and to prepare and send a written report thereof within
26 36 hours of receiving the information concerning the incident.

27 “Child care custodian” includes teachers; an instructional aide, a teacher’s aide, or
28 a teachers’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; and social workers, probation officer, or parole
officer; an employee of a school district police department or security department; or 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.

“Health practitioner” includes physicians and surgeons, psychiatrists, psychologists,
dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists,

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 control officers, and humane society officers to the list of persons required to sign a
4 statement on a form provided to him or her by his or her employer to the effect that he or
5 she has knowledge of the provisions of Section 11166 and will comply with those
6 provisions.

7
8 optometrists, or any other person who is licensed under Division 2 (commencing with
9 Section 500) of the Business and Professions Code, marriage, family and child counselors;
10 emergency medical technicians I or II, paramedics, or other persons certified pursuant to
11 Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological
12 assistants registered pursuant to Section 2913 of the Business and Professions Code;
13 marriage, family and child counselor trainees as defined in subdivision (c) of Section
14 4980.03 of the Business and Professions Code; unlicensed marriage, family and child
15 counselor interns registered under Section 4980.44 of the Business and Professions Code;
16 state or county public health employees who treat minors for venereal disease or any other
17 condition; coroners; paramedics; and religious practitioners who diagnose, examine, or treat
18 children.

19 "Child visitation monitor" means any person as defined in Section 11165.15.

20 The signed statements shall be retained by the employer or the court, as the case
21 may be. The cost of printing, distribution, and filing of these statements shall be borne by
22 the employer or the court.

23 This subdivision is not applicable to persons employed by child protective agencies,
24 public or private youth centers, youth recreation programs, and youth organizations as
25 members of the support staff or maintenance staff and who do not work with, observe, or
26 have knowledge of children as part of their official duties.

27 (b) On and after January 1, 1986, when a person is issued a state license or
28 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 shall
also 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 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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 1253, Statutes of 1993, Section 1 amended Penal Code Section 273a⁷⁹
4 to make technical changes.

5 Chapter 1263, Statutes of 1994, Section 3 amended Penal Code Section 273a⁸⁰
6

7 ⁷⁹ Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as amended
8 by Chapter 1253, Statutes of 1993, Section 1:

9 “(a)(1) Any person who, under circumstances or conditions likely to produce great
10 bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon
11 unjustifiable physical pain or mental suffering, or having the care or custody of any child,
12 willfully causes or permits such child to be placed in such situation that its person or health
13 is endangered, is punishable by imprisonment in the county jail not exceeding one year, or
14 in the state prison for 2, 4 or 6 years.

15 ~~(2) Any person convicted under this subdivision who, under circumstances or
16 conditions likely to produce great bodily harm or death, willfully causes or permits any child
17 to suffer, or inflicts thereon unjustifiable physical pain or injury that results in death, or
18 having the care or custody of any child, under circumstances likely to produce great bodily
19 harm or death, shall receive a four-year enhancement for each such violation in addition to
20 the sentence provided for that conviction. Nothing in this paragraph shall be construed as
21 affecting the applicability of subdivision (a) of Section 187 or Section 192.~~

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

28 ⁸⁰ Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as amended
by Chapter 1263, Statutes of 1994, Section 3:

20 “(a)(1) Any person who, under circumstances or conditions likely to produce great
21 bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon
22 unjustifiable physical pain or mental suffering, or having the care or custody of any child,
23 willfully causes or permits such child to be placed in such situation that its person or health
24 is endangered, is punishable by imprisonment in the county jail not exceeding one year, or
25 in the state prison for ~~2, 4 or 6 years~~ two, four, or six years.

26 ~~(2) Any person convicted under this subdivision who, under circumstances or
27 conditions likely to produce great bodily harm or death, willfully causes or permits any child
28 to suffer, or inflicts thereon unjustifiable physical pain or injury that results in death, or
having the care or custody of any child, under circumstances likely to produce great bodily
harm or death, shall receive a four-year enhancement for each such violation in addition to
the sentence provided for that conviction. Nothing in this paragraph shall be construed as
affecting the applicability of subdivision (a) of Section 187 or Section 192.~~

(b) 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 or custody of any
child, willfully causes or permits the person or health of that child to be injured, or willfully

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to make technical changes.

4 Chapter 1080, Statutes of 1996, Section 10 amended Penal Code Section
5 11166⁸¹ to make technical changes.

6 _____
7 causes or permits such child to be placed in such situation that its person or health may be
8 endangered, is guilty of a misdemeanor.”

9 ⁸¹ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 1080, Statutes of 1996, Section 10:

10
11 “(a) Except as provided in subdivision (b), any child care custodian, health
12 practitioner, or employee of a child protective agency, or child visitation monitor, firefighter,
13 animal control officer, or humane society officer who has knowledge of or observes a child
14 in his or her professional capacity or within the scope of his or her employment whom he
15 or she knows or reasonably suspects has been the victim of child abuse shall report the
16 known or suspected instance of child abuse to a child protective agency immediately or as
17 soon as practically possible by telephone and shall prepare and send a written report
18 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 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. For the purpose of this article, the pregnancy of a minor does not,
in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

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

24 (c) Any commercial film and photographic print processor who has knowledge of or
25 observes, within the scope of his or her professional capacity or employment, any film,
26 photographic, video tape, negative or slide depicting a child under the age of 14 years
27 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
28 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, video tape, 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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 1081, Statutes of 1996, Section 3.5 amended Penal Code Section
4
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7 (5) Exhibition of the genitals, pubic or rectal areas of any person for the purpose of
8 sexual stimulation of the viewer.

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

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

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

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

25 (g) A county probation or welfare department shall immediately or as soon as
26 practically possible report by telephone to the law enforcement agency having jurisdiction
27 over the case, to the agency given the responsibility for investigation of cases under
28 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 relate solely to the inability of the parent
to provide the child regular care due to the parent's substance abuse, which shall only be
reported to the county welfare department. A county probation or welfare department 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 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 only be reported 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 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 shall also send
a written report thereof within 36 hours of receiving the information required to make a
telephone report under this subdivision."

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 11166⁸² to make technical changes and to require clergy members to report both known

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5 ⁸² Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
6 as amended by Chapter 1081, Statutes of 1996, Section 3.5:

7 "(a) Except as provided in subdivision (b), any child care custodian, health
8 practitioner, or employee of a child protective agency, or child visitation monitor, firefighter,
9 animal control officer, or humane society officer who has knowledge of or observes a child
10 in his or her professional capacity or within the scope of his or her employment whom he
11 or she knows or reasonably suspects has been the victim of child abuse shall report the
12 known or suspected instance of child abuse to a child protective agency immediately or as
13 soon as practically possible by telephone and shall prepare and send a written report
14 thereof within 36 hours of receiving the information concerning the incident. A child
15 protective agency shall be notified and a report shall be prepared and sent even if the child
16 has expired, regardless of whether or not the possible abuse was a factor contributing to
17 the death, and even if suspected child abuse was discovered during an autopsy. For the
18 purposes of this article, "reasonable suspicion" means that it is objectively reasonable for
19 a person in a like position, drawing, when appropriate, on his or her training and experience,
20 to suspect child abuse. For the purpose of this article, the pregnancy of a minor does not,
21 in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

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

27 (c)(1) Except as provided in paragraph (2) and subdivision (d), any clergy member
28 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.

29 (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 practices of his or her church,
denomination, or organization, has a duty to keep those communications secret.

30 (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.

31 (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

5 endangered in any other way may report the known or suspected instance of child abuse
6 to a child protective agency.

7 (e)(e) Any commercial film and photographic print processor who has knowledge of
8 or observes, within the scope of his or her professional capacity or employment, any film,
9 photographic, video tape, negative or slide depicting a child under the age of 14 years
10 engaged in an act of sexual conduct, shall report such instance of suspected child abuse
11 to the law enforcement agency having jurisdiction over the case immediately or as soon as
12 practically possible by telephone and shall prepare and send a written report of it with a
13 copy of the film, photograph, video tape, negative or slide attached within 36 hours of
14 receiving the information concerning the incident. As used in this subdivision, "sexual
15 conduct" means any of the following:

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

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

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

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

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

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

27 (e)(g) When two or more persons who are required to report are present and jointly
28 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 such report.

(f)(h) 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 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.

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

(g)(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 relate solely to the inability of the parent
to provide the child regular care due to the parent's substance abuse, which shall only be
reported to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and suspected cases of child abuse.

4 **Section 4 amended Penal Code Section 11166.5⁸³ to make technical changes**

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

18 ⁸³ Penal Code Section 11166.5, added by Chapter 1718, Statutes of 1984, Section
19 1, as amended by Chapter 1081, Statutes of 1996, Section 4:

20 "(a) On and after January 1, 1985 any person who enters into employment as a child
21 care custodian, health practitioner, firefighter, animal control officer, or humane society
22 officer, or with a child protective agency, prior to commencing his or her employment, and
23 as prerequisite to that employment, shall sign a statement on a form provided to him or her
24 by his or her employer to the effect that he or she has knowledge of the provisions of
25 Section 11166 and will comply with its provisions.

26 On and after January 1, 1993, any person who acts as a child visitation monitor, as
27 defined in Section 11165.15, prior to engaging in monitoring the first visit case, shall sign
28 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 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 the purposes of this section "child care custodian" includes teachers; an instructional aide, a teacher's aide, or a teachers'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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting
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5 organizations; administrators and employees of public or private organizations whose duties
6 require direct contact and supervision of children and who have been trained in the duties
7 imposed by this article; licensees, administrators, and employees of licensed community
8 care or child day care facilities; headstart teachers; licensing workers or licensing
9 evaluators; public assistance workers; employees of a child care institution including, but
10 not limited to, foster parents, group home personnel, and personnel of residential care
11 facilities; and social workers, probation officer, or parole officer; an employee of a school
12 district police department or security department; or any person who is an administrator or
13 presenter of, or a counselor in, a child abuse prevention program in any public or private
14 school; a district attorney investigator, inspector, or family support officer unless the
15 investigator, inspector, or officer is working with an attorney appointed pursuant to Section
16 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined
17 in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, who is not
18 otherwise described in this section.

19 "Health practitioner" includes physicians and surgeons, psychiatrists, psychologists,
20 dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists,
21 optometrists, or any other person who is licensed under Division 2 (commencing with
22 Section 500) of the Business and Professions Code, marriage, family and child counselors;
23 emergency medical technicians I or II, paramedics, or other persons certified pursuant to
24 Division 2.5 (commencing with Section 1797) of the Health and Safety Code; psychological
25 assistants registered pursuant to Section 2913 of the Business and Professions Code;
26 marriage, family and child counselor trainees as defined in subdivision (c) of Section
27 4980.03 of the Business and Professions Code; unlicensed marriage, family and child
28 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; paramedics, ~~and religious practitioners who diagnose, examine, or treat~~
~~children.~~

"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.

(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 shall
also 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and to remove religious practitioners who diagnose, examine, or treat children from the
4 meaning of the definition of "health practitioner."

5 Chapter 1090, Statutes of 1996, Section 1 amended Penal Code Section 273a⁸⁴

6
7 11165.15, who desires to act in that capacity shall have received training in the duties
8 imposed by this article, including training in child abuse identification and child abuse
9 reporting. The person, prior to engaging in monitoring the first visit case, shall sign a
10 statement on a form provided to him or her by the court which ordered the presence of that
11 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."

12 ⁸⁴ Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as amended
13 by Chapter 1090, Statutes of 1996, Section 1:

14 "(a) Any person who, under circumstances or conditions likely to produce great bodily
15 harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable
16 physical pain or mental suffering, or having the care or custody of any child, willfully causes
or permits such child to be placed in such situation that where its his or her person or health
is endangered, is punishable by imprisonment in the county jail not exceeding one year, or
in the state prison for 2, 4 or 6 years.

17 (b) Any person who, under circumstances or conditions other than those likely to
18 produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts
19 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 that child to be injured, or willfully
causes or permits such child to be placed in such situation that its person or health may be
endangered, is guilty of a misdemeanor.

20 (c) If a person is convicted of violating this section and probation is granted, the court
shall require the following minimum conditions of probation:

21 (1) A mandatory minimum period of probation of 48 months.

22 (2) A criminal court protective order protecting the victim from further acts of violence
or threats, and, if appropriate, residence exclusion or stay-away conditions.

23 (3) Successful completion of no less than one year of a child abuser's treatment
counseling program approved by the probation department. The defendant shall be ordered
24 to begin participation in the program immediately upon the grant of probation. The
counseling program shall meet the criteria specified in Section 273.1. The defendant shall
25 produce documentation of program enrollment to the court within 30 days of enrollment,
along with quarterly progress reports.

26 (4) If the offense was committed while the defendant was under the influence of
drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the
27 period of probation and shall be subject to random drug testing by his or her probation
officer.

28 (5) The court may waive any of the above minimum conditions of probation upon a
finding that the condition would not be in the best interests of justice. The court shall state
on the record its reasons for any waiver.

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 to make technical changes.

5 Chapter 83, Statutes of 1997, Section 1 amended subdivision (a) of Section
6 11165.1⁸⁵ of the Penal Code to include subdivision (d) of Section 265.1 (statutory rape)

7 ⁸⁵ Penal Code Section 11165.1, added by Chapter 1459, Statutes of 1987, Section
8 5, as amended by Chapter 83, Statutes of 1997, Section 1:

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

11 (a) "Sexual assault" means conduct in violation of one or more of the following
12 sections : Section 261 (rape), subdivision (d) of Section 265.1 (statutory rape), 264.1 (rape
13 in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or
14 lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration
15 of a genital or anal opening by a foreign object), or 647a (child molestation).

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

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

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

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

25 (4) The intentional touching of the genitals or intimate parts (including the breasts,
26 genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child, or
27 of the perpetrator by a child, for the purposes of sexual arousal or gratification, except that,
28 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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to the meaning of the term "sexual assault."

4 Chapter 134, Statutes of 1997, Section 1 amended Penal Code Section 273a⁸⁶ to
5 make technical changes.

6 _____
7 engaged in an act of obscene sexual conduct, except for those activities by law
8 enforcement and prosecution agencies and other persons described in subdivisions (c) and
(e) of Section 311.3."

9 ⁸⁶ Penal Code Section 273a, added by Chapter 568, Statutes of 1905, as last
10 amended by Chapter 134, Statutes of 1997, Section 1:

11 "(a) Any person who, under circumstances or conditions likely to produce great bodily
12 harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable
13 physical pain or mental suffering, or having the care or custody of any child, willfully causes
14 or permits the person or health of that child to be injured, or willfully causes or permits that
15 child to be placed in a situation where his or her person or health is endangered, shall be
16 punished by imprisonment in a county jail not exceeding one year, or in the state prison for
17 two, four, or six years.

18 (b) Any person who, under circumstances or conditions other than those likely to
19 produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts
20 thereon unjustifiable physical pain or mental suffering, or having the care or custody of any
21 child, willfully causes or permits the person or health of that child to be injured, or willfully
22 causes or permits that child to be placed in a situation where his or her person or health
23 may be endangered, is guilty of a misdemeanor.

24 (c) If a person is convicted of violating this section and probation is granted, the court
25 shall require the following minimum conditions of probation:

26 (1) A mandatory minimum period of probation of 48 months.

27 (2) A criminal court protective order protecting the victim from further acts of violence
28 or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment
counseling program approved by the probation department. The defendant shall be
ordered to begin participation in the program immediately upon the grant of probation. The
counseling program shall meet the criteria specified in Section 273.1. The defendant shall
produce documentation of program enrollment to the court within 30 days of enrollment,
along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees
due to the counseling program have been paid in full, but in no case shall probation be
extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds
that the defendant does not have the ability to pay the fees based on the defendant's
changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of
drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the
period of probation and shall be subject to random drug testing by his or her probation
officer.

(5) The court may waive any of the above minimum conditions of probation upon a
finding that the condition would not be in the best interests of justice. The court shall state
on the record its reasons for any waiver."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Chapter 311, Statutes of 1998, Section 51, amended Penal Code Section
4 11174.3⁸⁷ to add the State Department of Social Services as an agency that may also
5 interview a suspected victim of child abuse during school hours with a member of the
6 staff present.

7 Chapter 287, Statutes of 2000, Section 1, amended Penal Code Section 11165.1
8 to make a technical change,

9 Chapter 916, Statutes of 2000 made several changes to the Child Abuse and
10 Neglect Reporting Act. Section 1 amended Penal Code Section 11164⁸⁸ to add "neglect"

11 _____
12 ⁸⁷ Penal Code Section 11174.3, added by Chapter 640, Statutes of 1987, Section 2,
13 as amended by Chapter 311, Statutes of 1998, Section 51:

14 "(a) Whenever a representative of a child protective agency or the State Department
15 of Social Services deems it necessary, a suspected victim of child abuse may be
16 interviewed during school hours, on school premises, concerning a report of suspected child
17 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.

18 The purpose of the staff person's presence at the interview is to lend support to the
19 child and enable him or her to be as comfortable as possible. However, the member of the
20 staff so elected shall not participate in the interview. The member of the staff so present
21 shall not discuss the facts or circumstances of the case with the child. The member of the
22 staff so present, including, but not limited to, a volunteer aide, is subject to the
23 confidentiality requirements of this article, a violation of which is punishable as specified in
24 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.

25 (b) The Superintendent of Public Instruction shall notify each school district and each
26 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."

27 ⁸⁸ Penal Code Section 11164, as amended by Chapter 916, Statutes of 2000,
Section 1

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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to the statutory intent and purpose, formerly referred to only as "abuse." Therefore, for
4 the first time, the intent and purpose of the article is to protect children from neglect as
5 well as abuse.

6 Section 2 amended Penal Code Section 11165.5⁸⁹ to expand and clarify the term
7 "abuse or neglect" when referring to "out of home care."

8 Section 3 repealed former Penal Code Section 11165.6 and section 4 added a
9 new Penal Code Section 11165.6⁹⁰, which is substantially similar to the former section
10 but replaces "child abuse" with "child abuse or neglect."

11
12 _____
13 (b) The intent and purpose of this article is to protect children from abuse and
14 neglect. In any investigation of suspected child abuse or neglect, all persons participating
15 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."

16 ⁸⁹ Penal Code Section 11165.5, added by Chapter 1071, Statutes of 1980, Section
4, and amended by Chapter 916, Statutes of 2000, Section 2:

17 "As used in this article, the term "abuse or neglect in out-of-home care" means a
18 situation 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
19 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
20 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
21 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
22 officer."

23 ⁹⁰ Penal Code Section 11165.6, added by Chapter 916, Statutes of 2000, Section 4:

24 "As used in this article, "child abuse" means a physical injury that is inflicted by other
25 than accidental means on a child by another person. The term "child abuse or neglect"
26 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
27 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
28 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."

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 5 amended Penal Code Section 11165.7⁹¹ by changing the name of the
4

5 ⁹¹ Penal Code Section 11165.7, added by Chapter 1071, Statutes of 1980, Section
6 4, as amended by Chapter 916, Statutes of 2000, Section 5:

7 "(a) As used in this article, ~~"child care custodian"~~ means "mandated reporter" is defined as
8 any of the following:

9 (1) A teacher.

10 (2) An instructional aide.

11 (3) ~~A teacher's aide or teacher's assistant employed by any public or private school~~
12 ~~who has been trained in the duties imposed by this article, if the school district has so~~
13 ~~warranted to the State Department of Education.~~

14 (4) ~~A classified employee of any public school who has been trained in the duties~~
15 ~~imposed by this article, if the school has so warranted to the State Department of~~
16 ~~Education.~~

17 (5) ~~An administrative officer or supervisor of child welfare and attendance, or a~~
18 ~~certificated pupil personnel employee of any public or private school.~~

19 (6) ~~An administrator of a public or private day camp.~~

20 (7) ~~An administrator or employee of a public or private youth center, youth recreation~~
21 ~~program, or youth organization.~~

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

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

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

28 (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 or a, probation officer, or any person who is an administrator or~~
~~presenter of, or a counselor in, a child abuse prevention program in any public or private~~
~~school 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~~

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 class of persons required to report from "child care custodians" to "mandated reporters."

4 Section 5 also expanded the list of mandated reporters to include, for the first time, any

5
6 pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

7 (23) A psychological assistant registered pursuant to Section 2913 of the Business
and Professions Code.

8 (24) A marriage, family and child therapist trainee, as defined in subdivision (c) of
Section 4980.03 of the Business and Professions Code.

9 (25) An unlicensed marriage, family, and child therapist intern registered under
Section 4980.44 of the Business and Professions Code.

10 (26) A state or county public health employee who treats a minor for venereal
disease or any other condition.

11 (27) A coroner.

12 (28) A medical examiner, or any other person who performs autopsies.

13 (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.

14 (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.

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

16 (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.

17 (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.

18 (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.

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

20 (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.

21 (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.

22 (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.

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

1
2 Test Claim of San Bernardino Community College District
Chapter 754. Statutes of 2001 - Child Abuse and Neglect Reporting

3 employee of a county office of education whose duties bring the employee into contact
4 with children on a regular basis, employees of school district police or security
5 departments, any person who is an administrator or presenter of, or a counselor in, a
6 child abuse prevention program in any public or private school. Therefore, for the first
7 time, employees of a county office of education whose duties bring them into contact
8 with children on a regular basis, employees of school district police or security
9 departments, and any person who is an administrator or presenter of, or a counselor in,
10 a child abuse prevention program in any public or private school is required to report
11 child abuse or neglect.

12 Section 7 repealed Penal Code Section 11165.9 and Section 8 added a new
13 Penal Code Section 11165.9⁹² to require reports of suspected child abuse or neglect to
14 be made by mandated reporters to any police department, sheriff's department, county
15 probation department if designated by the county to receive mandated reports, or the
16 county welfare department (excluding school district police or security departments) and
17 to require any of these agencies to accept reports of suspected child abuse or neglect or
18 immediately refer the case to an agency with proper jurisdiction if the agency that initially
19 received the report does not have proper jurisdiction.

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21
22 ⁹² Penal Code Section 11165.9, added by Chapter 916, Statutes of 2000, Section 8:

23 "Reports of suspected child abuse or neglect shall be made by mandated reporters
24 to any police department, sheriff's department, county probation department if designated
25 by the county to receive mandated reports, or the county welfare department. It does not
26 include a school district police or security department. Any of those agencies shall accept
27 a report of suspected child abuse or neglect whether offered by a mandated reporter or
28 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
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 12 amended Penal Code section 11165.14⁹³ to change the investigating
4 agency from a "child protective" agency to a "law enforcement" agency.

5 Section 16 amended Penal Code section 11166⁹⁴ to add subdivision (b), which
6

7 ⁹³ Penal Code Section 11165.14, added by Chapter 1102, Statutes of 1991, Section
8 5, as amended by Chapter 916, Statutes of 2000, Section 12:

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

18 ⁹⁴ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section,
19 as amended by Chapter 916, Statutes of 2000, Section 16:

20 "(a) Except as provided in subdivision ~~(b)~~ (c), a mandated
21 reporter shall make a report to an agency specified in Section 11165.9 whenever the
22 mandated reporter, in his or her professional capacity or within the scope of his or her
23 employment, ~~whom he or she~~ has knowledge of or observes a child whom the mandated
24 reporter knows or reasonably suspects has been the victim of child ~~abuse~~ abuse or neglect.
25 The mandated reporter shall make a report thereof to within 36 hours of receiving the
26 information concerning the incident the agency immediately or as soon as practically is
27 practicably possible by telephone, and the mandated reporter shall prepare and send a
28 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.~~

(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 of for a reasonable
suspicion of sexual abuse.

(2) ~~A child protective~~ 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

5 punishable by up to six months confinement in a county jail or by a fine of one thousand
6 dollars (\$1,000) or by both that fine and punishment.

7 ~~(c) (1) Except as provided in paragraph (2) and subdivision (d), any~~ A clergy member who
8 acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential
9 communication is not subject to subdivision (a). For the purposes of this subdivision,
10 "penitential communication" means a communication, intended to be in confidence,
11 including, but not limited to, a sacramental confession, made to a clergy member who, in
12 the course of the discipline or practice of his or her church, denomination, or organization,
13 is authorized or accustomed to hear those
14 communications, and under the discipline, tenets, customs, or practices of his or her
15 church, denomination, or organization, has a duty to keep those communications secret.

16 ~~(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty~~
17 ~~to report known or suspected child abuse or neglect when he or she is the clergy member~~
18 ~~is acting in the capacity of a child care custodian, health practitioner, employee of a child~~
19 ~~protective agency, child visitation monitor, firefighter, animal control officer, humane society~~
20 ~~officer, or commercial film print processor~~ some other capacity that would otherwise make
21 the clergy member a mandated reporter.

22 ~~(d) Any commercial film and photographic print processor who has knowledge of or~~
23 ~~observes, within the scope of his or her professional capacity or employment, any film,~~
24 ~~photograph, videotape, negative, or slide depicting a child under the age of 16 years~~
25 ~~engaged in an act of sexual conduct, shall report the instance of suspected child abuse to~~
26 ~~the law enforcement agency having jurisdiction over the case immediately, or as soon as~~
27 ~~practically possible, by telephone, and shall prepare and send a written report of it with a~~
28 ~~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 a~~ an agency specified in Section
11165.9.

~~(f) 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 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.

~~(h)(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

1 Test Claim of San Bernardino Community College District
2 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 makes it a misdemeanor punishable by 6 months confinement in a county jail or a fine of
4 one thousand dollars, or both, for a mandated reporter to fail to report an incident of
5 known or reasonably suspected child abuse or neglect. Therefore, for the first time,
6 failure by a mandated reporter to report suspected cases of child abuse or neglect is a
7 misdemeanor.

8 Section 26 amended Penal Code Section 11168 to make technical changes.
9
10

11 provided that they are not inconsistent with this article.

12 (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.

13 (3) Reporting the information regarding a case of possible child abuse or neglect to an
14 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.

15 (h) A county probation or welfare department shall immediately, or as soon as practically
16 possible, report by telephone, fax, or electronically transmit to the law enforcement agency
17 having jurisdiction over the case, to the agency given the responsibility for investigation of
18 cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's
19 office every known or suspected instance of child abuse or neglect, as defined in Section
20 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
21 the inability of the parent to provide the child with regular care due to the parent's substance
22 abuse, which shall be reported only to the county welfare or probation department. A
23 county probation or welfare department also shall send, fax, or electronically transmit a
24 written report thereof within 36 hours of receiving the information concerning the incident
25 to any agency to which it is required to make a telephone
26 report under this subdivision. For the purposes of this subdivision, a fax or electronic
27 transmission shall be deemed to be a written report.

28 (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.

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 Section 33 amended Penal Code Section 11174.3⁹⁵ to remove references to child
4 protective agencies and replaced those references with "government agency". The
5 section was also amended to change references from "child abuse" to "child abuse or
6 neglect".

7 Chapter 133, Statutes of 2001, Section 1 amended Penal Code section 11165.5⁹⁶

8
9 ⁹⁵ Penal Code Section 11174.3, added by Chapter 640, Statutes of 1987, Section 2,
10 as amended by Chapter 916, Statutes of 2000, Section 33:

11 "(a) Whenever a representative of a ~~child-protective~~ government agency
12 investigating suspected child abuse or neglect or the State Department of Social Services
13 deems it necessary, a suspected victim of child abuse or neglect may be interviewed during
14 school hours, on school premises, concerning a report of suspected child abuse or neglect
15 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~~ investigating
suspected child abuse or neglect or the State Department of Social Services shall inform
the child of that right prior to the interview.

16 The purpose of the staff person's presence at the interview is to lend support to the
17 child and enable him or her to be as comfortable as possible. However, the member of the
18 staff so elected shall not participate in the interview. The member of the staff so present
19 shall not discuss the facts or circumstances of the case with the child. The member of the
20 staff so present, including, but not limited to, a volunteer aide, is subject to the
21 confidentiality requirements of this article, a violation of which is punishable as specified in
22 Section 11167.5. A representative of the school shall inform a member of the staff so
23 selected by a child of the requirements of this section prior to the interview. A staff member
24 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.

22 (b) The Superintendent of Public Instruction shall notify each school district and each
23 ~~child-protective agency~~ specified in Section 11165.9 to receive mandated reports, and the
24 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."

25 ⁹⁶ Penal Code Section 11165.5 added by Chapter 1071, Statutes of 1980, Section
4, as last amended by Chapter 133, Statutes of 2001, Section 1:

26 "As used in this article, the term "abuse or neglect in out-of-home care" includes
27 physical injury inflicted upon a child by another person by other than accidental means,
28 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

1
2 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 to add physical injury inflicted upon a child by another person by other than accidental
4 means to the definition of abuse in out-of-home care.

5 Section 2 amended Penal Code section 11165.6⁹⁷ to make technical changes and
6 to replace "child abuse" with "child abuse or neglect."

7 Section 3 amended Penal Code section 11165.7⁹⁸ to make technical changes

8 _____
9 responsible for the child's welfare is a licensee, administrator, or employee of any facility
10 licensed to care for children, or an administrator or employee of a public or private school
11 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."

12 ⁹⁷ Penal Code Section 11165.6 added by Chapter 1459, Statutes of 1987, Section
13 3, as last amended by Chapter 133, Statutes of 2001, Section 2:

14 "As used in this article, the term "child abuse ~~means a or neglect includes~~ physical
15 injury ~~that is~~ inflicted by other than accidental means ~~on upon~~ a child by another person the
16 term "child abuse or neglect" includes, sexual abuse as defined in Section 11165.1, neglect
17 as defined in Section 11165.2, willful cruelty or unjustifiable punishment as defined in
18 Section 11165.3, and 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."

19 ⁹⁸ Penal Code Section 11165.7, added by Chapter 1071, Statutes of 1980, Section
20 4, as last amended by Chapter 133, Statutes of 2001, Section 3:

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

- 22 (1) A teacher.
- 23 (2) An instructional aide.
- 24 (3) A teacher's aide or teacher's assistant employed by any public or private school.
- 25 (4) A classified employee of any public school.
- 26 (5) An administrative officer or supervisor of child welfare and attendance, or a
certificated pupil personnel employee of any public or private school.
- 27 (6) An administrator of a public or private day camp.
- 28 (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.

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting
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5 (12) A licensing worker or licensing evaluator employed by a licensing agency as
6 defined in Section 11165.11.

7 (13) A public assistance worker.

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

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

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

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

14 (18) A district attorney investigator, inspector, or family support officer unless the
15 investigator, inspector, or officer is working with an attorney appointed pursuant to Section
16 317 of the Welfare and Institutions Code to represent a minor.

17 (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of
18 Title 3 of Part 2, who is not otherwise described in this section.

19 (20) A firefighter, except for voluntary volunteer firefighters.

20 (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern,
21 podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and
22 child counselor, clinical social worker, or any other person who is currently licensed under
23 Division 2 (commencing with Section 500) of the Business and Professions Code.

24 (22) Any emergency medical technician I or II, paramedic, or other person certified
25 pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

26 (23) A psychological assistant registered pursuant to Section 2913 of the Business
27 and Professions Code.

28 (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

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 and substitute the term "mandated reporter" for "child care custodian."

4 Sections 4 and 5 amended Penal Code Sections 11165.9⁹⁹ and 11166¹⁰⁰ to

5
6 this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar
functionary of a church, temple, or recognized denomination or organization.

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

8 (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
9 reporting of child abuse.

10 (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
11 a written disclosure of the employees' confidentiality rights.

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

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

15 ⁹⁹ Penal Code Section 11165.9, added by Chapter 916, Statutes of 2000, Section 8,
as amended by Chapter 133, Statutes of 2001, Section 4:

16 "Reports of suspected child abuse or neglect shall be made by mandated reporters
17 to any police department; or sheriff's department, not including a school district police or
security department, county probation department, if designated by the county to receive
18 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
19 child abuse or neglect whether offered by a mandated reporter or another person, or
referral referred by another agency, even if the agency to whom the report is being made
20 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.
21 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,
22 or electronic transmission to an agency with proper jurisdiction."

23 ¹⁰⁰ Penal Code Section 11166, added by Chapter 1071, Statutes of 1980, Section 4,
as amended by Chapter 133, Statutes of 2001, Section 5:

24 (a) Except as provided in subdivision (c), a mandated reporter shall make a report
25 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
26 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
27 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
28 concerning the incident.

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

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

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

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

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

28 (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

1
2 Test Claim of San Bernardino Community College District
3 Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

4 make technical changes.

5 Chapter 754, Statutes of 2001, Section 4 amended Penal Code Section

6
7 of a known or suspected instance of child abuse or neglect, and when there is agreement
8 among them, the telephone report may be made by a member of the team selected by
9 mutual agreement and a single report may be made and signed by the selected member
10 of the reporting team. Any member who has knowledge that the member designated to
11 report has failed to do so shall thereafter make the report.

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

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

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

22 (h) A county probation or welfare department shall immediately, or as soon as
23 practically possible, report by telephone, fax, or electronically transmit electronic
24 transmission to the law enforcement agency having jurisdiction over the case, to the agency
25 given the responsibility for investigation of cases under Section 300 of the Welfare and
26 Institutions Code, and to the district attorney's office every known or suspected instance of
27 child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming
28 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~~ makes
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~~ makes a telephone
report under this subdivision.

1
2 **Test Claim of San Bernardino Community College District**
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

3 11165.7¹⁰¹ to add an employee or volunteer of a Court Appointed Special Advocate

4
5 ¹⁰¹ Penal Code Section 11165.7, added by Chapter 1459, Statutes of 1987, Section
6 14, as amended by Chapter 754, Statutes of 2001, Section 4:

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

- 8 (1) A teacher.
- 9 (2) An instructional aide.
- 10 (3) A teacher's aide or teacher's assistant employed by any public or private school.
- 11 (4) A classified employee of any public school.
- 12 (5) An administrative officer or supervisor of child welfare and attendance, or a
13 certificated pupil personnel employee of any public or private school.
- 14 (6) An administrator of a public or private day camp.
- 15 (7) An administrator or employee of a public or private youth center, youth recreation
16 program, or youth organization.
- 17 (8) An administrator or employee of a public or private organization whose duties
18 require direct contact and supervision of children.
- 19 (9) Any employee of a county office of education or the California Department of
20 Education, whose duties bring the employee into contact with children on a regular basis.
- 21 (10) A licensee, an administrator, or an employee of a licensed community care or
22 child day care facility.
- 23 (11) A headstart teacher.
- 24 (12) A licensing worker or licensing evaluator employed by a licensing agency as
25 defined in Section 11165.11.
- 26 (13) A public assistance worker.
- 27 (14) An employee of a child care institution, including, but not limited to, foster
28 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 volunteer 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.

3 Program to the meaning of the term "mandated reporter."

4 **PART III. STATEMENT OF THE CLAIM**

5 **SECTION 1. REQUIREMENT FOR STATE REIMBURSEMENT**

6 The statutes referenced in this test claim result in school districts incurring costs

7
8
9 (26) A state or county public health employee who treats a minor for venereal
10 disease or any other condition.

11 (27) A coroner.

12 (28) A medical examiner, or any other person who performs autopsies.

13 (29) A commercial film and photographic print processor, as specified in subdivision
14 (e) of Section 11166. As used in this article, "commercial film and photographic print
15 processor" means any person who develops exposed photographic film into negatives,
16 slides, or prints, or who makes prints from negatives or slides, for compensation. The term
17 includes any employee of such a person; it does not include a person who develops film or
18 makes prints for a public agency.

19 (30) A child visitation monitor. As used in this article, "child visitation monitor" means
20 any person who, for financial compensation, acts as monitor of a visit between a child and
21 any other person when the monitoring of that visit has been ordered by a court of law.

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

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

26 (B) "Humane society officer" means any person appointed or employed by a public
27 or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503
28 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.

(34) An employee or volunteer of a Court Appointed Special Advocate program, as
defined in Rule 1424 of the Rules of Court.

(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 their employees specified in subdivision (a) in the
duties of mandated reporters 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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pursuant to Penal Code Section 11166, Subdivision (b).

C) The reports of the mandated reporters specified above are required to be made on forms adopted by the Department of Justice and distributed by police departments, sheriff's departments, or by the County Welfare Departments, pursuant to Penal Code Section 11168.

D) The reports of the mandated reporters specified above are required to be made as soon as practicable by telephone and in writing within 36 hours, pursuant to Penal Code Section 11166, Subdivision (a)

E) To assist and cooperate with law enforcement agencies investigating alleged complaints of child abuse or neglect committed at a schoolsite, pursuant to Penal Code Section 11165.14.

F) To notify the staff member selected, and for that selected staff member to be present at an interview of a suspected victim when the child so requests, pursuant to Penal Code Section 11174.3

G) To either train its mandated reporters in child abuse or neglect detection and their reporting requirements; or, to file a report with the State Board of Education stating the reasons why this training is not provided, pursuant to Penal Code Section 11165.7 , Subdivision (d)

H) When training their mandated reporters in child abuse or neglect reporting, to supply those trainees with a written copy of their reporting requirements and a written disclosure of their confidentiality rights, Pursuant to Penal Code Section 11165.7, Subdivision (c).

I) To obtain signed statements from its mandated reporters, on district forms, prior to commencing employment with the district, and as a prerequisite to that employment, to the effect that he or she has knowledge of his or her child abuse and neglect reporting requirements and their agreement to perform those duties, Pursuant to Penal Code

3 Section 11166.5.

4 SECTION 2. EXCEPTIONS TO MANDATE REIMBURSEMENT

5 None of the Government Code Section 17556¹⁰⁴ statutory exceptions to a finding
6 of costs mandated by the state apply to this test claim. Note, that to the extent school
7 districts may have previously performed functions similar to those mandated by the
8 referenced code sections, such efforts did not establish a preexisting duty that would
9 relieve the state of its constitutional requirement to later reimburse school districts when
10 these activities became mandated.¹⁰⁵

11 ¹⁰⁴ Government Code section 17556 as last amended by Chapter 589/89:

12 The Commission shall not find costs mandated by the state, as defined in Section 17514,
13 in any claim submitted by a local agency or school district, if, after a hearing, the
14 commission finds that:

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

22 (b) The statute or executive order affirmed for the state that which had been
23 declared existing law or regulation by action of the courts.

24 (c) The statute or executive order implemented a federal law or regulation and
25 resulted in costs mandated by the federal government, unless the statute or executive order
26 mandates costs which exceed the mandate in that federal law or regulation.

27 (d) The local agency or school district has the authority to levy service charges,
28 fees, or assessments sufficient to pay for the mandated program or increased level of
service.

(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.

(f) The statute or executive order imposed duties which were expressly included
in a ballot measure approved by the voters in a statewide election.

(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.

¹⁰⁵ Government Code section 17565:

If a local agency or school district, at its option, has been incurring costs which are
subsequently mandated by the state, the state shall reimburse the local agency or school

3 SECTION 3. FUNDING FOR THE STATE MANDATE

4 No funds were appropriated in any of the statutes cited for reimbursement of the
5 costs mandated by the state.

6 PART IV. ADDITIONAL CLAIM REQUIREMENTS

7 The following elements of this claim are provided pursuant to Section 1183, Title
8 2, California Code of Regulations:

9 Exhibit 1: The Declaration of Michael Carr, Director of Student Services, San Jose
10 Unified School District

11 Exhibit 2: The Declaration of Juliann Martin, Chair, Child Development, San
12 Bernardino Community College District.

13 Exhibit 3: Copies of Statutes cited
14 Chapter 754, Statutes of 2001
15 Chapter 133, Statutes of 2001
16 Chapter 916, Statutes of 2000
17 Chapter 287, Statutes of 2000
18 Chapter 311, Statutes of 1998
19 Chapter 134, Statutes of 1997
20 Chapter 83, Statutes of 1997
21 Chapter 1090, Statutes of 1996
22 Chapter 1081, Statutes of 1996
23 Chapter 1080, Statutes of 1996
24 Chapter 1263, Statutes of 1994
25 Chapter 1253, Statutes of 1993
26 Chapter 510, Statutes of 1993

27 _____
28 district for those costs incurred after the operative date of the mandate.

1 Test Claim of San Bernardino Community College District
2 Chapter 754, Statutes of 2001 - Child Abuse Neglect and Reporting

- 3 Chapter 346, Statutes of 1993
4 Chapter 459, Statutes of 1992
5 Chapter 1102, Statutes of 1991
6 Chapter 132, Statutes of 1991
7 Chapter 1603, Statutes of 1990
8 Chapter 931, Statutes of 1990
9 Chapter 1580, Statutes of 1988
10 Chapter 269, Statutes of 1988
11 Chapter 39, Statutes of 1988
12 Chapter 1459, Statutes of 1987
13 Chapter 1444, Statutes of 1987
14 Chapter 1418, Statutes of 1987
15 Chapter 1020, Statutes of 1987
16 Chapter 640, Statutes of 1987
17 Chapter 1289, Statutes of 1986
18 Chapter 248, Statutes of 1986
19 Chapter 1598, Statutes of 1985
20 Chapter 1572, Statutes of 1985
21 Chapter 1528, Statutes of 1985
22 Chapter 1420, Statutes of 1985
23 Chapter 1068, Statutes of 1985
24 Chapter 464, Statutes of 1985
25 Chapter 189, Statutes of 1985
26 Chapter 1718, Statutes of 1984
27 Chapter 1613, Statutes of 1984
28 Chapter 1423, Statutes of 1984

1 Test Claim of San Bernardino Community College District
2 Chapter 754, Statutes of 2001 - Child Abuse Neglect and Reporting

3 Chapter 1391, Statutes of 1984
4 Chapter 1170, Statutes of 1984
5 Chapter 905, Statutes of 1982
6 Chapter 435, Statutes of 1981
7 Chapter 29, Statutes of 1981
8 Chapter 1117, Statutes of 1980
9 Chapter 1071, Statutes of 1980
10 Chapter 855, Statutes of 1980
11 Chapter 373, Statutes of 1979
12 Chapter 136, Statutes of 1978
13 Chapter 958, Statutes of 1977
14 Chapter 1139, Statutes of 1976
15 Chapter 242, Statutes of 1976
16 Chapter 226, Statutes of 1975

17 Exhibit 4: Copies of Code Sections cited

18 Penal Code Section 273a
19 Penal Code Section 11161.5
20 Penal Code Section 11161.6
21 Penal Code Section 11161.7
22 Penal Code Section 11164
23 Penal Code Section 11165
24 Penal Code Section 11165.1
25 Penal Code Section 11165.2
26 Penal Code Section 11165.3
27 Penal Code Section 11165.4
28 Penal Code Section 11165.5

1 Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse Neglect and Reporting

2 Penal Code Section 11165.6

3 Penal Code Section 11165.7

4 Penal Code Section 11165.9

5 Penal Code Section 11165.14

6 Penal Code Section 11166

7 Penal Code Section 11166.5

8 Penal Code Section 11168

9 Penal Code Section 11174.3

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Test Claim of San Bernardino Community College District
Chapter 754, Statutes of 2001 - Child Abuse and Neglect Reporting

PART V. CERTIFICATION

I certify by my signature below, under penalty of perjury, that the statements made in this document are true and complete of my own knowledge or information and belief.

Executed on June _____, 2002 at Carmichael, California, by:



Raymond Eberhard
Business Manager
San Bernardino Community College District

Voice (909) 382-4031

Fax: (909) 382-0116

/

PART VI. APPOINTMENT OF REPRESENTATIVE

The San Bernardino Community College District appoints Keith B. Petersen, SixTen and Associates, as its representative for this test claim.



Raymond Eberhard
Business Manager
San Bernardino Community College District

6/25/02

Date

/

EXHIBIT 1
DECLARATION OF MICHAEL CARR

DECLARATION OF MICHAEL CARR

San Jose Unified School District

Test Claim of San Bernardino Community College District

COSM _____

Penal Code Section 273a	Penal Code Section 11165.4
Penal Code Section 11161.5	Penal Code Section 11165.5
Penal Code Section 11161.6	Penal Code Section 11165.6
Penal Code Section 11161.7	Penal Code Section 11165.7
Penal Code Section 11164	Penal Code Section 11165.9
Penal Code Section 11165	Penal Code Section 11165.14
Penal Code Section 11165.1	Penal Code Section 11166
Penal Code Section 11165.2	Penal Code Section 11166.5
Penal Code Section 11165.3	Penal Code Section 11174.3

Child Abuse and Neglect Reporting

I, Michael Carr, Director of Student Services, San Jose Unified School District, make the following declaration and statement.

In my capacity as Director of Student Services, I am responsible for implementing the Child Abuse and Neglect Reporting requirements for the district. I am familiar with the training and reporting requirements of the Penal Code sections enumerated above.

These Penal Code sections require the San Jose Unifies School District to:

- 1) Pursuant to Penal Code Sections 11165.9 and 11166, Subdivision (a), whenever a 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, to report such fact to a police department, a sheriff's department, or to the County Welfare Department.
- 2) Pursuant to Penal Code Section 11168, the reports of the mandated reporters

Declaration of Michael Carr
Test Claim of San Bernardino Community College District
Re: Child Abuse and Neglect Reporting

specified above are required to be made on forms adopted by the Department of Justice and distributed by police departments, sheriff's departments, or by the County Welfare Departments.

- 3) Pursuant to Penal Code Section 11166, Subdivision (a), the reports of the mandated reporters specified above are required to be made as soon as practicable by telephone and in writing within 36 hours.
- 4) Pursuant to Penal Code Section 11165.14, to assist and cooperate with law enforcement agencies investigating alleged complaints of child abuse or neglect committed at a schoolsite.
- 5) Pursuant to Penal Code Section 11174.3, to notify the staff member selected, and for that selected staff member to be present at an interview of a suspected victim when the child so requests.
- 6) Pursuant to Penal Code Section 11165.7, Subdivision (d), to either train its mandated reporters in child abuse or neglect detection and their reporting requirements; or, to file a report with the State Board of Education stating the reasons why this training is not provided.
- 7) Pursuant to Penal Code Section 11165.7, Subdivision (c), when training their mandated reporters in child abuse or neglect reporting, to supply those trainees with a written copy of their reporting requirements and a written disclosure of their confidentiality rights.
- 8) Pursuant to Penal Code Section 11166.5, to obtain signed statements from its mandated reporters, on district forms, prior to commencing employment with the district, and as a prerequisite to that employment, to the effect that he or she has knowledge of his or her child abuse and neglect reporting requirements and their agreement to perform those duties.

It is estimated that the San Jose Unified School District has incurred in excess of \$200, annually, in staffing and other costs for the period from July 1, 2000 through June, 2002 to implement these new duties mandated by the state for which the school district

Declaration of Michael Carr
Test Claim of San Bernardino Community College District
Re: Child Abuse and Neglect Reporting

has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated, I declare that I believe them to be true.

EXECUTED this 24 day of June at San Jose, California.



Michael Carr
Director of Student Services
San Jose Unified School District

EXHIBIT 2
DECLARATION OF JULIANN MARTIN

DECLARATION OF JULIANN MARTIN

San Bernardino Community College District

Test Claim of San Bernardino Community College District

COSM No. _____

Penal Code Section 273a
Penal Code Section 11161.5
Penal Code Section 11161.6
Penal Code Section 11161.7
Penal Code Section 11164
Penal Code Section 11165
Penal Code Section 11165.1
Penal Code Section 11165.2
Penal Code Section 11165.3

Penal Code Section 11165.4
Penal Code Section 11165.5
Penal Code Section 11165.6
Penal Code Section 11165.7
Penal Code Section 11165.9
Penal Code Section 11165.14
Penal Code Section 11166
Penal Code Section 11166.5
Penal Code Section 11174.3

Child Abuse and Neglect Reporting

I, Juliann Martin, Chair, Child Development and Family and Consumer Science, San Bernardino Community College District, make the following declaration and statement.

In my capacity as Chair, Child Development and Family and Consumer Science, I am responsible for implementing the Child Abuse and Neglect Reporting requirements for the district. I am familiar with the training and reporting requirements of the Penal Code sections enumerated above.

These Penal Code sections require the San Bernardino Community College District to:

- 1) Pursuant to Penal Code Sections 11165.9 and 11166, Subdivision (a), whenever a 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, to report such fact to a police department, a sheriff's department, or to the County Welfare Department.

- 2) Pursuant to Penal Code Section 11168, the reports of the mandated reporters specified above are required to be made on forms adopted by the Department of Justice and distributed by police departments, sheriff's departments, or by the County Welfare Departments.
- 3) Pursuant to Penal Code Section 11166, Subdivision (a), the reports of the mandated reporters specified above are required to be made as soon as practicable by telephone and in writing within 36 hours.
- 4) Pursuant to Penal Code Section 11165.14, to assist and cooperate with law enforcement agencies investigating alleged complaints of child abuse or neglect committed at a schoolsite.
- 5) Pursuant to Penal Code Section 11174.3, to notify the staff member selected, and for that selected staff member to be present at an interview of a suspected victim when the child so requests.
- 6) Pursuant to Penal Code Section 11165.7, Subdivision (d), to either train its mandated reporters in child abuse or neglect detection and their reporting requirements; or, to file a report with the State Board of Education stating the reasons why this training is not provided.
- 7) Pursuant to Penal Code Section 11165.7, Subdivision (c), when training their mandated reporters in child abuse or neglect reporting, to supply those trainees with a written copy of their reporting requirements and a written disclosure of their confidentiality rights.
- 8) Pursuant to Penal Code Section 11166.5, to obtain signed statements from its mandated reporters, on district forms, prior to commencing employment with the district, and as a prerequisite to that employment, to the effect that he or she has knowledge of his or her child abuse and neglect reporting requirements and their

Declaration of Juliann Martin
Test Claim of San Bernardino Community College District
Re: Child Abuse and Neglect Reporting

agreement to perform those duties.

It is estimated that the San Bernardino Community College District has incurred in excess of \$200, annually, in staffing and other costs for the period from July 1, 2000 through June, 2002 to implement these new duties mandated by the state for which the district has not been reimbursed by any federal, state, or local government agency, and for which it cannot otherwise obtain reimbursement.

The foregoing facts are known to me personally and, if so required, I could testify to the statements made herein. I hereby declare under penalty of perjury that the foregoing is true and correct except where stated upon information and belief and where so stated, I declare that I believe them to be true.

EXECUTED this 25 day of June at San Bernardino, California.



Juliann Martin
Chair, Child Development,
Family and Consumer Science
San Bernardino Community College District

EXHIBIT 3
COPIES OF STATUTES CITED

EXHIBIT 4
COPIES OF CODE SECTIONS CITED

Exhibit 3
Copies of Statutes Cited

entered, or a finding upon which it was entered is to be binding upon a nonparty pursuant to this subdivision or whether such nonparty is entitled to the benefit of this subdivision may, on the noticed motion of any party or any nonparty that may be affected by this subdivision, be made in the court in which the action was tried or in which the action is pending on appeal. If no such motion is made before the judgment becomes final, the determination may be made in a separate action. If appropriate, a judgment may be entered or ordered to be entered pursuant to such determination.

CHAPTER 226

An act to amend Section 11161.5 of, and to add Section 11161.6 to, the Penal Code, relating to child abuse.

[Approved by Governor July 4, 1975. Filed with
Secretary of State July 5, 1975.]

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 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 unless it can be proven that a false report was made with malice.

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 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 11161.6 is added to the Penal Code, to read:

11161.6. In any case in which a minor is observed by a probation officer and it appears to the probation officer from observation of the minor that the minor has a 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 may report such injury to the agencies designated in Section 11161.5.

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 with malice.

CHAPTER 227

An act to amend Section 71383 of the Government Code, Section 2616 of the Revenue and Taxation Code, Sections 5833 and 19132 of the Streets and Highways Code, and Section 579 of the Welfare and Institutions Code, relating to local agencies.

[Approved by Governor July 4, 1975. Filed with
Secretary of State July 5, 1975.]

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

SECTION 1. Section 71383 of the Government Code is amended to read:

71383. The accounts of each municipal court and justice court shall be audited at least biennially. The county auditor shall supply the State Controller with a certified copy of each such audit. If the accounts of any municipal or justice court are not audited biennially, the State Controller may audit them. If such audit is requested by the board of supervisors the cost of such audit shall be paid from the general fund of the county in which such court is situated.

SEC. 2. Section 2616 of the Revenue and Taxation Code is amended to read:

2616. On or before the fifth day in each month the tax collector shall account to the auditor for all moneys collected during the preceding month. On the same day he shall file with the auditor a statement under oath, showing that all money collected by him has been paid as required by law.

On or before the 25th day of each month, or at greater intervals not exceeding 90 days and on dates approved by the auditor, the tax collector shall file with the auditor a statement under oath, showing an itemized account of all his transactions and receipts since his last settlement, including the amount collected for each fund or district extended on the roll.

In counties using a mechanized management reporting system in reporting information for a uniform four-week period, the board of supervisors, by ordinance, may provide for the duties required by this section to be performed on a corresponding uniform four-week period.

SEC. 3. Section 5833 of the Streets and Highways Code is amended to read:

CHAPTER 241

An act to amend Section 20750.3 of, and to repeal Sections 20750.33 and 20750.34 of, the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 19, 1976. Filed with Secretary of State June 21, 1976.]

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

SECTION 1. Section 20750.3 of the Government Code is amended to read:

20750.3. The state's contribution to the retirement fund in respect to state safety members is a sum equal to the percent of the compensation set out in the following table paid state safety members by the state during the period specified:

Period during which compensation was paid	Percent
July 1, 1976 to June 30, 1977	18.41
July 1, 1977 and thereafter	19.13

SEC. 2. Section 20750.33 of the Government Code is repealed.

SEC. 3. Section 20750.34 of the Government Code is repealed.

SEC. 4. 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:

Valuation of the Public Employees' Retirement System has been completed and discloses a need to adjust the state's rate of contribution to the retirement fund with respect to state safety members effective July 1, 1976. In order that such rate adjustment may be accomplished and the integrity of the fund maintained, this act must take effect immediately.

CHAPTER 242

An act to amend Sections 11161.5 and 11161.6 of the Penal Code, relating to child abuse.

[Approved by Governor June 19, 1976. Filed with Secretary of State June 21, 1976.]

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 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 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, 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 11161.6 of the Penal Code is amended to read:

11161.6. In any case in which a minor is observed by a probation officer or any person other than a person described in Section 11161.5 and it appears to the probation officer or person from observation of the minor that the minor has a 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 may report such injury to the agencies designated in Section 11161.5.

No probation officer or 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 probation officer or person knew or should have known that the report was false.

CHAPTER 243

An act to add Section 20456.4 to the Education Code, relating to county superintendents of schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 19, 1976. Filed with
Secretary of State June 21, 1976.]

CHAPTER 1139

An act to amend Sections 585, 1701, 2141.5, 4390, 10238.6, and 11023 of the Business and Professions Code, to amend Sections 2985.2 and 2985.3 of the Civil Code, to amend Sections 2255, 2256, 22002, 25540, 25541, 27203, 29102, 29570, 31410, 31411, and 35301 of the Corporations Code, to amend Sections 25393 and 29042 of the Education Code, to amend Sections 220, 12012, 14720, 14722, 15280, 29001, 29002, 29100, 29101, 29102, 29103, 29160, 29214, 29215, 29216, 29217, 29218, 29219, 29220, 29221, 29222, 29223, 29224, 29225, 29226, 29227, 29400, 29430, and 29431 of the Elections Code, to amend Sections 3531, 3532, 5018, 5019, 5603, 5606, and 5809 of the Financial Code, to amend Sections 17701, 18932, 18933, 19440, and 19441 of the Food and Agricultural Code, to amend Sections 1097, 1369, 1855, 3109, 6200, 6201, 9056, 14423, and 27443 of the Government Code, to amend Sections 304, 305, and 306 of the Harbors and Navigations Code, to amend Sections 1715, 7051, 11350, 11351, 11352, 11353, 11354, 11355, 11357, 11358, 11359, 11360, 11361, 11363, 11366, 11368, 11371, 11377, 11378, 11379, 11380, 11382, and 11383 of the Health and Safety Code, to amend Sections 556, 833, 1043, 1215.10, 1764.7, 1814, 11161, and 12660 of the Insurance Code, to amend Section 7771 of the Labor Code, to amend Section 1673 of the Military and Veterans Code, to amend Sections 18, 33, 38, 67, 68, 69, 71, 72, 85, 86, 92, 93, 95, 96, 99, 100, 107, 109, 110, 126, 136, 142, 148.1, 148.3, 148.4, 149, 153, 156, 157, 165, 171c, 171d, 181, 182, 190, 193, 204, 208, 209, 210, 211a, 213, 216, 217, 217.1, 218, 219, 219.1, 219.2, 220, 221, 226, 227, 237, 241, 243, 244, 245, 246, 264, 264.1, 265, 266, 266a, 266b, 266g, 266h, 266i, 267, 268, 273a, 273d, 274, 275, 276, 278, 280, 283, 284, 285, 286, 286.1, 288, 288a, 288b, 311.9, 313.4, 314, 337a, 337b, 337c, 337d, 337e, 337f, 337i, 337.3, 337.7, 347, 375, 382.5, 382.6, 405b, 424, 447a, 448a, 449a, 449b, 449c, 450a, 452, 454, 460, 461, 464, 470a, 470b, 473, 474, 475, 475a, 476, 476a, 478, 479, 484b, 484i, 487b, 487d, 489, 496, 496a, 499c, 499d, 500, 506b, 514, 520, 524, 529, 533, 535, 540, 541, 542, 543, 548, 560, 560.4, 577, 578, 580, 581, 587, 591, 593, 597, 606, 610, 617, 620, 625b, 626.9, 631, 632, 634, 635, 637, 647a, 653f, 654, 664, 666, 668, 1168, 1319.4, 2042, 3022, 3025, 3041, 3049, 3065, 4501, 4501.5, 4502, 4503, 4530, 4532, 4533, 4535, 4550, 4574, 4600, 5075, 5076, 5076.1, 5077, 5080, 5081, 5082, 6133, 11401, 12020, 12021, 12022, 12022.5, 12025, 12090, 12220, 12303, 12303.1, 12303.2, 12303.3, 12303.6, 12304, 12308, 12309, 12312, 12420, 12422, 12520, and 12560 of, to add Section 667.5 to, to add Chapter 4.5 (commencing with Section 1170) to Title 7 of Part 2, Article 2.5 (commencing with Section 2930) to Chapter 7 of Title 1 of Part 3, Article 1 (commencing with Section 3000) to Chapter 8 of Title 1 of Part 3 of, to add Sections 243.1, 3057, 3041.5, 3041.7, 5078, 12022.6, and 12022.7 to, to add and repeal Section 190.5 of, and to repeal Sections 18a, 18b, 644, 667, 671, 1168a, 1202b, 3024, 3047, 3047.5, 3048, 3048.5 as added by Chapter 934 of the 1945 Statutes, 3048.5 as added by Chapter 1381 of the 1947 Statutes, and 5078, to repeal Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3, and Chapter 5.5 (commencing with Section 6035) of Title 7

SEC. 162. Section 266i of the Penal Code is amended to read:

266i. Any person who: (a) procures another person for the purpose of prostitution; or (b) by promises, threats, violence, or by any device or scheme, causes, induces, persuades or encourages another person to become a prostitute; or (c) procures for another person a place as inmate in a house of prostitution or as an inmate of any place in which prostitution is encouraged or allowed within this state; or (d) by promises, threats, violence or by any device or scheme, causes, induces, persuades or encourages an inmate of a house of prostitution, or any other place in which prostitution is encouraged or allowed, to remain therein as an inmate; or (e) by fraud or artifice, or by duress of person or goods, or by abuse of any position of confidence or authority, procures another person for the purpose of prostitution, or to enter any place in which prostitution is encouraged or allowed within this state, or to come into this state or leave this state for the purpose of prostitution; or (f) receives or gives, or agrees to receive or give, any money or thing of value for procuring, or attempting to procure, another person for the purpose of prostitution, or to come into this state or leave this state for the purpose of prostitution, is guilty of pandering, a felony, and is punishable by imprisonment in the state prison for two, three or four years.

SEC. 163. Section 267 of the Penal Code is amended to read:

267. Every person who takes away any other person under the age of 18 years from the father, mother, guardian, or other person having the legal charge of the other person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison, and a fine not exceeding one thousand dollars (\$1,000).

SEC. 164. Section 268 of the Penal Code is amended to read:

268. Every person who, under promise of marriage, seduces and has sexual intercourse with an unmarried female of previous chaste character, is punishable by imprisonment in the state prison, or by a fine of not more than five thousand dollars (\$5,000), or by both such fine and imprisonment.

SEC. 165. Section 273a of the Penal Code is amended to read:

273a. (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 or 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 such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the 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 or 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 such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 166. Section 273d of the Penal Code is amended to read:

273d. Any husband who willfully inflicts upon his wife corporal injury resulting in a traumatic condition, and any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year.

SEC. 167. Section 274 of the Penal Code is amended to read:

274. Every person who provides, supplies, or administers to any woman, or procures any woman to take any medicine, drug, or substance; or uses or employs any instrument or other means whatever, with intent thereby to procure the miscarriage of such woman, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the state prison.

SEC. 168. Section 275 of the Penal Code is amended to read:

275. Every woman who solicits of any person any medicine, drug, or substance whatever, and takes the same, or who submits to any operation, or to the use of any means whatever, with intent thereby to procure a miscarriage, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the state prison.

SEC. 169. Section 276 of the Penal Code is amended to read:

276. Every person who solicits any woman to submit to any operation, or to the use of any means whatever, to procure a miscarriage, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine of not more than five thousand dollars (\$5,000). Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

SEC. 170. Section 278 of the Penal Code is amended to read:

278. Every person who maliciously, forcibly, or fraudulently takes or entices away any minor child with intent to detain and conceal such child from its parent, guardian, or other person having the lawful charge of such child, is punishable by imprisonment in the state prison for two, three or four years.

SEC. 171. Section 280 of the Penal Code is amended to read:

280. Every person who willfully causes or permits the removal or concealment of any child in violation of Section 226.10 of the Civil Code is punishable as follows:

(a) By imprisonment in the county jail for not more than one year

Section 16 of Senate Bill No. 624 be further amended on the operative date of this act in the form set forth in Section 149.5 of this act to incorporate the changes proposed by this bill. Therefore, Section 149.5 of this act shall become operative only if this bill and Senate Bill No. 685 and Senate Bill No. 624 are all chaptered and become effective January 1, 1977, all three bills amend Section 241 of the Penal Code, and this bill is chaptered after Senate Bill No. 685 and Senate Bill No. 624, in which case Sections 149, 149.2, and 149.3 of this act shall not become operative.

SEC. 357. It is the intent of the Legislature, if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 243 of the Penal Code, and this bill is chaptered after Senate Bill No. 685, that Section 243 of the Penal Code, as amended by Section 3 of Senate Bill No. 685 be further amended on the operative date of this act in the form set forth in Section 150.5 of this act to incorporate the changes in Section 243 proposed by this bill. Therefore, Section 150.5 of this act shall become operative only if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 243, and this bill is chaptered after Senate Bill No. 685, in which case Section 150.5 of this act shall become operative on the operative date of this act and Section 150 of this act shall not become operative.

SEC. 358. It is the intent of the Legislature, if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 245 of the Penal Code, and this bill is chaptered after Senate Bill No. 685, that Section 245 of the Penal Code, as amended by Section 5 of Senate Bill No. 685 be further amended on the operative date of this act in the form set forth in Section 152.5 of this act to incorporate the changes in Section 245 proposed by this bill. Therefore, Section 152.5 of this act shall become operative only if this bill and Senate Bill No. 685 are both chaptered and become effective January 1, 1977, both bills amend Section 245, and this bill is chaptered after Senate Bill No. 685, in which case Section 152.5 of this act shall become operative on the operative date of this act and Section 152 of this act shall not become operative.

CHAPTER 1140

An act to amend Section 12020 of the Penal Code, and to repeal Section 2008 of the Fish and Game Code, relating to weapons.

[Approved by Governor September 20, 1976. Filed with
Secretary of State September 21, 1976.]

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

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 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

CHAPTER 136

An act to amend Section 11161.5 of the Penal Code, relating to child abuse.

[Approved by Governor May 11, 1978. Filed with Secretary of State May 12, 1978.]

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 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.

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.

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.

STATUTES

CHAPTER 5. DISESTABLISHMENT

36580. The city council may disestablish an area by ordinance after a hearing before the city council.

The city council shall adopt a resolution of intention to disestablish the area at least 15 days prior to the hearing required by this section. The resolution shall give the time and place of the hearing.

36581. Upon disestablishment of an area, any proceeds of the assessments or charges or the assets acquired with such proceeds, shall be subject to disposition as the city council shall determine.

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 and shall go into immediate effect. The facts constituting such necessity are:

Parking and business improvement areas provide vital services which are necessary for the benefit of the business and commercial activity of the state. In order for these vital services not to be discontinued because of a lack of revenue, it is necessary that this act take effect immediately.

CHAPTER 373

An act to amend Sections 2491, 2507, 2532.2, 2537, 2736.5, 3906, 6787, 9889.61, 10100, 10153.7, 10156, 10156.2, 10171, 10171.2, 10201, 10209.5, 10210, 10214.5, 10215, 10216.5, 10239.35, 17910, 20880.5, and 23957 of, to amend and renumber Sections 2160, as amended and renumbered by Chapter 1161 of the Statutes of 1978, 2525.17, as added by Chapter 267 of the Statutes of 1975, 2530, as added by Chapter 1191 of the Statutes of 1977, 24045.3, as added by Chapter 400 of the Statutes of 1975, the heading of Article 12 (commencing with Section 850) of Chapter 1 of Division 2 of, and the heading of Article 3 (commencing with Section 7339) of Chapter 10 of Division 3 of, to add Article 10.5 (commencing with Section 725) to Chapter 1 of Division 2 of, and to repeal Sections 700, as added by Chapter 509 of the Statutes of 1977, 2193.78, 7327, 7328, 7430.5, 7514.2, as added by Chapter 892 of the Statutes of 1974, 7514.2, as added by Section 2 of Chapter 1214 of the Statutes of 1974, and 10206.5 of, the Business and Professions Code, to amend Sections 3334, and 5110 of, and to repeal Sections 22.3, 227aa, and 718c, Title 4 (commencing with Section 504) of Part 4 of Division 1, the heading of Title 7 of Part 4 of Division 2, as enacted in 1872, Title 11 (commencing with Section 2527) of Part 4 of Division 3, and the heading of Chapter 4 of Title 14 of Part 4 of Division 3, as enacted in 1872, of, the Civil Code, to amend Sections 337.15, 682.1, and 690.3 of, to add Section 1062.5 to, and to repeal Section 583.1 of, the Code of Civil Procedure, to amend Section 6106 of the Commercial Code, to amend Sections 6321, 7235, 14073, 15507, and 25013 of, and to repeal Part 9 (commencing with Section 25800)

of Division 1 of Title 4 of, the Corporations Code, to amend Sections 16404, 16405, 16409, 17728, 22727, 23010, 42840, 45105, 49071, 52314, 56038, 59201, 66017, 81165, 81363.5, 81523, 81528, 81529, 81530, 87214, 87483, 87603, 87662, 87781, 89304, and 94121 and the heading of Chapter 3 (commencing with Section 41300) of Part 24, of, to amend and renumber Section 52331, as added by Chapter 549 of the Statutes of 1977, the heading of Article 7 (commencing with Section 42800) of Chapter 10 of Part 24, and the heading of Article 3 (commencing with Section 52045) of Chapter 6 of Part 28, of, to add a heading immediately preceding Section 17700, to, and Article 9 (commencing with Section 32380) to Chapter 3 of Part 19 of, and to repeal Section 52171.5 and Article 8 (commencing with Section 32370) of Chapter 3 of Part 19, as added by Chapter 1114 of the Statutes of 1978, of, the Education Code, to amend Section 707.7 of, and to repeal Section 15793 of, the Elections Code, to amend Sections 1237, 1503, and 18368 of the Financial Code, to amend Sections 5700 and 5701 of, to amend and renumber the heading of Article 1 (commencing with Section 7290) of Chapter 2 of Part 2 of Division 6 of, to add a heading immediately preceding Section 7256 of, and to repeal Section 8836.4 and Article 6 (commencing with Section 6550) of Chapter 5 of Part 1 of Division 6 of, the Fish and Game Code, to amend Sections 34592, 35971, 58382, 61832, 66681, and 67023, the heading of Article 2 (commencing with Section 7301) of Chapter 1 of Part 4 of Division 4, the heading of Article 3 (commencing with Section 34261) of Chapter 9 of Part 1 of Division 15 and the heading of Article 7 (commencing with Section 36991) of Chapter 2 of Part 3 of Division 15, of, and to amend and renumber Section 14670 of, the Food and Agricultural Code, to amend Sections 7.5, 7.6, 7.8, 6253, 7465, 11011.1, 11427, 14876, 14998.7, 16260, 16280, 16304, 16304.6a, 16430, 18021.7, 18051, 20009.1, 20930.85, 21228, 25831, 27281, 27285, 27288.1, 27491.5, 31595.2, 31836.1, 35225, 35421, 45308.3, 50926, 51082, 51100, 53609, 53735, 54307, 70045.77, and 82028 and the heading of Part 5 (commencing with Section 22751) of Division 5 of Title 2 of, to amend and renumber Sections 8220, 8221, 8222, 8223, 8224, and 8225, all as added by Chapter 579 of the Statutes of 1977, 8524, as amended and renumbered by Chapter 1625 of the Statutes of 1967, 50280 and 50281, both as added by Chapter 1232 of the Statutes of 1972, 68513, as added by Chapter 1126 of the Statutes of 1974, 68513, as added by Chapter 1266 of the Statutes of 1974, 68514, as added by Chapter 733 of the Statutes of 1974, and 74694, as added by Chapter 1474 of the Statutes of 1976, the heading of Chapter 8 (commencing with Section 4500) of Division 5 of Title 1, the heading of Chapter 8 (commencing with Section 5700) of Division 6 of Title 1, the heading of Chapter 17.5 (commencing with Section 7301) of Division 7 of Title 1, the heading of Chapter 11 (commencing with Section 54965) of Part 1 of Division 2 of Title 5 of, and the heading of Chapter 10 (commencing with Section 54970) of Part 1 of Division 2 of Title 5 of, and to repeal Section 22201.7, as added by Chapter 107 of the Statutes of 1973, and Chapter 2.5 (commencing with Section 8110)

decisions. Such decisions shall be made in accordance with policies approved by a majority of the total membership of the board.

SEC. 250. Section 11050.5 of the Penal Code, as added by Section 2.5 of Chapter 790 of the Statutes of 1978, is repealed.

SEC. 251. 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 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.

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.

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 300 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 272 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. 252. Section 13517 of the Penal Code, as added by Chapter 1225 of the Statutes of 1978, is amended and renumbered to read:

13518. (a) The commission shall prepare guidelines establishing standard procedures which may be followed by police agencies in the detection, investigation, and response to cases in which a minor is a victim of an act of abuse or neglect prohibited by this code. The guidelines shall include procedures for determining whether or not a child should be taken into protective custody.

(b) The course of training leading to the basic certificate issued by the commission shall, not later than July 1, 1979, include adequate

Public Resources Code is repealed.

SEC. 619. The heading of Division 10 of the Public Resources Code is repealed.

SEC. 620. The heading of Chapter 1 of Division 10 of the Public Resources Code is repealed.

SEC. 621. The heading of Chapter 2 of Division 10 of the Public Resources Code is repealed.

SEC. 622. The heading of Chapter 3 of Division 10 of the Public Resources Code is repealed.

SEC. 623. The heading of Chapter 2 (commencing with Section 11300) of Division 5 of the Vehicle Code, as added by Chapter 3 of the Statutes of 1959, is repealed.

SEC. 624. The heading of Chapter 2 of Part 4 of Division 11 of the Water Code is repealed.

SEC. 625. The heading of Article 4 of Chapter 5 of Part 5 of Division 11 of the Water Code is repealed.

SEC. 626. The heading of Chapter 2.5 of Part 8 of Division 12 of the Water Code is repealed.

SEC. 627. The heading of Article 1 of Chapter 2.5 of Part 8 of Division 12 of the Water Code is repealed.

SEC. 628. Any section of any act enacted by the Legislature during the 1979 portion of the 1979-80 Regular Session, which takes effect on or before January 1, 1980, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether such act is enacted prior to or subsequent to this act.

CHAPTER 374

An act to amend Section 44270 of the Education Code, relating to certification requirements.

[Approved by Governor July 27, 1979. Filed with
Secretary of State July 27, 1979.]

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

SECTION 1. Section 44270 of the Education Code is amended to read:

44270. The minimum requirements for the services credential with a specialization in administrative services are all of the following:

(a) The possession of a valid teaching credential issued under the law and rules and regulations in effect on or before December 31, 1971, requiring the possession of a baccalaureate degree, or as specified in Section 44259, or as specified in Section 44260 provided the applicant also possesses a baccalaureate degree, or a services

In order to help nonprofit organizations allocate more of their resources toward their stated purpose, it is necessary for this act to take effect immediately.

CHAPTER 855

An act to amend Section 11161.5 of the Penal Code, relating to child abuse.

[Approved by Governor August 30, 1980. Filed with Secretary of State August 31, 1980.]

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 any person coming within the provisions of subdivision (c) acquires in his or her professional capacity reasonable cause to believe that a minor has physical injury or injuries which appear to have been inflicted upon him or her 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 or she 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 or her 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 or her 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 or she 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 required by this section to make a report shall incur any civil or criminal liability as a result of making such report. No other person making a report of child abuse or molestation shall incur any civil or criminal liability as a result of making the report unless it can be proven that a false report was made and that 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.

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 all of the following: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his or her 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 300 of the Welfare and Institutions Code and the duty of the probation officer has been transferred to the county welfare department pursuant to Section 272 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) shall be made to the county welfare department.

(c) The provisions of subdivision (a) are applicable to all of the following persons:

- (1) Physicians and surgeons.
- (2) Dentists and dental hygienists.
- (3) Residents and interns.
- (4) Podiatrists.
- (5) Chiropractors.
- (6) Optometrists.
- (7) Persons licensed as marriage, family, and child counselors pursuant to Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code.
- (8) Psychologists.
- (9) Religious practitioners.
- (10) Registered nurses.

(11) Superintendents, supervisors of child welfare and attendance, and certificated pupil personnel employees of any public or private school.

(12) Teachers and principals of any public or private school.

(13) Licensed day care workers.

(14) Administrators of public or private summer day camps or child care centers.

(15) Social workers.

(16) Peace officers.

(17) Probation officers.

(18) Priests, ministers, or rabbis of any religious denomination.

SEC. 2. Section 11161.5 of the Penal Code is amended to read:

11161.5. (a) In any case in which any person coming within the provisions of subdivision (c) acquires in his or her professional capacity reasonable cause to believe that a minor has physical injury or injuries which appear to have been inflicted upon him or her 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 or she 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, the minor's 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 or her 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, the director 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 required by this section to make a report shall incur any civil or criminal liability as a result of making such report. No other person making a report of a child abuse or molestation shall incur any civil or criminal liability as a result of making the report unless it can be proven 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.

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 all of the following: any licensed physician and surgeon, dentist, resident, intern, podiatrist, chiropractor, marriage, family or child counselor, psychologist, or religious practitioner with regard to his or her 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.

(c) The provisions of subdivision (a) are applicable to all of the following persons:

- (1) Physicians and surgeons.
- (2) Dentists and dental hygienists.
- (3) Residents and interns.
- (4) Podiatrists.
- (5) Chiropractors.
- (6) Optometrists.
- (7) Persons licensed as marriage, family, and child counselors pursuant to Chapter 4 (commencing with Section 17800) of Part 3 of Division 7 of the Business and Professions Code.
- (8) Psychologists.
- (9) Religious practitioners.
- (10) Registered nurses.
- (11) Superintendents, supervisors of child welfare and attendance, and certificated pupil personnel employees of any public or private school.
- (12) Teachers and principals of any public or private school.
- (13) Licensed day care workers.

(14) Administrators of public or private summer day camps or child care centers.

(15) Social workers.

(16) Peace officers.

(17) Probation officers.

(18) Priests, ministers, or rabbis of any religious denomination.

(d) As used in this section, the words "sexual molestation" and "sexually molested" mean rape, incest, or lewd and lascivious acts performed on a minor or child. The fact that a minor 14 years of age or older is pregnant or has venereal disease, or is seeking services related to these conditions, does not in and of itself, mean that a child has been molested for purposes of this section.

When a minor under 14 years of age is seeking treatment or services for pregnancy or venereal disease, a report is authorized but not required. However, persons required to report child abuse shall recognize that children under 14 years of age who seek their services need special attention and examination.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 781 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 11161.5 of the Penal Code, and this bill is chaptered after Assembly Bill 781, that Section 11161.5 of the Penal Code, as amended by Section 2 of Assembly Bill 781, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 11161.5 proposed by this bill. Therefore, if this bill and Assembly Bill 781 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 781 is chaptered before this bill and amends Section 11161.5, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 856

An act to amend Section 4453 of, and to add Section 9255.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor August 30, 1980. Filed with
Secretary of State August 31, 1980.]

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

SECTION 1. Section 4453 of the Vehicle Code is amended to read:

4453. (a) The registration card shall contain upon the face thereof the date issued, the name and residence or business address of the owner and of the legal owner, if any, the registration number assigned to the vehicle, and a description of the vehicle as complete as that required in the application for registration of the vehicle.

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:

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 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

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

CHAPTER 1116

An act to amend Section 31592.2 of the Government Code, and to repeal Section 2 of Chapter 430 of the Statutes of 1980, relating to the County Employees Retirement Law of 1937, 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 31592.2 of the Government Code is amended to read:

31592.2. In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter.

Where the board of supervisors has provided for the payment of all, or a portion, of the premiums, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this paragraph from the county advance reserves.

SEC. 2. Section 2 of Chapter 430 of the Statutes of 1980 is repealed.

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:

In order for the benefits granted to retired employees prior to the enactment of Chapter 430 of the Statutes of 1980 to be continued, it is necessary for this act to take effect immediately.

CHAPTER 1117

An act to amend Section 12401 of the Health and Safety Code, to amend Sections 243, 273.5, 273a, 273d, 1026.5, 1170, 1170.1, 1203.01, 1203.2a, 2900, 3041.5, 3042, 3421, 4011.7, 4016.5, 4131.5, 4133, 4852.03, 4852.16, 5002, 5055 and 12420 of the Penal Code, and to amend

Sections 240, 1721, and 1802 of, and to add Section 5328.02 to, the Welfare and Institutions Code, relating to prison terms and youth and adult corrections.

[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 12401 of the Health and Safety Code is amended to read:

12401. Every person who is found guilty of a felony as specified in this part is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

SEC. 2. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer or fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Commission and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

(b) When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

SEC. 3. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

(b) Holding oneself out to be the husband or wife of the person

with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

SEC. 4. Section 273a of the Penal Code is amended to read:

273a. (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 or 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 such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

(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 or 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 such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 5. Section 273d of the Penal Code is amended to read:

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

SEC. 6. Section 1026.5 of the Penal Code is amended to read:

1026.5. (a) (1) In the case of any person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1, who committed a felony on or after July 1, 1977, the court shall state in the commitment order the maximum term of commitment, and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in this section. For the purposes of this section, "maximum term of commitment" shall mean the longest term of imprisonment which could have been imposed for the offense or offenses of which the person was convicted, including the upper term of the base offense and any additional terms for enhancements and consecutive sentences which could have been imposed less any applicable credits as defined by Section 2900.5, and disregarding any credits which could have been earned under Sections 2930 to 2932, inclusive.

(2) In the case of a person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1, who committed a felony prior to July 1, 1977, who could have been sentenced under Section 1168 or 1170 if the offense was committed after July 1, 1977, the Board of Prison Terms shall determine the maximum term of commitment which could have been imposed under paragraph (1), and the person may not be kept in actual custody longer than the maximum term of commitment, except as provided in subdivision (b). The

filed which shall conform to the provisions of this code and which shall be deemed to be an original complaint; and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him or her and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding the provisions of subdivision (a) of this section, whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

SEC. 4. Neither this bill nor Chapter 1094 of the 1980 Statutes is intended to affect procedures governing a written notice to appear which are set forth in the Vehicle Code.

SEC. 5. 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 the necessity are:

Some counties are unable to comply with the provisions of Chapter 1094 of the Statutes of 1980 because of a lack of funding for staff.

CHAPTER 29

An act to amend Section 11165 of the Penal Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 7, 1981. Filed with
Secretary of State May 8, 1981.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read:
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), 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.

SEC. 2. 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 the necessity are:

The existing provisions of law are causing the overreporting of various acts unrelated to child abuse pursuant to Chapter 1071 of the Statutes of 1980, which is creating a detrimental impact upon the efforts of the Legislature to deal with the problem of child abuse. In order to remedy this situation as soon as possible, it is necessary that this act become effective immediately.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 30

An act relating to school facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor May 13, 1981. Filed with
Secretary of State May 14, 1981.]

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

SECTION 1. Notwithstanding Section 39227 of the Education Code, the Governing Board of the San Ramon Valley Unified School District may use facilities known as Twin Creeks Elementary School. During the period of use authorized by this section, the building and related facilities shall not be subject to Article 3 (commencing with Section 39140) or Article 6 (commencing with Section 39210) of Chapter 2 of Part 23 of the Education Code.

The liability of the San Ramon Valley Unified School District and the members of its governing board for a dangerous condition in the Twin Creeks Elementary School during the period of use authorized by this section shall be determined by the provisions of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

This section shall remain in effect only until June 30, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1983, deletes or extends such date.

SEC. 2. The Legislature finds and declares that a general act cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution to the operation of the Twin Creeks Elementary School and that special legislation is necessary. The facts constituting the necessity are:

CHAPTER 435

An act to amend Sections 11165, 11166, 11167, 11169, 11170, 11172, and 11174 of the Penal Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1981. Filed with Secretary of State September 12, 1981.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read: 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), 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 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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, 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 16508 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.

(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 the child to be placed in a situation

such 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 physical injury on a child which is inflicted by other than accidental means, or of sexual assault 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; a licensing worker or licensing evaluator; 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.

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

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 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. 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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.

(d) 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 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 the report.

(e) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

(f) 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, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of

cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement 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.

SEC. 3. Section 11167 of the Penal Code is amended to read:

11167. (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 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 known or 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 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.

SEC. 4. Section 11169 of the Penal Code is amended to read:

11169. A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of known or suspected child abuse which it investigates, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, 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.

SEC. 5. Section 11170 of the Penal Code is amended to read:

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 known or 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 known or 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.

SEC. 6. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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. 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, the provisions of this section shall not be construed to grant immunity from such liability with respect to any other use of the photographs.

(b) 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 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.

SEC. 7. Section 11174 of the Penal Code is amended to read:

11174. 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 (f) of Section 11165, in group homes or institutions and shall ensure that every investigation of alleged child abuse coming within that definition is conducted in accordance with the regulations and guidelines.

SEC. 8. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 9. 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 the necessity are:

In order that the provisions of this act shall achieve maximum implementation, it is necessary that this act take effect at the earliest possible date.

CHAPTER 436

An act to amend Section 12403 of the Penal Code, relating to tear gas weapons, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 11, 1981. Filed with Secretary of State September 12, 1981.]

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

SECTION 1. Section 12403 of the Penal Code is amended to read:
12403. Nothing in this chapter shall prohibit any person who is a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 from purchasing, possessing, transporting, or using any tear gas weapon, if such weapon has been certified as acceptable under Article 5 (commencing with Section 12450) of this chapter and if such person has satisfactorily completed a course of instruction approved by the Commission on Peace Officers Standards and Training in the use of tear gas.

SEC. 2. 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 the necessity are:

Permitting peace officers presently in training to receive immediate instruction in off-duty use of tear gas and tear gas weapons will avoid the need for later additional training and to facilitate such training as soon as possible it is necessary that this act go into immediate effect.

CHAPTER 437

An act to amend Sections 2741, 2815, and 2815.5 of the Business and Professions Code, relating to registered nurses, and making an appropriation therefor.

[Approved by Governor September 11, 1981. Filed with Secretary of State September 12, 1981.]

except that such time shall be extended by the department upon a showing of good cause.

SEC. 3. The provisions of law in effect prior to this act shall continue to be applicable with respect to periods of disability commencing prior to the effective date of this act.

SEC. 4. 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 the necessity are:

Experience has shown that the current time limit for filing an initial state disability insurance claim does not adequately protect the filing rights of many claimants. In order to extend the current time limit and thereby prevent any further loss of benefits to covered workers, and in order to alleviate the effects of extreme unemployment as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 905

An act to amend Sections 11165 and 11166 of the Penal Code, relating to child abuse.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read: 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), 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 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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, 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 16508 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.

(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 the child to be placed in a situation such 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 physical injury on a child which is inflicted by other than accidental means, or of sexual assault 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; a licensing worker or licensing evaluator; 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.

(l) "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.

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

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 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. 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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) Sodomasochistic 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

(g) 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, and to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse as defined in Section 11165, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, every known or suspected instance of child abuse reported to it, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the

county welfare department. A law enforcement 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.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 906

An act to amend Section 23384 of the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

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

SECTION 1. Section 23384 of the Business and Professions Code is amended to read:

23384. Any licensed beer manufacturer, wine grower, brandy manufacturer, rectifier, or wholesaler may, in addition to the other privileges exercised under his or her license and in accordance with rules prescribed by the department sell tax-paid alcoholic beverages mentioned in the license of the licensee to nonlicensees having a fixed place of business or residence upon territory within this State which is maintained by the United States Government as a military or naval reservation or national park or veterans homes, and veterans homes maintained by the State of California, and Indian country or land dedicated for use by the Indians.

CHAPTER 907

An act to add and repeal Sections 35176.5 and 35176.6 of the Education Code, relating to schools.

[Approved by Governor September 10, 1982. Filed with Secretary of State September 13, 1982.]

other than from the lessor's inventory, the lessee has the same rights under this chapter against the seller of the goods to the lessor that the lessee would have had under this chapter if the goods had been purchased by the lessee from the seller, and the seller of the goods to the lessor has the same duties and obligations under this chapter with respect to the goods that the seller would have had under this chapter if the goods had been purchased by the lessee from the seller.

(e) A lessor who re-leases goods to a new lessee and does not retake possession of the goods prior to consummation of the re-lease may, notwithstanding the provisions of Section 1793, disclaim as to that lessee any and all warranties created by this chapter by conspicuously disclosing in the lease that these warranties are disclaimed.

(f) A lessor who has obligations to the lessee with relation to warranties in connection with a lease of goods and the seller of goods to a lessor have the same rights and remedies against the manufacturer and any person making express warranties that a seller of the goods would have had if the seller had sold the goods to the lessee.

CHAPTER 1170

An act to amend Sections 11165 and 11172 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read: 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), 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 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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, 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.

(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 the child to be placed in a situation such 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 physical injury on a child which is inflicted by other than accidental means, or of sexual assault 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; a licensing worker or licensing evaluator; 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, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 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.

(l) "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.

SEC. 1.5. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 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.

(l) "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.

SEC. 2. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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. 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 liability with respect to any other use of the photographs.

(b) 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, medical practitioner, nonmedical practitioner, or an employee of a child protective agency 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 does not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(c) 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 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 one thousand dollars (\$1,000) or by both.

SEC. 3. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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. 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, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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, medical practitioner, nonmedical practitioner, or an employee of a child protective agency 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 does not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) 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 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 one thousand dollars (\$1,000) or by both.

SEC. 3.5. Section 1.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2709. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

SEC. 4. Section 3 of this bill incorporates amendments to Section

11172 of the Penal Code proposed by both this bill and AB 2710. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after AB 2710, in which case Section 2 of this bill shall not become operative.

SEC. 5. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1171

An act to amend Section 1770 of the Civil Code, relating to consumer protection.

[Approved by Governor September 15, 1984. Filed with Secretary of State September 17, 1984.]

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

SECTION 1. Section 1770 of the Civil Code is amended to read: 1770. The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

- (a) Passing off goods or services as those of another.
- (b) Misrepresenting the source, sponsorship, approval, or certification of goods or services.
- (c) Misrepresenting the affiliation, connection, or association with, or certification by, another.
- (d) Using deceptive representations or designations of geographic origin in connection with goods or services.
- (e) Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.
- (f) Representing that goods are original or new if they have deteriorated unreasonably or are altered, reconditioned, reclaimed, used, or secondhand.
- (g) Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another.
- (h) Disparaging the goods, services, or business of another by false or misleading representation of fact.

carry out the provisions of this section.

SEC. 3. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1391

An act to amend Sections 1627.5 and 2727.5 of the Business and Professions Code, to amend Section 56.05 of the Civil Code, to amend Sections 1797.52, 1797.56, 1797.58, 1797.74, 1797.106, 1797.170, 1798, 1798.2, 1798.4, 1798.100, 1798.102, 1798.104, and 1799.2 of, to amend the heading of Article 1 (commencing with Section 1798.100) of Chapter 6 of Part 1 of Division 2.5 of, to add Sections 1797.59 and 1797.97 to, and to add Article 4 (commencing with Section 1798.180) to Chapter 6 of Part 1 of Division 2.5 of, the Health and Safety Code, and to amend Sections 402 and 11165 of the Penal Code, relating to emergency medical services.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 1627.5 of the Business and Professions Code is amended to read:

1627.5. No person licensed under this chapter, who in good faith renders emergency care at the scene of an emergency occurring outside the place of that person's practice, or who, upon the request of another person so licensed, renders emergency care to a person for a complication arising from prior care of another person so licensed, shall be liable for any civil damages as a result of any acts or omissions by that person in rendering the emergency care.

SEC. 2. Section 2727.5 of the Business and Professions Code is amended to read:

2727.5. A person licensed under this chapter who in good faith renders emergency care at the scene of an emergency which occurs outside both the place and the course of that person's employment shall not be liable for any civil damages as the result of acts or omissions by that person in rendering the emergency care.

This section shall not grant immunity from civil damages when the person is grossly negligent.

SEC. 3. Section 56.05 of the Civil Code is amended to read:

56.05. For purposes of this part:

(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 physical injury on a child which is inflicted by other than accidental means, or of sexual assault 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; a licensing worker or licensing evaluator; 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 or any Emergency Medical Technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety 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 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.

(l) "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.

SEC. 23. Section 11165 of the Penal Code is amended to read:

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), 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 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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, or shelter.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, 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 16508 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.

(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 the child to be placed in a situation such 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 physical injury on a child which is inflicted by other than accidental means, or of sexual assault 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; a licensing worker or licensing evaluator; 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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 24. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 16508 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 a parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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, or any Emergency Medical Technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety 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 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.

(l) "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.

SEC. 25. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy); subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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.

pursuant to Section 2913 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 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.

(l) "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.

SEC. 26. (a) Section 23 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 22 of this bill shall not become operative.

(b) Section 24 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2709. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 24 of this bill shall become operative, and Section 22 of this bill shall not become operative.

(c) Section 25 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by this bill, AB 2702, and AB 2709. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, (2) all three bills amend Section 11165 of the Penal Code, and this bill is enacted after AB 2702 and AB 2709, in which case Section 11165 of the Penal Code, as amended by AB 2709, shall remain operative only until the operative date of this bill, at which time Section 25 of this bill shall become operative, in which case Sections 22, 23, and 24 shall not become operative.

CHAPTER 1392

An act to add and repeal Chapter 9.5 (commencing with Section 60350) of Division 2 of Title 6 of the Government Code, relating to local government.

SEC. 2. Section 190.9 is added to the Penal Code, to read:

190.9. In any case in which a death sentence may be imposed, all proceedings conducted after the effective date of this section in the justice, municipal, and superior courts, including proceedings in chambers, shall be conducted on the record with a court reporter present.

SEC. 3. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. 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.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1423

An act to amend Section 767 of the Evidence Code, to amend Sections 273a, 273d, 868.5, 868.7, 1048, 1203.066, 1346, and 11166 of the Penal Code, and to amend Section 827 of the Welfare and Institutions Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Section 767 of the Evidence Code is amended to read:

767. (a) Except under special circumstances where the interests of justice otherwise require:

(1) A leading question may not be asked of a witness on direct or redirect examination.

(2) A leading question may be asked of a witness on cross-examination or recross-examination.

(b) The court may in the interests of justice permit a leading question to be asked of a child under 10 years of age in a case involving a prosecution under Section 273a, 273d, or 288 of the Penal Code.

SEC. 2. Section 273a of the Penal Code is amended to read:

273a. (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 or 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 such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 4, or 6 years.

(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 or 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 such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 3. Section 273d of the Penal Code is amended to read:

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 4, or 6 years, or in the county jail for not more than one year.

SEC. 4. Section 868.5 of the Penal Code is amended to read:

868.5. (a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 273a, 273d, 285, 286, 288, 288a, 289, or 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of a parent, guardian, or sibling of his or her own choosing, whether or not a witness, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness. The person so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person is related to the prosecuting witness as a parent, guardian, or sibling and does not make notes during the hearing.

(b) If the person so chosen is also a prosecuting witness, the prosecution shall present, on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court shall grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

(c) The testimony of the person so chosen who is also a prosecuting witness shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during the person's testimony. Whenever the evidence given by the person would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later

established by the testimony of the prosecuting witness.

SEC. 5. Section 868.7 of the Penal Code is amended to read:

868.7. (a) Notwithstanding any other provision of law, the magistrate may, upon motion of the prosecutor, close the examination in the manner described in Section 868 during the testimony of a witness:

(1) Who is the complaining victim of child abuse as defined in Section 11165, or a sex offense, where testimony before the general public would be likely to cause serious psychological harm to the witness and where no alternative procedures, including, but not limited to, video taped deposition or contemporaneous examination in another place communicated to the courtroom by means of closed-circuit television, are available to avoid the perceived harm.

(2) Whose life would be subject to a substantial risk in appearing before the general public, and where no alternative security measures, including, but not limited to, efforts to conceal his or her features or physical description, searches of members of the public attending the examination, or the temporary exclusion of other actual or potential witnesses, would be adequate to minimize the perceived threat.

(b) In any case where public access to the courtroom is restricted during the examination of a witness pursuant to this section, a transcript of the testimony of that witness shall be made available to the public as soon as is practicable.

This section shall remain in effect only until January 1, 1987, and as of that date is repealed, unless a later enacted statute, which is chaptered on or before January 1, 1987, deletes or extends that date.

SEC. 6. Section 1048 of the Penal Code is amended to read:

1048. (a) The issues on the calendar shall be disposed of in the following order, unless for good cause the court directs an action to be tried out of its order:

(1) Prosecutions for felony, when the defendant is in custody.

(2) Prosecutions for misdemeanor, when the defendant is in custody.

(3) Prosecutions for felony, when the defendant is on bail.

(4) Prosecutions for misdemeanor, when the defendant is on bail.

(b) Notwithstanding subdivision (a), all criminal actions in which a minor is detained as a material witness, or in which the minor is the victim of the alleged offense, or in which any person is a victim of an alleged violation of Section 261, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, committed by the use of force, violence, or the threat thereof, shall be given precedence over all other criminal actions in the order of trial. In those actions, continuations shall be granted by the court only after a hearing and determination of the necessity thereof, and in any event, the trial shall be commenced within 30 days after arraignment, unless for good cause the court shall direct the action to be continued, after a hearing and determination of the necessity of the continuance, and states the findings for a determination of good cause on the record.

(c) Nothing in this section shall be deemed to provide a statutory right to a trial within 30 days.

SEC. 7. Section 1203.066 of the Penal Code is amended to read:

1203.066. (a) Notwithstanding Section 1203, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provisions of this section be stricken pursuant to Section 1385 for, any of the following persons:

(1) A person convicted of violating Section 288 when the act is committed by the use of force, violence, duress, menace, or threat of bodily harm.

(2) A person who caused bodily injury on the child victim in committing a violation of Section 288.

(3) A person convicted of a violation of Section 288 and who was a stranger to the child victim or made friends with the child victim for the purpose of committing an act in violation of Section 288, unless the defendant honestly and reasonably believed the victim was 14 years old or older.

(4) A person who used a weapon during the commission of a violation of Section 288.

(5) A person convicted of committing a violation of Section 288 and who has had a prior conviction of Section 261, 264.1, 267, 285, 288, or 289, of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or threat of great bodily harm, of assaulting another with intent to commit a crime specified in this paragraph in violation of Section 220, or a violation of Section 266.

(6) A person convicted of kidnapping the child victim in violation of either Section 207 or 209 and who kidnapped the victim for the purpose of committing a violation of Section 288.

(7) A person who is convicted of committing a violation of Section 288 on more than one victim at the same time or in the same course of conduct.

(8) A person who in violating Section 288 has substantial sexual conduct with a victim under the age of 11 years.

(9) A person who occupies a position of special trust and commits an act of substantial sexual conduct. "Position of special trust" means that position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the victim. Position of authority includes, but is not limited to, the position occupied by a natural parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational director who is an adult, adult athletic manager, adult coach, teacher, counselor, religious leader, doctor, or employer.

(b) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or by any foreign object, oral copulation, or masturbation of either the victim or the offender.

(c) Paragraphs (7), (8), and (9) of subdivision (a) shall not apply when the court makes all of the following findings:

(1) The defendant is the victim's natural parent, adoptive parent, stepparent, relative, or is a member of the victim's household who has lived in the household.

(2) Imprisonment of the defendant is not in the best interest of the child.

(3) Rehabilitation of the defendant is feasible in a recognized treatment program designed to deal with child molestation, and if the defendant is to remain in the household, a program that is specifically designed to deal with molestation within the family.

(4) There is no threat of physical harm to the child victim if there is no imprisonment. The court upon making its findings pursuant to this subdivision is not precluded from sentencing the defendant to jail or prison, but retains the discretion not to. The court shall state its reasons on the record for whatever sentence it imposes on the defendant.

The court shall order the psychiatrist or psychologist appointed pursuant to Section 288.1 to include a consideration of the factors specified in paragraphs (2), (3), and (4) in making his or her report to the court.

(d) The existence of any fact which would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

SEC. 8. Section 1346 of the Penal Code is amended to read:

1346. (a) When a defendant has been charged with a violation of Section 243.4, 261, 261.5, 264.1, 273a, 273d, 285, 286, 288, 288a, or 289, where the victim is a person 15 years of age or less, the people may apply for an order that the victim's testimony at the preliminary hearing, in addition to being stenographically recorded, be recorded and preserved on videotape.

(b) The application for the order shall be in writing and made three days prior to the preliminary hearing.

(c) Upon timely receipt of the application, the magistrate shall order that the testimony of the victim given at the preliminary hearing be taken and preserved on videotape. The videotape shall be transmitted to the clerk of the court in which the action is pending.

(d) If at the time of trial the court finds that further testimony would cause the victim emotional trauma so that the victim is medically unavailable or otherwise unavailable within the meaning of Section 240 of the Evidence Code, the court may admit the videotape of the victim's testimony at the preliminary hearing as former testimony under Section 1291 of the Evidence Code.

(e) Any videotape which is taken pursuant to this section is subject to a protective order of the court for the purpose of protecting the privacy of the victim. This subdivision does not affect the provisions of subdivision (b) of Section 868.7.

(f) Any videotape made pursuant to this section shall be made available to the prosecuting attorney, the defendant, and his or her attorney for viewing during ordinary business hours.

(g) The tape shall be destroyed after five years have elapsed from the date of entry of judgment; provided, however, that if an appeal is filed, the tape shall not be destroyed until a final judgment on appeal has been rendered.

SEC. 9. Section 11166 of the Penal Code is amended to read:

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 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. 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

(g) 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, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department, 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 the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement 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.

SEC. 10. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any

juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel; child protective agencies as defined in subdivision (k) of Section 11165 of the Penal Code; the district attorney; the minor who is the subject of the proceeding the minor's parents or guardian; the attorneys for those parties; and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) Notwithstanding subdivision (a), written notice of the filing of a petition in juvenile court, alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district of attendance, pursuant to Section 48922 of the Education Code. The district attorney need not obtain a court order prior to providing this notice to the superintendent.

SEC. 11. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his or her report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the

proceeding, his or her parents or guardian, the attorneys for those parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor. The district attorney and child protective agencies, as defined in subdivision (k) of Section 11165 of the Penal Code, also shall be entitled to inspect these documents upon the filing of a declaration under penalty of perjury stating that access to these documents is necessary and relevant in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any such records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality in cases involving serious acts of violence. Further, it is the intent of the Legislature that even in these selected cases dissemination of juvenile court records be as limited as possible consistent with the need to work with a student in an appropriate fashion, and the need to protect potentially vulnerable school staff and other students over whom school staff exercise direct supervision and responsibility.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school in kindergarten or grades 1 through 12 has been found by a court of competent jurisdiction to have used, sold, or possessed narcotics or a controlled substance or to have committed any crime listed in paragraphs (1) to (15), inclusive, or (17) to (19), inclusive, of subdivision (b) of Section 707 shall be provided by the court, within seven days, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to any teacher, counselor, or administrator with direct supervisory or disciplinary responsibility over the minor who the superintendent or his or her designee, after consultation with the principal at the school of attendance, believes needs this information to work with the student in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability. Any information received by a teacher,

counselor, or administrator under this subdivision shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher, counselor, or administrator. An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b) the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Destroy This Record 12 Months After The Minor Returns To Public School. Unlawful Dissemination of This Information Is A Misdemeanor." No information transmitted by the superintendent pursuant to subdivision (b) shall be transmitted by the superintendent or by any teacher, counselor, or administrator to any other person more than 12 months after receipt of the original notice from the court or more than 12 months after the minor returns to public school, whichever occurs last. Any information received from the court shall be destroyed by school authorities 12 months after its receipt from the court or 12 months after the minor returns to public school, whichever occurs last. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to insure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred and shall specify the date by which the record will be destroyed.

(e) Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit

any notice or information required under subdivision (b).

(f) This section shall remain in effect only until January 1, 1991; and as of that date is repealed, unless a later enacted statute, which is enacted before that date deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1991, pursuant to Section 9611 of the Government Code, Section 827 of the Welfare and Institutions Code, as amended by Section 4 of Chapter 1103 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 12. Section 11 of this bill incorporates amendments to Section 827 of the Welfare and Institutions Code proposed by both this bill and AB 2481. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 827 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2481, in which case Section 10 of this bill shall not become operative.

SEC. 13. 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 the necessity are:

In order for the criminal justice system to more effectively address the serious problems raised by the recent increase in prosecutions of crimes related to child abuse, it is necessary that this act take effect immediately.

SEC. 14. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 15. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. 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.

SEC. 16. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1424

An act to add Chapter 9 (commencing with Section 13880) to Title 6 of Part 4 of the Penal Code, relating to prosecutions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1984. Filed with Secretary of State September 26, 1984.]

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

SECTION 1. Chapter 9 (commencing with Section 13880) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 9. CALIFORNIA MAJOR NARCOTIC VENDORS
PROSECUTION LAW

13880. The Legislature finds and declares that the production and sale of narcotics is an ever increasing problem because of the substantial illicit profits derived therefrom. The Legislature further finds and declares that a substantial and disproportionate amount of serious crime is associated with the cultivation, processing, manufacturing, and sale of narcotics.

The Legislature intends to support intensified efforts by district attorneys' offices to prosecute drug producers and sellers through organizational and operational techniques that have been proven effective in selected jurisdictions in this and other states.

13881. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the California Major Narcotic Vendors Prosecution Law. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of the office in consultation with the California Council on Criminal Justice, and shall to the greatest extent feasible be coordinated or consolidated with federal funds that may be made available for these purposes.

(b) The executive director is authorized to allocate and award funds to counties in which the California Major Narcotic Vendors Prosecution Law is implemented in substantial compliance with the policies and criteria set forth in this chapter.

(c) The allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Major Narcotic Vendors Prosecution Law, be made available to support the prosecution of felony drug cases. Funds available under this program shall not be subject to review, as specified in Section 14780 of the Government Code.

Opportunity in the identification of the projects to be funded by that agency, as well as to meet the purposes of this act.

CHAPTER 1613

An act to amend Sections 11107, 11165, and 11170 of the Penal Code, and to amend Section 326 of the Welfare and Institutions Code, relating to child abuse reporting, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11107 of the Penal Code is amended to read:
11107. Each sheriff or police chief executive shall furnish all of the following information to the Department of Justice on standard forms approved by the department:

Daily reports of those misdemeanors and felonies that are required to be reported by the Attorney General including, but not limited to, forgery, fraud-bunco, bombings, receiving or selling stolen property, safe and commercial burglary, grand theft, child abuse, homicide, threats, and offenses involving lost, stolen, found, pledged, or pawned property.

The reports required by this section shall describe the nature and character of each such crime and note all particular circumstances thereof and include all additional or supplemental data. The Attorney General may also require that the report shall indicate whether or not the submitting agency considers the information to be confidential because it was compiled for the purpose of a criminal investigation of suspected criminal activities. The term "criminal investigation" includes the gathering and maintenance of information pertaining to suspected criminal activity.

SEC. 2. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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.

(l) "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.

SEC. 2.2. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as

defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 a parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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, any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or a psychological assistant registered pursuant to Section 2913 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.

(l) "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.

SEC. 2.4. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 a parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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, or any emergency medical technician I or II, or paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety 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 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.

(l) "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.

SEC. 2.6. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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; 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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

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

11170. (a) The Department of Justice shall maintain an index of all preliminary 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) 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 318 of the Welfare and Institutions Code, if he or she is

treating or investigating a case of known or 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.

SEC. 4. Section 326 of the Welfare and Institutions Code is amended to read:

326. For the purposes of Child Abuse Prevention and Treatment Act grants to states (Public Law 93-247), in all cases in which there is filed a petition based upon alleged neglect or abuse of the minor, or in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the minor, the probation officer or a social worker who files a petition under this chapter shall be the guardian ad litem to represent the interests of the minor in proceedings under this chapter, unless the court shall appoint another adult as guardian ad litem. However, the guardian ad litem shall not be the attorney responsible for presenting evidence alleging child abuse or neglect in judicial proceedings. No bond shall be required from any guardian ad litem acting under this section.

SEC. 5. (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.

SEC. 6. The sum of two hundred thousand dollars (\$200,000) is hereby appropriated from the General Fund to the Department of Justice for the purpose of automating the Child Abuse Central Registry pursuant to Section 5 of this act.

SEC. 6.5. (a) Section 2.2 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2702, at which time Section 2.2 of this bill shall become operative, in which case Sections

2.4 and 2.6 of this bill shall not become operative.

(b) Section 2.4 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and SB 1124. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after SB 1124, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of SB 1124, at which time Section 2.4 of this bill shall become operative, in which case Sections 2.2 and 2.6 of this bill shall not become operative.

(c) Section 2.6 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by this bill, AB 2702, and SB 1124. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1985, but this bill becomes operative first, (2) all three bills amend Section 11165 of the Penal Code, and (3) this bill is enacted after AB 2702 and SB 1124, in which case Section 11165 of the Penal Code, as amended by Section 2 of this bill, shall remain operative only until the operative date of AB 2702 and SB 1124, at which time Section 2.6 of this bill shall become operative, in which case Sections 2.2 and 2.4 shall not become operative.

SEC. 7. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. 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.

SEC. 8. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 9. 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 the necessity are:

In order to automate the Child Abuse Central Registry as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1614

An act relating to youth, and making an appropriation therefor.

needs placed in nonpublic, nonsectarian schools pursuant to Sections 56365 and 56366.

(2) The individual program placement costs specified in paragraph (1) shall be listed according to the placement categories of individuals with exceptional needs, including, but not limited to, all of the following categories:

- (A) Full-day placement.
- (B) Partial day placement.
- (C) Residential placement within the state.
- (D) Residential placement outside the state.

(b) Beginning September 15, 1985, the superintendent shall prepare a report of the data collected pursuant to subdivision (a) by September 15 of each year.

SEC. 4. Due to the unique circumstances affecting the Delano Joint Union High School District, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 5. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. 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.

SEC. 6. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 7. 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 the necessity are:

In order to allow the Delano Joint Union High School District to meet its obligations for the 1984-85 fiscal year, and in order to obtain the data necessary to effectuate the intent of the Legislature declared in Section 1 of this act at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1718

An act to amend Section 11172 of, and to add Section 11166.5 to, the Penal Code, relating to child abuse reporting.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 11166.5 is added to the Penal Code, to read:
11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires 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 knows or reasonably suspects has been the victim of a 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.

"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; licensed day care workers; administrators of community 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.

"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 signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 2. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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. 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, the provisions of 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 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 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.

(c) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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 such access.

SEC. 3. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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. 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, the provisions of 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, medical practitioner, nonmedical practitioner, or employee of a child protective agency 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, medical practitioner, nonmedical practitioner, or an employee of a child protective agency 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 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) 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 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 one thousand dollars (\$1,000) or by both.

SEC. 4. Section 3 of this bill incorporates amendments to Section 11172 of the Penal Code proposed by both this bill and AB 2702. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1985, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after AB 2702, in which case Section 2 of this bill shall not become operative.

SEC. 5. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 6. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. 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 1719

An act to amend Section 86 of the Code of Civil Procedure relating to judicial arbitration.

[Approved by Governor September 30, 1984. Filed with Secretary of State September 30, 1984.]

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

SECTION 1. Section 86 of the Code of Civil Procedure is amended to read:

86. (a) Each municipal and justice court has original jurisdiction of civil cases and proceedings as follows:

(1) In all cases at law in which the demand, exclusive of interest, or the value of the property in controversy amounts to fifteen thousand dollars (\$15,000) or less, except cases which involve the legality of any tax, impost, assessment, toll, or municipal fine, except the courts have jurisdiction in actions to enforce payment of delinquent unsecured personal property taxes if the legality of the tax is not contested by the defendant.

(2) In actions for dissolution of partnership where the total assets of the partnership do not exceed fifteen thousand dollars (\$15,000); in actions of interpleader where the amount of money or the value of the property involved does not exceed fifteen thousand dollars (\$15,000).

(3) In actions to cancel or rescind a contract when the relief is sought in connection with an action to recover money not exceeding fifteen thousand dollars (\$15,000) or property of a value not exceeding fifteen thousand dollars (\$15,000), paid or delivered under, or in consideration of, the contract; in actions to revise a contract where the relief is sought in an action upon the contract if the court otherwise has jurisdiction of the action.

(4) In all proceedings in forcible entry or forcible or unlawful detainer:

(A) In actions to recover possession of real property where rent is charged, and the amount of the last rental charged is one thousand dollars (\$1,000) per month or less, and the whole amount of damages claimed is fifteen thousand dollars (\$15,000) or less.

(B) In all other actions to recover possession of real property where the rental value is one thousand dollars (\$1,000) per month or less, and the whole amount claimed is fifteen thousand dollars (\$15,000) or less.

(5) In all actions to enforce and foreclose liens on personal property where the amount of the liens is fifteen thousand dollars

CHAPTER 189

An act to amend Section 11165 of the Penal Code, relating to child abuse reporting.

[Approved by Governor July 9, 1985. Filed with Secretary of State July 10, 1985.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of 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 abuse 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 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 of 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 prevention program in any public or private school.

(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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 2. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 190

An act to amend Section 7363 of the Fish and Game Code, relating to fish, and making an appropriation therefor.

[Approved by Governor July 9, 1985. Filed with
Secretary of State July 10, 1985.]

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

SECTION 1. Section 7363 of the Fish and Game Code is amended to read:

7363. This article shall remain in effect only until January 1, 1990, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1990, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to

subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (c) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.4, 12022.5, 12022.6, 12022.7, or 12022.9 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.

(h) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.4, 12022.5, 12022.6, 12022.7, and 12022.9 if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(i) For any violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy or oral copulation by force, violence, duress; menace or threat of great bodily harm as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 4. Section 12022.4 is added to the Penal Code, to read:

12022.4. Any person who, during the commission or attempted commission of a felony, furnishes or offers to furnish a firearm to another for the purpose of aiding, abetting, or enabling that person or any other person to commit a felony shall, in addition and consecutive to the punishment prescribed by the felony or attempted felony of which the person has been convicted, be punished by an additional term of two years in the state prison. The additional term provided in this section shall not be imposed unless the fact of the furnishing is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 1170.1 of the Penal Code proposed by both this bill and AB 1087. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 1170.1 of the Penal Code, and (3) this bill is enacted after AB 1087, in which case Section 3 of this bill shall not become operative.

CHAPTER 464

An act to amend Section 11166.5 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 4, 1985. Filed with
Secretary of State September 5, 1985.]

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

SECTION 1. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires 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 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.

"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; ~~licensed day care workers~~; administrators of community 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.

"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 signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child

protective agencies 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 Section 11166.5 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 Section 11166.5, the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

CHAPTER 465

An act to amend Sections 6011, 6015, 6021, ~~6024~~, 6163, 6169, 6170, and 6171 of, to add Sections 6161.1, and 6171.1 to, and to repeal Section 6164 of, the Business and Professions Code, relating to the State Bar of California.

[Approved by Governor September 4, 1985. Filed with
Secretary of State September 5, 1985.]

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

SECTION 1. Section 6011 of the Business and Professions Code is amended to read:

6011. The board consists of 22 members and the President of the State Bar.

SEC. 2. Section 6015 of the Business and Professions Code is amended to read:

6015. No person is eligible for attorney membership on the board unless he or she is an active member of the State Bar and unless he or she maintains his or her principal office for the practice of law within the State Bar district from which he or she is elected.

One member of the board from State Bar District 7 elected in 1939, and any successor to this member, at the time of his or her election shall, and any member from the district may, maintain his or her principal office for the practice of law outside of the City of Los Angeles.

SEC. 3. Section 6021 of the Business and Professions Code is amended to read:

CHAPTER 1068

An act to add Section 4609 to the Civil Code, to add Section 11165.3 to the Penal Code, and to amend Sections 16507, 18964, 18964.1, 18964.5, 18964.6, and 18964.7 of the Welfare and Institutions Code, relating to children, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 4609 is added to the Civil Code, to read:
4609. In accordance with Section 16507 of the Welfare and Institutions Code, family reunification services shall not be ordered as part of a child custody or visitation rights proceeding brought under this part.

SEC. 2. Section 11165.3 is added to the Penal Code, to read:

11165.3. (a) Notwithstanding the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 11165, on and after the effective date of this section, instead of the meaning given in that subparagraph sexual exploitation refers to 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.

(b) Notwithstanding the provisions of Section 11165, on and after the effective date of this section, the definition of abuse in out-of-home care made in that section is applicable to acts of an administrator or an employer of a public or private home, school, or institution only when the home, school, or institution is a residential institution. The definition is not applicable to an agency.

SEC. 3. Section 16507 of the Welfare and Institutions Code is amended to read:

16507. Family reunification services shall be provided or arranged for by county welfare department staff in order to reunite the child separated from his or her parent because of abuse, neglect, or exploitation. These services shall not exceed 12 months except as provided in subdivision (e) of Section 361. Family reunification services shall be available without regard to income to families whose

child has been adjudicated or is in the process of being adjudicated a dependent child of the court under the provisions of Section 300. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

Family reunification services shall only be provided when a child has been placed in foster care.

SEC. 4. Section 18964 of the Welfare and Institutions Code is amended to read:

18964. The Office of Child Abuse Prevention shall contract for the operation of eight pilot projects to be based on in-home care, which shall be designed to avoid the out-of-home placement of abused or neglected children. These programs shall do all of the following:

(a) Provide in-home services utilizing licensed therapists who have at least a masters degree or the equivalent combination of education and experience.

(b) Provide intensive supplemental training to any staff therapist concerning therapeutic techniques local resources, and assure that the therapist has received the intensive supplemental training specified in Section 18964.5, before assigning any client to the therapist.

(c) Limit the number of families assigned to a therapist at any given time to a maximum of three, except that if a therapist team is utilized, the maximum number of families assigned to such a team shall be six at any given time.

(d) Offer services only to families where it appears that unless the program's services are provided, it will be necessary to place one or more children out of the home.

(e) Have the therapists assigned to a family, be on call and available to the family 24 hours a day, for a period appropriate to the family's needs, which is ordinarily a period of four to six weeks.

(f) Keep records, conduct internal evaluation, and cooperate with external evaluation as directed by the Office of Child Abuse Prevention.

To qualify for continued funding each agency shall meet all of the following annual minimum performance goals:

(1) Each agency shall demonstrate a success rate of 75 percent in avoiding out-of-home placement six months after intervention, with increased success rates in subsequent years.

(2) Each agency shall submit a detailed budget and annual audit.

(3) Each agency shall submit a letter of agreement from the local county department conducting the duties of the probation officer concerning dependent children as described in Section 300, indicating continued support and cooperation with the funded agency.

These pilot projects shall provide services to children who are within the jurisdiction of the juvenile court pursuant to Section 330,

or who are dependent children not taken from the physical custody of their parents or guardian pursuant to Section 364, or who are dependent children removed from the physical custody of their parents or guardian pursuant to Section 361. The caseworker may return a dependent child removed from the home pursuant to Section 361, with appropriate pilot project services, in an appropriate case, pursuant to a new court order which may be granted on an ex parte basis. Each family receiving services shall have an open and active emergency response or family maintenance care plan.

Not more than one pilot project shall be located in any one county. At least one pilot project shall be in a rural county. For the purpose of this section, a rural county is a county with a population of less than 125,000 persons. Services to minority populations shall be reflected in the funding of programs. Each agency applying for funding shall submit with its application, a letter from the local county department conducting the duties of the probation department concerning dependent children described in Section 300, indicating a willingness to work cooperatively with the applicant agency and its proposed project. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention. The projects shall be funded at an average level of not more than one hundred fifty thousand dollars (\$150,000) per year, less the allowable department administrative costs described in Section 18969.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 5. Section 18964.1 of the Welfare and Institutions Code is amended to read:

18964.1. The Office of Child Abuse Prevention shall develop specific criteria to contract for the operation of three pilot projects, designed to maximize the safety, security, comfort, and quality of life of children aged 14 or under who are in self-care during hours of parental employment or other unavailability, by training families in how to accomplish these goals, and by other techniques designed to accomplish these goals that are consistent with the requests for proposals issued pursuant to Section 18964.5. Not more than one pilot project shall be located in any one county. At least one pilot project shall be located in a rural county. For the purpose of this section, rural counties are those having populations of under 125,000 persons. Geographic equity throughout the state shall be reflected in the funding of programs.

Each pilot project shall provide training to families who use self-care with young children. The selection of agencies to be funded shall be determined by the Office of Child Abuse Prevention. The projects shall be funded at an average level of not more than seventy-five thousand dollars (\$75,000) per year, less allowable the departmental administrative costs described in Section 18969.

This section shall remain in effect only until January 1, 1989, and on that date is repealed, unless a later enacted statute chaptered

prior to that date extends or deletes that date.

SEC. 6. Section 18964.5 of the Welfare and Institutions Code is amended to read:

18964.5. Contracts for pilot projects established under Sections 18964 and 18964.1 shall be entered into utilizing a competitive bid basis. Contracts may only be entered into by public or private nonprofit agencies, except for child protection agencies as defined in subdivision (k) of Section 11165 of the Penal Code.

Projects shall be evaluated through internal and external evaluation processes. The total cost of the external evaluation of the projects under both Sections 18964 and 18964.1 shall not exceed two hundred twenty-five thousand dollars (\$225,000). A contract or contracts for evaluation shall be entered into utilizing a competitive bid basis, with no restriction on the categories of agencies that may bid. Requests for evaluation proposals shall be issued within 120 days of the effective date of the addition of this section, as enacted, during the 1985-86 Regular Session. Requests for pilot project proposals shall be issued within 90 days of the date the requests for evaluation proposals are issued.

The request for proposals for the pilot projects established under Section 18964 shall require that applicants identify a plan for acquiring and presenting intensive supplemental training concerning therapeutic techniques and related issues to any staff therapist of a project established under Section 18964 before any client is assigned to the therapist. This requirement recognizes that quality training is needed for the successful completion of the evaluation of these projects. The request for proposals shall also require that applicants identify a plan for continuing education of the staff therapists. The initial training shall be provided, and the continuing education may be provided, by individuals with recognized expertise in the development, establishment, and administration of in-home care programs similar to those described in Section 18964. Training may be provided by the applicant, with the review and approval of the Office of Child Abuse Prevention.

Agencies selected for funding shall receive funds in a timely manner, including an advance of funds when necessary to initiate a project.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 7. Section 18964.6 of the Welfare and Institutions Code is amended to read:

18964.6. The Office of Child Abuse Prevention shall develop a system of written guidelines for funding and a system of performance standards for monitoring the effectiveness of the pilot programs. The standards shall consist of measurable objectives, including, but not limited to, a measure of success at avoiding the need for out-of-home placement and the cessation of abuse, neglect, or sexual exploitation. Each pilot project shall be evaluated in terms

of these standards. The effectiveness of programs of pilot projects funded pursuant to Sections 18964 and 18964.1 shall be evaluated by a public institution or private nonprofit agency or other qualified organization selected by the department. Funding for the evaluation of these pilot projects shall be provided from appropriations to the State Children's Trust Fund.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date, extends or deletes that date.

SEC. 8. Section 18964.7 of the Welfare and Institutions Code is amended to read:

18964.7. During the 1987-88 fiscal year, the Auditor General shall evaluate compliance with the competitive process for contracting with agencies pursuant to Section 18964.5, including timely distribution of funds. In addition, the Auditor General shall evaluate compliance with Section 18964.6. The Auditor General shall report to the Legislature on his or her findings no later than December 31, 1987.

This section shall remain in effect only until January 1, 1989, and as of that date is repealed, unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 9. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 10. 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 the necessity are:

In order to prevent the loss of federal funds under the federal child abuse and neglect grant program, it is necessary that this act go into immediate effect. In order to clarify the authority of the Office of Child Abuse Prevention to conduct competitive bidding for necessary pilot projects on a statewide basis, and to ensure proper training for the staff therapists of the projects established under Section 18964 of the Welfare and Institutions Code without delaying the commencement of these important projects, it also is necessary that this act go into immediate effect. In order to prevent ambiguity in provisions relating to child welfare services, and in order to avoid inappropriate ordering of family reunification services, it is necessary that this act go into immediate effect.

CHAPTER 1069

An act to amend Sections 4701 and 4801.6 of, to add Section 4357.5 to, and to repeal Section 4801.6 of, the Civil Code, and to amend Section 11475.1 of the Welfare and Institutions Code, relating to support.

[Approved by Governor September 27, 1985. Filed with Secretary of State September 27, 1985.]

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

SECTION 1. Section 4357.5 is added to the Civil Code, to read: 4357.5. (a) In any action for child support that has been filed and served, the court may, without a hearing, make an order requiring a parent or parents to pay for the support, maintenance, and education of his or her minor child or children during the pendency of that action, pursuant to this section, in an amount as required by Section 4722 or, if the income of the obligated parent or parents is unknown to the applicant, then the minimum amount of support as provided in Section 11452 of the Welfare and Institutions Code.

An order under this section shall be known as an expedited support order.

As used in this section, "income and expense declaration" means the form for an income and expense declaration in family law matters adopted by the Judicial Council.

(b) An expedited support order shall be made by the superior court upon the filing of an application requesting that relief, setting forth the minimum amount the obligated parent or parents are required to pay pursuant to Section 4722 or pursuant to Section 11452 of the Welfare and Institutions Code, an income and expense declaration for both parents completed by the applicant, a worksheet setting forth the basis of the required amount and a proposed expedited support order.

Except in the event of a hearing concerning the application for an expedited support order, the amount of the expedited support order shall be the minimum amount the obligated parent is required to pay as set forth in the application. An expedited support order shall be effective 30 days after service on the obligated parent of the application, income and expense declarations, worksheet, a notice of consequences of failure to file a response, the proposed order, three blank responses to the application for an expedited support order and notice of hearing forms, and three blank income and expense declaration forms.

The expedited support order shall be effective on the obligated parent, without further action by the court, unless there is a response to the application for an expedited support order.

(c) Service on the obligated parent of the application and other required documents as set forth in subdivision (b) shall be by

of persons confined in a state hospital for purposes of mental health treatment pursuant to the Penal Code.

SEC. 2.75. The Legislature finds and declares that Department of Corrections prisoners subject to the provisions of this act are in a separate, distinct class from persons who have been committed by the State Department of Mental Health under the provisions of Section 1026 or 1370 of the Penal Code, or former Section 6316 of the Welfare and Institutions Code. Therefore, it is not intended that any provision of this act be construed in any way to effect the status of persons committed to the State Department of Mental Health under Section 1026 or 1370 of the Penal Code, or former Section 6316 of the Welfare and Institutions Code. Nor are the provisions of this act intended in any manner to affect decisional law interpreting those statutes.

SEC. 2.85. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 3. Except as provided in paragraph (8) of subdivision (f) of Section 2960 of the Penal Code, this act shall become operative on July 1, 1986.

CHAPTER 1420

An act to add Section 11165.5 to the Penal Code, relating to crimes.

[Approved by Governor October 1, 1985. Filed with
Secretary of State October 1, 1985.]

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

SECTION 1. Section 11165.5 is added to the Penal Code, to read:
11165.5. As used in Sections 11165 and 11166.5, "child care custodian," in addition to the persons specified therein, means 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. It also includes 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.

SEC. 2. School districts which do not train the employees specified in Section 11165.5 of the Penal Code 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.

SEC. 3. The Legislature declares that this act mandates a new program or higher level of service on local government. As required by Section 6 of Article XIII B of the California Constitution, reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 4. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1421

An act to amend Sections 39510 and 39512.5 of, and to repeal Section 39510.5 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor October 1, 1985. Filed with
Secretary of State October 1, 1985.]

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

SECTION 1. Section 39510 of the Health and Safety Code is amended to read:

39510. (a) The State Air Resources Board is continued in existence in the Resources Agency. The state board shall consist of nine members.

(b) The members shall be appointed by the Governor with the consent of the Senate on the basis of their demonstrated interest and proven ability in the field of air pollution control and their understanding of the needs of the general public in connection with air pollution problems. Five members shall have the following qualifications:

(1) One member shall have training and experience in automotive engineering or closely related fields.

(2) One member shall have training and experience in chemistry, meteorology, or related scientific fields, including agriculture or law.

(3) One member shall be a physician and surgeon or an authority on health effects of air pollution.

(4) One member shall be a public member.

(5) One member shall have the qualifications specified in paragraph (1), (2), or (3) or shall have experience in the field of air

CHAPTER 1528

An act to add Section 1596.889 to the Health and Safety Code, and to amend Sections 11165 and 11174 of the Penal Code, relating to child abuse.

[Approved by Governor October 2, 1985. Filed with Secretary of State October 2, 1985.]

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

SECTION 1. Section 1596.889 is added to the Health and Safety Code, to read:

1596.889. In all proceedings conducted in accordance with Section 1596.887, the preponderance of the evidence standard shall apply.

SEC. 2. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists; employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse, or neglect, or 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 a licensed community care or child day care facility, or the administrator or an employee of a public or private 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 abuse 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 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; 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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 2.5. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or

encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or 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 a licensed community care or child day care facility, or the administrator or an employee of a public or private 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 abuse 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 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 of 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.

(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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 3. Section 11174 of the Penal Code is amended to read:

11174. 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 subdivision (f) of Section 11165, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

SEC. 3.5. Section 2.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 701. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 701, in which case Section 2 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 6. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on school districts or local government. It is recognized, however, that school districts or local governments may make claims for reimbursement under Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code.

CHAPTER 1529

An act relating to juvenile arson and firesetting, and making an appropriation therefor.

[Approved by Governor October 2, 1985. Filed with
Secretary of State October 2, 1985.]

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

SECTION 1. (a) There is in state government an advisory group entitled "The Task Force on Juvenile Arson and Firesetting," composed of members appointed as specified in subdivision (b).

(b) The State Fire Marshal or his or her representative shall be the chair of the task force. The Senate Committee on Rules shall appoint one person to represent the National Firehawk Foundation and one person to represent the California Conference of Arson Investigators. The Speaker of the Assembly shall appoint one person to represent psychologists and one person to represent parents of juvenile firesetters. In addition to these appointments, the Senate

formally declared.

(3) Whenever the United States is assisting the United Nations, in actions involving the use of the armed forces, to maintain or restore international peace and security.

(c) A member electing to receive credit for public service under this section shall pay the contributions and interest required pursuant to Section 20932, except that, the first subsequent period of service in membership as a state member, other than a university member, shall be used to determine the formula, rate, age applicable, and the compensation earnable.

(d) This section shall apply to a member only if the member elects to receive credit while he or she is a state member, other than a university member, and he or she is credited with at least 10 years of service as a state member, other than a university member, on the date of such election.

(e) The maximum public service credit which may be received pursuant to this section is five years.

(f) This section shall not apply to any member receiving military retirement pay as described in Section 20809.1 or disability retirement pay as described in Section 20809.2.

(g) Except as provided in subdivision (f), this section shall apply to a state member, other than a university member, who leaves or has left employment with the state, subsequently meets or has subsequently met the conditions specified in subdivisions (a) and (b), and thereafter returns or thereafter has returned to service as a state member, other than a university member, is not entitled to receive the service credit pursuant to Section 20892.5 or 20894.5.

CHAPTER 1572

An act to amend Section 1228 of the Evidence Code, and to add Sections 11165.1 and 11165.2 to the Penal Code, relating to child abuse, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 2, 1985. Filed with
Secretary of State October 2, 1985.]

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

SECTION 1. Section 1228 of the Evidence Code is amended to read:

1228. Notwithstanding any other provision of law, for the purpose of establishing the elements of the crime in order to admit as evidence the confession of a person accused of violating Section 261, 264.1, 285, 286, 288, 288a, 289, or 647a of the Penal Code, a court, in its discretion, may determine that a statement of the complaining witness is not made inadmissible by the hearsay rule if it finds all of the following:

(a) The statement was made by a minor child under the age of 12, and the contents of the statement were included in a written report of a law enforcement official or an employee of a county welfare department.

(b) The statement describes the minor child as a victim of sexual abuse.

(c) The statement was made prior to the defendant's confession. The court shall view with caution the testimony of a person recounting hearsay where there is evidence of personal bias or prejudice.

(d) There are no circumstances, such as significant inconsistencies between the confession and the statement concerning material facts establishing any element of the crime or the identification of the defendant, that would render the statement unreliable.

(e) The minor child is found to be unavailable pursuant to paragraph (2) or (3) of subdivision (a) of Section 240 or refuses to testify.

(f) The confession was memorialized in a trustworthy fashion by a law enforcement official.

If the prosecution intends to offer a statement of the complaining witness pursuant to this section, the prosecution shall serve a written notice upon the defendant at least 10 days prior to the hearing or trial at which the prosecution intends to offer the statement.

If the statement is offered during trial, the court's determination shall be made out of the presence of the jury. If the statement is found to be admissible pursuant to this section, it shall be admitted out of the presence of the jury and solely for the purpose of determining the admissibility of the confession of the defendant.

SEC. 2. Section 11165.1 is added to the Penal Code, to read:

11165.1. In addition to those persons specified in the definition of "child care custodian" contained in Section 11165, the term also includes any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

SEC. 3. Section 11165.2 is added to the Penal Code to read:

11165.2. (a) On and after the effective date of this section, as used in this article, "medical practitioner" or "nonmedical practitioner" means a "health practitioner" as defined in this section.

(b) "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.

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 5. 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 the necessity are:

In order to make necessary clarification in the law regarding the testimony of minors in child abuse cases and in order that child protective agencies may make information regarding reported cases of known or suspected child abuse instances available to reporting marriage, family, and child counselors at the earliest possible time, it is necessary that this bill take immediate effect.

CHAPTER 1573

An act to add Section 18041 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor October 2, 1985. Filed with
Secretary of State October 2, 1985.]

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

SECTION 1. Section 18041 is added to the Revenue and Taxation Code, to read:

18041. (a) No gain shall be recognized with respect to a sale of a mobilehome park by the taxpayer to a majority or more of the residents of the mobilehome park if the taxpayer has not previously sold a mobilehome park to the residents thereof within the same taxable year and all of the proceeds from the sale are reinvested in residential real property, other than a personal residence, in this state within two years after the sale.

(b) For purposes of this section:

(1) "Taxpayer" means the sole owner or any one of multiple owners of a mobilehome park.

(2) "Mobilehome park" means a mobilehome park as defined in Section 18214 of the Health and Safety Code.

(b) Establishing an allowance for each district board, which the district board may use for the following purposes:

(1) To purchase instructional materials adopted by the state board.

(2) To purchase instructional materials from any source.

(3) To purchase tests or in-service training pursuant to Sections 60224 and 60225.

The state board shall specify the percentage of a district board's allowance authorized to be used for each of the above purposes.

Allowances established for school districts pursuant to this section shall be apportioned to districts as part of the special purpose apportionment in accordance with paragraph (5) of subdivision (a) of Section 14041.

The Superintendent of Public Instruction may establish a date each fiscal year by which districts shall notify the State Department of Education if they wish to operate under a different subdivision during the next fiscal year.

(c) Obtaining instructional materials in subsequent fiscal years.

SEC. 13. Section 84700.5 is added to the Education Code, to read: 84700.5. For the 1986-87 fiscal year, the amount computed pursuant to Section 84700 shall be increased by the amount reported by the Teachers' Retirement Board for that community college district under Section 23400.3, divided by the district's second principal apportionment average daily attendance for the 1985-86 fiscal year.

SEC. 14. Section 11.5 of this bill incorporates amendments to Section 46201 of the Education Code proposed by both this bill and AB 1855. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 46201 of the Education Code, and (3) this bill is enacted after AB 1855, in which case Section 11 of this bill shall not become operative.

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the Legislature finds and declares that there are savings as well as costs in this act which, in the aggregate, do not result in additional net costs.

CHAPTER 1598

An act to add Sections 1522.1 and 1596.877 to the Health and Safety Code, and to amend Sections 11166.5, 11167, 11167.5, 11169, 11170, and 11172 of, and to add Sections 11165.6, 11166.1, and 11166.2 to, the Penal Code, relating to child abuse, and making an appropriation therefor.

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 signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 5.1. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires 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 knows or reasonably suspects has been the victim of a 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.

"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 signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies 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 Section 11166.5 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 Section 11166.5, the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

SEC. 5.2. Section 11166.5 of the Penal Code is amended to read:

11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health 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 knows or reasonably suspects has been the victim of a 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.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil

CHAPTER 248

An act to amend Sections 7108.5, 8706, 9741, 17300, and 25608 of, to amend and renumber Sections 5678, 5679, 5680, 9750, 19170, 24045.9, and 24757 of, to add Chapter 19.5 (commencing with Section 22440) to Division 8 of, and to repeal Chapter 20 (commencing with Section 22450) of Division 8 of, the Business and Professions Code, to amend Section 2945.1 of, to amend and renumber Section 43.5(a) of, to amend and renumber the heading of Chapter 6 (commencing with Section 1918) of Title 4 of Part 4 of Division 3 of, and to repeal the heading of Chapter 2a (commencing with Section 2980) of Title 14 of Part 4 of Division 3 of, the Civil Code, to amend Sections 697.590, 1985.3, and 2037 of, and to repeal Section 86.1 of, the Code of Civil Procedure, to amend Sections 44857, 48915, 49557, and 67300 of, to amend and renumber Sections 51880, 51881, 51882, and 69648.5 of, to repeal Sections 15104, 92660, 92660.5, 92661, and 92667 of, and to repeal the headings of Article 2 (commencing with Section 2520) of Chapter 12 of Part 2, Article 7 (commencing with Section 5400) of Chapter 3 of Part 4, Chapter 11 (commencing with Section 11000) of Part 7, Article 4 (commencing with Section 84070) of Chapter 1 of Part 50, and Article 4.5 (commencing with Section 92045) of Chapter 1 of Part 57 of, the Education Code, to amend Section 451 of the Evidence Code, to amend Sections 12534, 12582, and 12608.5 of the Food and Agricultural Code, to amend Sections 3501, 3541.5, 7090, 10527.2, 10549, 11010, 11346.52, 15325, 15333, 15355, 15382, 15384, 15385, 15972, 15973, 15975, 15980, 15982, 16304.6, 17622, 23150, 23285, 23358, 53637, 53638, 53639, 53640, 53641, 53643, 53645, 53650, 54957.6, 57075.5, and 66700 of, to amend and renumber Sections 6254.2, 7575, 14669, 15335.5, 19822.5, 27556, 31648.3, 35155.5, 53075, 53635.5, and 71603.5 of, to amend and renumber the headings of Chapter 26 (commencing with Section 7570) of Division 7 of Title 1, Chapter 11 (commencing with Section 8855) of Division 1 of Title 2, Article 4 (commencing with Section 14825) of Chapter 6 of Part 5.5 of Division 3 of Title 2, and Article 8 (commencing with Section 25730) of Chapter 7 of Division 2 of Title 3 of, to repeal Sections 11019, 15981, and 66714.9 of, to repeal the heading of Article 4 (commencing with Section 4380) of Chapter 4 of Division 5 of Title 1 of, and to add the heading of Article 5 (commencing with Section 18990) to Chapter 5 of Part 2 of Division 5 of Title 2 of, the Government Code, to amend Section 1202 of the Harbors and Navigation Code, to amend Sections 113, 1339.5, 1502, 1596.865, 1596.871, 1797, 1797.3, 1797.50, 1797.54, 1797.84, 1797.97, 1797.106, 1797.107, 1797.133, 1797.174, 1797.208, 1797.212, 1798.200, 1798.202, 1798.204, 1798.206, 1798.208, 1799.50, 1799.108, 11151, 11380, 12651, 25159.15, 25159.17, 25191.7, 25291, 44200, and 50177 of, to amend and renumber the headings of Article 5 (commencing with Section 4638,) Article 6 (commencing with Section 4641), and Article 7 (commencing with Section 4650) of Chapter 1 of Part 3 of Division 5 of, to repeal Sections 1271, 1418.2, 1418.6, 1424.1, 1427, 1428.1, 1430.5, 1439.5, 1439.7, and 1439.8 of, to

to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated.

The board shall hear each case annually thereafter, except the board may schedule the next hearing no later than (A) two years after any hearing at which parole is denied if the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following year and states the bases for the finding or, (B) three years after any hearing at which parole is denied if the prisoner has been convicted, in the same or different proceedings, of more than one offense which involves the taking of a life, and the board finds that it is not reasonable to expect that parole would be granted at a hearing during the following years and states the bases for the finding.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of that action.

(4) Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for that action, and shall schedule the prisoner's next hearing within 12 months and in accordance with paragraph (2).

SEC. 167. Section 3605 of the Penal Code is amended to read:

3605. The warden of the State prison where the execution is to take place shall be present at the execution and must invite the presence of two physicians, the Attorney General of the State, and at least 12 reputable citizens, to be selected by him; and he or she shall at the request of the defendant, permit those ministers of the Gospel, not exceeding two, as the defendant may name, and any persons, relatives or friends, not to exceed five, to be present at the execution, together with such peace officers as he may think expedient, to witness the execution. But no other persons than those mentioned in this section can be present at the execution, nor can any person under 18 years of age be allowed to witness the execution.

SEC. 168. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires 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 knows or reasonably suspects has been the victim of a 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.

"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 signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies 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)~~

(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 shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

SEC. 169. The heading of Chapter 1 (commencing with Section 13010) of Title 3 of Part 4 of the Penal Code is amended to read:

CHAPTER 1. DEPARTMENT OF JUSTICE

SEC. 170. The heading of Article 2 (commencing with Section 13010) of Chapter 1 of Title 3 of Part 4 of the Penal Code is amended and renumbered to read:

Article 1. Duties of the Department

SEC. 171. The heading of Article 3 (commencing with Section 13020) of Chapter 1 of Title 3 of Part 4 of the Penal Code is amended and renumbered to read:

Article 2. Duties of Public Agencies and Officers

SEC. 172. Section 707 of the Probate Code is amended to read:

707. (a) Except as provided in subdivision (b) or Section 707.5 or Section 720, all claims arising upon contract, whether they are due, not due, or contingent, and all claims for funeral expenses and all claims for damages for injuries to or death of a person or injury to property and all claims against the executor or administrator of any testator or intestate who in his lifetime has wasted, destroyed, taken or carried away or converted to his own use, the property of another person or committed any trespass on the real property of another person, shall be filed or presented within the time limited in the notice or as extended by Section 709. Any claim not so filed or presented is barred forever, unless it is made to appear by the affidavit of the claimant to the satisfaction of the court that (1) the claimant had not received notice, by reason of being out of the state, or (2) the claimant had in good faith filed a claim in another proceeding for the same decedent which has not been consolidated with the present proceeding, and in which letters had not been issued. In either event the claim may be filed or presented at any time within one year after the expiration of such prescribed period and before petition for final distribution has been filed; provided, neither the filing or presentation of such claim nor its later establishment, in whole or in part, shall make property distributed pursuant to court order or any payments properly made before filing or presentation of such claim subject to the claim. The clerk shall

SEC. 275. Section 16147 of the Welfare and Institutions Code, as added by Chapter 1460 of the Statutes of 1982, is amended and renumbered to read:

16144.3. Notwithstanding any other provision of law, the parent or parents of a person under 21 years of age who is domiciled in this state shall not be held financially responsible, nor shall financial contributions be requested or required of the parent or parents, for maternity home care, social service counseling, or other services related to pregnancy of the person which are provided by a licensed maternity home pursuant to this chapter.

SEC. 276. Section 10 is added to Chapter 30 of the Statutes of 1985, to read:

Sec. 10. 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 the necessity are:

Existing law, enacted in 1984, provides for a unified system of state regulated bar and inland pilotage for the Bays of San Francisco, San Pablo, and Suisun with provision for the continuation of inland pilots licenses for those existing inland pilots who apply for those licenses prior to March 31, 1985. In order to clarify these laws to make certain that the provisions relating to suspension and revocation of licenses continue to apply to this category of pilot, and in order to include drug abuse as a ground for suspension or revocation, it is necessary that this act take effect immediately.

SEC. 277. Any section of any act enacted by the Legislature during the 1986 calendar year, which takes effect on or before January 1, 1987, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act.

CHAPTER 249

An act to add Sections 40048 and 49068.5 to the Education Code, to amend Section 14685 of, and to add Section 13974.1 to, the Government Code, to amend Sections 208, 667.8, and 11114 of, and to add Sections 11114.1 and 11114.2 to, the Penal Code, and to add Section 221 to the Streets and Highways Code, relating to the Missing Children Act of 1985, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

CHAPTER 1289

An act to amend Sections 11165.5, 11166, and 11167 of the Penal Code, relating to abuse.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 11165.5 of the Penal Code is amended to read:

11165.5. (a) As used in Sections 11165 and 11166.5, "child care custodian," in addition to the persons specified therein, means 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. It also includes 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.

(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.

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

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 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. 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

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

(g) 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, except acts or omissions coming within the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A county probation or welfare department 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 law enforcement agency shall immediately or as soon as practically possible report by telephone to the county welfare department, 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 the provisions of paragraph (2) of subdivision (c) of Section 11165, which shall only be reported to the county welfare department. A law enforcement 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.

SEC. 3. Section 11167 of the Penal Code is amended to read:

11167. (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) 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 Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil 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.

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

SEC. 4. Reimbursement to local agencies and school districts for costs mandated by the state pursuant to this act shall be made

pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

CHAPTER 1290

An act to add Section 66787.6 to the Government Code, to add Division 12.1 (commencing with Section 14500) to, and to repeal Sections 14530.5 and 14585 of, the Public Resources Code, and to add Sections 17153.5, 19278, and 24315 to the Revenue and Taxation Code, relating to beverage containers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1986. Filed with Secretary of State September 29, 1986.]

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

SECTION 1. Section 66787.6 is added to the Government Code, to read:

66787.6. (a) A local agency shall not deny a permit for the operation of a mobile recycling unit or reverse vending machine, which is certified, or has applied to be certified, as a recycling location pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, on private property located in an area that is zoned for commercial or industrial uses, and is located within, or to be located within, a convenience zone, if the operator of the mobile recycling unit or reverse vending machine submits written certification from the property owner granting permission to operate on that property from the property owner, unless the local agency specifically finds, and states its reasons for finding, that this operation will have a detrimental effect on public health, safety, or general welfare. If the certificate is revoked pursuant to Section 14541 of the Public Resources Code, the local agency permit shall automatically expire.

(b) Consistent with subdivision (a), a local agency may adopt reasonable rules and regulations, which are not inconsistent with Sections 14570 and 14571 of the Public Resources Code, concerning the operation of mobile recycling units and reverse vending machines, including, but not limited to, specifying the times and frequencies of operations and the posting of appropriate signs.

(c) For purposes of this section, "mobile recycling unit" means a properly licensed automobile, truck, trailer, or van which is used for the collection of recyclable material such as aluminum, glass, plastic, and paper.

(d) For purposes of this section, "reverse vending machine" has

and carbon dioxide and shall be designated on labels and in advertising as follows:

(1) The common or usual name of the characterizing flavor shall accompany the designation of the bottled water product type as defined in subdivision (b) of Section 26594.

(2) The product may be designated as "natural" only if it meets the requirements for the designation as defined in paragraphs (5) and (6) of subdivision (b) of Section 26594, and naturally derived flavors, extracts, or essences are used.

(b) Products labeled pursuant to this section shall comply with all other provisions of this article. Products with one type or one source of bottled water that are labeled pursuant to this section shall not be blended with water that is not bottled water or that is of another bottled water type.

26594.5. The department, prior to issuing a license, shall review all labels prepared pursuant to this article, and may require any changes in order to comply with the provisions of this article.

SEC. 3. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 640

An act to add Section 11174.3 to the Penal Code, relating to child abuse.

[Approved by Governor September 14, 1987. Filed with Secretary of State September 15, 1987.]

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

SECTION 1. 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.

SEC. 2. Section 11174.3 is added to the Penal Code, to read:

11174.3. (a) Whenever a representative of a child protective agency 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. 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 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 shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

CHAPTER 641

An act to amend Sections 69948, 70054.3, and 70056.7 of, and to add Section 70045.2 to, the Government Code, relating to courts, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 14, 1987. Filed with
Secretary of State September 15, 1987.]

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

SECTION 1. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in

employer, the insurer shall file with the division immediately upon receipt, the original of the employer's report, which has been received from the insured employer.

(b) In every case involving a serious injury or illness, or death, in addition to the report required by subdivision (a), a report shall be made immediately by the employer to the Division of Occupational Safety and Health by telephone or telegraph.

SEC. 7. Section 6412 of the Labor Code is amended to read:

6412. No report of injury or illness required by subdivision (a) of Section 6409.1 shall be open to public inspection or made public, nor shall those reports be admissible as evidence in any adversary proceeding before the Workers' Compensation Appeals Board. However, the reports required of physicians by subdivision (a) of Section 6409 shall be admissible as evidence in the proceeding, except that no physician's report shall be admissible as evidence to bar proceedings for the collection of compensation, and the portion of any physician's report completed by an employee shall not be admissible as evidence in any proceeding before the Workers' Compensation Appeals Board.

SEC. 8. Section 6413.5 of the Labor Code is amended to read:

6413.5. Any employer or physician who fails to comply with any provision of subdivision (a) of Section 6409, or Section 6409.1, 6409.2, 6409.3, or 6410 may be assessed a civil penalty of not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) by the director or his or her designee if he or she finds a pattern or practice of violations, or a willful violation of any of these provisions. Penalty assessments may be contested in the manner provided in Section 3725. Penalties assessed pursuant to this section shall be deposited in the General Fund.

SEC. 9. Section 6431 of the Labor Code is amended to read:

6431. Any employer who violates any of the posting or recordkeeping requirements as prescribed by regulations adopted pursuant to Sections 6408 and 6410, or who fails to post any notice required by Section 3550, shall be assessed a civil penalty of up to one thousand dollars (\$1,000) for each violation.

CHAPTER 1020

An act to amend Section 11165 of, and to repeal Section 11165.1 of, the Penal Code, relating to child abuse.

[Approved by Governor September 22, 1987. Filed with
Secretary of State September 23, 1987.]

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

SECTION 1. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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 a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or 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 a licensed community care facility, child day care facility, or any other facility licensed to care for children, or the administrator or an employee of a public or private 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 abuse 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 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 of 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 prevention program in any public or private school.

(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, 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, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 2. Section 11165.1, as added to the Penal Code by Chapter 1572 of the Statutes of 1985, is repealed.

SEC. 3. Section 11165.1, as added to the Penal Code by Chapter 1593 of the Statutes of 1985, is repealed.

CHAPTER 1021

An act to amend Section 653f of the Penal Code, relating to crimes.

[Approved by Governor September 22, 1987. Filed with
Secretary of State September 23, 1987.]

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

SECTION 1. Section 653f of the Penal Code is amended to read:
653f. (a) Every person who solicits another to offer or accept or join in the offer or acceptance of a bribe, or to commit or join in the commission of robbery, burglary, grand theft, receiving stolen property, extortion, perjury, subornation of perjury, forgery, kidnapping, arson or assault with a deadly weapon or instrument or by means of force likely to produce great bodily injury, or, by the use of force or a threat of force, to prevent or dissuade any person who is or may become a witness from attending upon, or testifying at, any trial, proceeding, or inquiry authorized by law, is punishable by imprisonment in the county jail not more than one year or in the state prison, or by fine of not more than ten thousand dollars (\$10,000), or the amount which could have been assessed for commission of the offense itself, whichever is greater, or by both such fine and imprisonment.

(b) Every person who solicits another to commit or join in the commission of murder is punishable by imprisonment in the state prison for three, six, or nine years.

(c) Every person who solicits another to commit rape by force or

CHAPTER 1418

An act to amend Sections 44010 and 87010 of the Education Code, and to amend Sections 290, 802, 868.5, 868.8, 11105.3, and 11165 of, and to amend and renumber Section 647a of, the Penal Code, relating to crimes.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 44010 of the Education Code is amended to read:

44010. "Sex offense," as used in Sections 44346, 44425, 44436, 44836, 45123, and 45304, means any one or more of the offenses listed below:

(a) Any offense defined in Section 261.5, 266, 267, 285, 286, 288, 288a, 647.6, or former Section 647a, subdivision 1, 2, 3, or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961, if the offense defined in such sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if such offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which,

corporation or other organizations specified by the Attorney General which employs or uses the services of volunteers in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(e) As used in this section "sex crime" means a conviction for a violation or attempted violation of Section 220, 261, 261.5, 264.1, 267, 272, 273a, 273d, 285, 286, 288, 288a, 289, 314, 647.6, or former Section 647a, or subdivision (d) of Section 647, or commitment as a mentally disordered sex offender under the provisions of former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(f) As used in this section, "drug crime" means any felony or misdemeanor conviction, within 10 years of the date of the employer's request under subdivision (a), for a violation or attempted violation of the California Uniform Controlled Substances Act contained in Division 10 (commencing with Section 11000) of the Health and Safety Code, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(g) As used in this section, "crime of violence" means any felony or misdemeanor conviction within 10 years of the date of the employer's request under subdivision (a), for any of the offenses specified in subdivision (c) of Section 667.5 or a violation or attempted violation of Chapter 3 (commencing with Section 207), Chapter 8 (commencing with Section 236), or Chapter 9 (commencing with Section 240) of Title 8 of Part 1, provided that no record of a misdemeanor conviction shall be transmitted to the employer unless the subject of the request has a total of three or more misdemeanor or felony convictions defined in subdivision (f) or (g) within the 10-year period.

(h) Conviction for a violation or attempted violation of an offense committed outside the State of California is a sex crime, drug crime, or crime of violence if the offense would have been a crime as defined in this section if committed in California.

SEC. 9. Section 11165 of the Penal Code is amended to read:
11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647.6 or former Section 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation

such 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 a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or 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 a licensed community care or child day care facility, or the administrator or an employee of a public or private 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 abuse 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 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 of 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.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, 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, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 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 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.

(l) "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.

SEC. 9.2. Section 3.1 of this bill incorporates amendments to Section 290 of the Penal Code proposed by both this bill and AB 1407. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 290 of the Penal Code, and (3) this bill is enacted after AB 1407, in which case Section 3 of this bill shall not become operative.

SEC. 9.3. (a) Section 4.1 this bill incorporates amendments to Section 647a of the Penal Code proposed by both this bill and SB 1052. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, and (3) AB 2441 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1052, in which case Sections 4, 4.2, and 4.3 of this bill shall not become operative.

(b) Section 4.2 of this bill incorporates amendments to Section 647a of the Penal Code proposed by both this bill and AB 2441. It shall only become operative if (1) both bills are enacted and become effective January 1, 1988, (2) each bill amends Section 647a of the Penal Code, (3) SB 1052 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2441 in which case Sections 4, 4.1, and 4.3 of this bill shall not become operative.

(c) Section 4.3 of this bill incorporates amendments to Section 647a of the Penal Code proposed by this bill, SB 1052, and AB 2441. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1988, (2) all three bills amend Section 647a of the Penal Code, (3) this bill is enacted after SB 1052 and AB 2441, in which case Sections 4, 4.1, and 4.2 of this bill shall not become operative.

SEC. 9.5. Section 6.5 of this bill incorporates amendments to Section 868.5 of the Penal Code proposed by both this bill and AB 1068. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 868.5 of the Penal Code, and (3) this bill is enacted after AB 1068, in which case Section 6 of this bill shall not become operative.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), reimbursement shall be made from the State Mandates Claims Fund.

CHAPTER 1419

An act to add Section 22232 to the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 30, 1987. Filed with
Secretary of State September 30, 1987.]

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

SECTION 1. Section 22232 is added to the Education Code, to read:

22232. (a) Any tax sheltered annuity program advertised, promoted, offered, or operated by the system shall provide for recovery of all costs and expenses of its own operation including, but not limited to, advertising, promotion, legal, accounting, recordkeeping, and investment costs and expenses and it shall not be subsidized, in any respect whatsoever, by the Teachers' Retirement Fund.

(b) The system shall not utilize its member mailing list for the purpose of transmitting information dedicated solely to advertising or marketing this program.

CHAPTER 1420

An act to add Article 9 (commencing with Section 12650) to Chapter 6 of Division 3 of Title 2 of the Government Code, relating to claims against the state.

[Approved by Governor September 30, 1987. Filed with
Secretary of State September 30, 1987.]

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

SECTION 1. Article 9 (commencing with Section 12650) is added to Chapter 6 of Division 3 of Title 2 of the Government Code, to read.

Article 9. False Claims Actions

12650. For purposes of this article:

(a) "Claim" includes any request or demand for money, property,

of, a health benefits plan pursuant to this section, the employing county, by the 10th day of each month, shall remit to the Public Employees' Contingency Reserve Fund the total health benefits premium costs assumed by the judge. For a judge who retired from a county which is subject to the County Employees Retirement Law of 1937, the county shall deduct the health benefits cost from the judge's retirement allowance and remit that sum to the Public Employees' Contingency Reserve Fund. A county may charge a judge a reasonable administrative fee or additional premium amount for the costs incurred by the county in remitting payments pursuant to this section.

SEC. 3. Section 22816.4 is added to the Government Code, to read:

22816.4. Any judge in a county which is not a contracting agency under this part who is certified by the Judicial Council as available for regular judicial assignment and who has not retired or deferred retirement, shall be eligible to enroll in a health plan under this part upon assuming payment of the contributions required on account of his or her enrollment. Regular judicial assignment is defined as 26 weeks of service in any prior 52-week period. Eligibility for coverage shall terminate upon notice from the Judicial Council that a judge is no longer available for regular judicial assignment in the month following receipt of this notice.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act.

CHAPTER 1444

An act to amend Section 11165 of, to amend the heading of Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of, to add Section 11164 to, and to repeal Section 11174.5 of, the Penal Code, relating to child abuse.

[Approved by Governor September 30, 1987. Filed with
Secretary of State September 30, 1987.]

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

SECTION 1. The heading of Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code is amended to read:

Article 2.5. Child Abuse and Neglect Reporting Act

SEC. 1.5. Section 11164 is added to Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

11164. (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. In any investigation of suspected child abuse, 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.

SEC. 2. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation such 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. 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.

(f) "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 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 a licensed community care or child day care facility, or the administrator or an employee of a public or private 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 abuse 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 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 of 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 prevention program in any public or private school.

(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, 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, or a psychological assistant registered pursuant to Section 2913 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 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. It does not include a school district police or security department.

(l) "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.

SEC. 2.5. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

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

(A) 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).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, 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.

(c) "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.

(1) "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 subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "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 shall not constitute neglect.

(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 the child to be placed in a situation

such 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. 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.

(f) "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 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 a licensed community care facility, child day care facility, or any other facility licensed to care for children, or the administrator or an employee of a public or private 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 abuse 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 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 of 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 prevention program in any public or private school.

(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, 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, or a psychological assistant registered pursuant to Section 2913 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 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. It does not include a school district police or security department.

(l) "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.

SEC. 3. Section 11174.5 of the Penal Code is repealed.

SEC. 4. Section 2.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and SB 691. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1988, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after SB 691, in which case Section 2 of this bill shall not become operative.

CHAPTER 1445

An act to add and repeal Article 15 (commencing with Section 14140) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, and to repeal Article 7 (commencing with Section 44558) of Chapter 1 of Division 27 of the Health and Safety Code, relating to small business development, and making an appropriation therefor.

[Approved by Governor September 30, 1987. Filed with
Secretary of State September 30, 1987.]

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

SECTION 1. Article 15 (commencing with Section 14140) is added to Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code, to read:

Article 15. Hazardous Waste Reduction

14140. For purposes of this article, "generator" means a borrower pursuant to this article or a party who produces hazardous waste and applies for financial assistance pursuant to this article to reduce hazardous waste as generated.

14141. There is hereby created in the State Treasury as part of the Small Business Expansion Fund created pursuant to Section 14029,

shall (1) be required to vote by mail ballot, and (2) in addition to the required residence address, provide a valid mailing address to the county clerk to be used in place of the residence address.

SEC. 3. Section 29207 is added to the Elections Code, to read:

29207. Any person in possession of information obtained pursuant to Section 604 for election purposes, or pursuant to Section 607 for election, scholarly or political research, or governmental purposes, who knowingly uses or permits the use of all or any part of that information for any purpose other than an election, scholarly or political research, or governmental purpose, or who furnishes that information for the use of another, unless the information is furnished for election, scholarly or political research, or governmental purposes, is guilty of a misdemeanor.

SEC. 4. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1459

An act to amend Sections 11166, 11166.5, 11167.5, and 11172 of, to add Sections 11165.4, 11165.7, 11165.8, 11165.9, 11165.10, 11165.11, and 11165.12 to, to repeal and add Sections 11165, 11165.1, 11165.2, 11165.3, 11165.5, and 11165.6 of, the Penal Code, and to amend Sections 16501.1 and 16504 of the Welfare and Institutions Code, relating to child abuse reporting.

[Approved by Governor September 30, 1987. Filed with Secretary of State September 30, 1987.]

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

SECTION 1. Section 11165 of the Penal Code is repealed.

SEC. 2. Section 11165 is added to the Penal Code, to read:

11165. As used in this article "child" means a person under the age of 18 years.

SEC. 3. Section 11165.1 of the Penal Code, as added by Chapter 1572 of the Statutes of 1985, is repealed.

SEC. 4. Section 11165.1 of the Penal Code, as added by Chapter 1593 of the Statutes of 1985, is repealed.

SEC. 5. Section 11165.1 is added to the Penal Code, to read:

11165.1. 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), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288

(lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (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.

SEC. 6. Section 11165.2 of the Penal Code is repealed.

SEC. 7. Section 11165.2 is added to the Penal Code, to read:

11165.2. 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.

SEC. 8. Section 11165.3 of the Penal Code is repealed.

SEC. 9. Section 11165.3 is added to the Penal Code, to read:

11165.3. 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.

SEC. 10. Section 11165.4 is added to the Penal Code, to read:

11165.4. 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.

SEC. 11. Section 11165.5 of the Penal Code is repealed.

SEC. 12. Section 11165.5 is added to the Penal Code, to read:

11165.5. 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.

SEC. 12.5. Section 11165.6 of the Penal Code is repealed.

SEC. 13. Section 11165.6 is added to the Penal Code, to read:

11165.6. As used in this article, "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 abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (unlawful 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. "Child abuse" does not mean a mutual affray between minors.

SEC. 14. Section 11165.7 is added to the Penal Code, to read:

11165.7. (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; a licensee, an administrator, or an employee of a licensed community care or child day care facility; 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 of 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 prevention program in any public or private school.

(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.

SEC. 15. Section 11165.8 is added to the Penal Code, to read:

11165.8. As used in this article, "health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; a marriage, family and child counselor; 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; 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.

SEC. 16. Section 11165.9 is added to the Penal Code, to read:

11165.9. As used in this article, "child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department. It does not include a school district police or security department.

SEC. 17. Section 11165.10 is added to the Penal Code, to read:

11165.10. 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.

SEC. 18. Section 11165.11 is added to the Penal Code, to read:

11165.11. 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.

SEC. 19. Section 11165.12 is added to the Penal Code, to read:

11165.12. As used in this article, "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.

SEC. 20. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, health 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 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. 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. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

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

(g) 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, which shall only be reported to the county welfare department. A county probation or welfare department 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 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 only be reported 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 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.

SEC. 21. Section 11166.5 of the Penal Code is amended to read:
11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner,

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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health 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 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.

"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; 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; and social workers or probation officers; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

"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; paramedics; and religious practitioners who diagnose, examine, or

treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies 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 shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

SEC. 22. Section 11167.5 of the Penal Code, as amended by Section 7.5 of Chapter 1598 of the Statutes of 1985, is amended to read:

11167.5. (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 shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars (\$500) or by both.

(b) Reports of suspected child abuse 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 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, 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 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. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(c) Nothing in this section shall be interpreted to require 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.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse 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.

SEC. 23. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, employee of a child protective agency, 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 such 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, the provisions of 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, or employee of a child protective agency 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, an employee of a child protective agency, 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 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 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 one thousand dollars (\$1,000) or by both.

SEC. 24. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. Preplacement Preventive Services are those services which are designed to help children remain with their families by preventing or eliminating the need for removal.

(a) The Emergency Response Program is a component of Preplacement Preventive Services and is a response system which provides in-person response, 24 hours a day, seven days a week to reports of abuse, neglect, or exploitation, for the purpose of providing initial intake services and crisis intervention to maintain the child safely in his or her own home or to protect the safety of the child. County welfare departments shall respond to any report of imminent danger to a child immediately and all other reports within 10 calendar days. An in-person response is not required when the county welfare department, based upon an assessment, determines

that an in-person response is not appropriate. An assessment includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

(b) The Family Maintenance Program is a component of Preplacement Preventive Services and is designed to provide time-limited protective services to prevent or remedy neglect, abuse, or exploitation, for the purposes of preventing separation of children from their families.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 25. Section 16504 of the Welfare and Institutions Code is amended to read:

16504. Any child reported to the county welfare department to be endangered by abuse, neglect, or exploitation shall be eligible for initial intake and assessment services. Each county welfare department shall maintain and operate a 24-hour response system. An immediate in-person response shall be made by a county welfare department social worker in emergency situations in accordance with regulations of the department. The person making any initial response to a request for child welfare services shall consider providing appropriate social services to maintain the child safely in his or her own home. However, an in-person response is not required when the county welfare department, based upon an assessment, determines that an in-person response is not appropriate. An assessment includes collateral contacts, a review of previous referrals, and other relevant information, as indicated.

This section shall become operative on October 1, 1983, unless a later enacted statute extends or deletes that date.

SEC. 26. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), reimbursement shall be made from the State Mandates Claims Fund.

imprisonment in the county jail for not more than six months, or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

CHAPTER 39

An act to amend Sections 11165.4, 11165.5, and 11165.6 of the Penal Code, relating to crime.

[Approved by Governor March 18, 1988. Filed with
Secretary of State March 18, 1988.]

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

SECTION 1. Section 11165.4 of the Penal Code is amended to read:

11165.4. 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 amount of force that is reasonable and necessary for a peace officer to quell a disturbance threatening physical injury to person or damage to property to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control of the child, or to apprehend an escapee.

SEC. 2. Section 11165.5 of the Penal Code is amended to read:

11165.5. 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 to quell a disturbance threatening physical injury to person or damage to property, to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control

of a child, or to apprehend an escapee.

SEC. 3. Section 11165.6 of the Penal Code is amended to read:
11165.6. As used in this article, "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 abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (unlawful 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. "Child abuse" does not mean a mutual affray between minors. "Child abuse" does not include an injury caused by reasonable and necessary force used by a peace officer to quell a disturbance threatening physical injury to person or damage to property, to prevent physical injury to person or damage to property, for purposes of self-defense, to obtain possession of weapons or other dangerous objects within the control of a child, or to apprehend an escapee.

CHAPTER 40

An act to repeal Article 3 (commencing with Section 12570) of Chapter 6 of Title 2 of Part 4 of the Penal Code, relating to firearms.

[Approved by Governor March 18, 1988. Filed with
Secretary of State March 18, 1988.]

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

SECTION 1. Article 3 (commencing with Section 12570) of Chapter 6 of Title 2 of Part 4 of the Penal Code is repealed.

CHAPTER 41

An act to amend Section 22356 of the Vehicle Code, relating to highways, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor March 18, 1988. Filed with
Secretary of State March 18, 1988.]

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

SECTION 1. Section 22356 of the Vehicle Code is amended to read:

22356. Whenever the Department of Transportation, after consultation with the Department of the California Highway Patrol, determines upon the basis of an engineering and traffic survey on

CHAPTER 269

An act to amend Sections 11166, 11166.2, 11169, 11174, and 11174.1 of, and to repeal Section 11166.1 of, the Penal Code, relating to child abuse and neglect.

[Approved by Governor July 6, 1988. Filed with Secretary of State July 6, 1988.]

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

SECTION 1. Section 11166 of the Penal Code is amended to read:
11166. (a) Except as provided in subdivision (b), any child care custodian, health 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 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. 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. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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 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 the report.

(f) (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 such 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 the provisions of this article.

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

(2) Any supervisor or administrator who violates paragraph (1) is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both.

(g) 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, which shall only be reported to the county welfare department. A county probation or welfare department 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 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 only be reported 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 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.

SEC. 2. Section 11166.1 of the Penal Code, as added by Chapter 1598 of the Statutes of 1985, is repealed.

SEC. 3. Section 11166.2 of the Penal Code is amended to read:

11166.2. 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, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall only be reported to the county welfare department, 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.

SEC. 4. Section 11169 of the Penal Code is amended to read:

11169. 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 such report to the Department of Justice.

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.

SEC. 5. Section 11174 of the Penal Code is amended to read:

11174. 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.

SEC. 6. Section 11174.1 of the Penal Code is amended to read:

11174.1. 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 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.

CHAPTER 270

An act to amend Sections 4103.5, 4423, 4423.1, 4423.2, 4423.3, and 4423.4 of, and to add Sections 4103.4 and 4412.5 to, the Public Resources Code, relating to fires.

[Approved by Governor July 6, 1988. Filed with
Secretary of State July 6, 1988.]

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

SECTION 1. Section 4103.4 is added to the Public Resources Code, to read:

4103.4. "Open fire" means any fire, controlled or uncontrolled, including a campfire, burning outside of any structure, mobilehome, or living accommodation mounted on a motor vehicle. "Open fire" does not include portable lanterns designed to emit light resulting from a combustion process.

SEC. 2. Section 4103.5 of the Public Resources Code is amended to read:

4103.5. "Campfire" means a fire which is used for cooking, personal warmth, lighting, ceremonial, or aesthetic purposes, including fires contained within outdoor fireplaces and enclosed stoves with flues or chimneys, stoves using jellied, liquid, solid, or gaseous fuels, portable barbecue pits and braziers, or space heating devices which are used outside any structure, mobilehome, or living accommodation mounted on a motor vehicle. "Campfire" does not include portable lanterns designed to emit light resulting from a combustion process.

SEC. 3. Section 4412.5 is added to the Public Resources Code, to

(\$500,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 7. This act shall remain operative only until July 1, 1991, and as of January 1, 1992, is repealed, unless a later enacted statute, which is enacted before January 1, 1992, deletes or extends the dates upon which the bill becomes inoperative and is repealed.

Notwithstanding this section, whenever, prior to July 1, 1991, a law enforcement agency employee has filed a report pursuant to Section 7510 of the Penal Code, or a request for a human immunodeficiency virus (HIV) test has been filed pursuant to Section 7512 of the Penal Code, or any other procedure for requiring a test has been commenced pursuant to Title 8 (commencing with Section 7500) of the Penal Code, the proceedings shall be permitted to continue on or after July 1, 1991, until they have been concluded.

SEC. 8. 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 the necessity are:

In order to reduce the spread of AIDS in correctional institutions, as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1580

An act to amend Sections 11165.8, 11166, and 11167.5 of, and to add Sections 11166.7 and 11166.8 to, the Penal Code, relating to crimes, and making an appropriation therefor.

[Approved by Governor September 30, 1988. Filed with
Secretary of State September 30, 1988.]

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

SECTION 1. Section 11165.8 of the Penal Code is amended to read:

11165.8. As used in this article, "health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code; a marriage, family and child counselor; 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; 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; a medical examiner, or any other person who performs autopsies; or a religious practitioner who diagnoses, examines, or treats children.

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

11166. (a) Except as provided in subdivision (b), any child care custodian, health 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 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 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. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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, video tape, negative or slide depicting a child under the age of 14 years engaged in an act of sexual conduct, shall report such 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, video tape, 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

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

(g) 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, which shall only be reported to the county welfare department. A county probation or welfare department 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 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 only be reported 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 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.

SEC. 3. Section 11166.7 is added to the Penal Code, to read:

11166.7. (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 cases. Interagency child death teams have been used successfully to ensure that incidents of child abuse 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 contributed to death or whether child abuse had occurred prior to but was not the actual cause of death, and in the proper written reporting procedures for child abuse, 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 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.

SEC. 4. Section 11166.8 is added to the Penal Code, to read:

11166.8. 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 cases so that incidents of child abuse 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.

SEC. 5. Section 11167.5 of the Penal Code is amended to read:

11167.5. (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 shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars (\$500) or by both.

(b) Reports of suspected child abuse 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 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, 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 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. The disclosure authorized by this section includes disclosure among hospital scan teams located in the same county.

(8) Coroners and medical examiners when conducting a postmortem examination of a child.

(c) Nothing in this section shall be interpreted to require 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.

(d) This section shall not be interpreted to allow disclosure of any

reports or records relevant to the reports of child abuse 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.

SEC. 6. The sum of thirty-five thousand dollars (\$35,000) is hereby appropriated from the General Fund to the Department of Justice for expenditure from January 1, 1989, through June 30, 1989, for the purpose of developing the interagency child death team protocol pursuant to Section 11166.8 of the Penal Code. Any additional moneys needed from July 1, 1989, to January 1, 1991, to complete the protocol shall be funded through the Budget Act.

SEC. 7. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1581

An act to amend Section 4300 of the Civil Code, and to amend Sections 199.21, 199.22, 199.27, and 1603.1 of, and to add Sections 26 and 199.215 to, the Health and Safety Code, relating to AIDS.

[Approved by Governor September 30, 1988. Filed with
Secretary of State September 30, 1988.]

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

SECTION 1. Section 4300 of the Civil Code is amended to read:

4300. (a) Before any person, who is authorized to issue marriage licenses, shall issue the license, each applicant therefor shall file with him or her a certificate from a duly licensed physician stating that the applicant has been given the examination, including a standard serological test, as may be necessary for the discovery of syphilis, made not more than 30 days prior to the date of issuance of the license, and that, in the opinion of the physician, the person either is not infected with syphilis, or if so infected, is not in a stage of that disease which is or may become communicable to the marital partner.

(b) The certificate shall also state whether the female applicant has laboratory evidence of immunological response to rubella (German measles). The certificate shall not contain evidence of response to rubella where the female applicant (1) is over 50 years of age, or (2) has had a surgical sterilization or (3) presents laboratory evidence of a prior test declaring her immunity to rubella.

(c) The certificate shall indicate that an HIV test, as defined in Section 26 of the Health and Safety Code, including any appropriate

implementation, and operational expenses, including the degree of cost effectiveness of each project. In addition, the report shall include a description of the manner in which the State Department of Education will use the demonstration programs as models for replication.

The evaluation report shall also set forth the number of waivers authorized by the Superintendent of Public Instruction under Section 58602 and the number of pupils who participated in programs for which waivers were granted.

Not later than November 1 of each year, the Superintendent of Public Instruction shall submit to the Department of Finance and the Legislative Analyst a synopsis of available data produced for the evaluation report.

SEC. 8. Section 58608 is added to the Education Code, to read:
58608. The Superintendent of Public Instruction shall approve demonstration projects for a period not to exceed three years. Based upon a review at the end of each three-year funding cycle, a project may be extended for an additional one year based on application by a program participant.

SEC. 9. Section 62000.5 of the Education Code is amended to read:

62000.5. The demonstration programs in English or language arts, mathematics, history or social science, foreign language, physical education, visual and performing arts, or science shall sunset on June 30, 1995.

SEC. 10. 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 the necessity are:

In order to reinstate the demonstration programs that became inoperative on June 30, 1990, it is necessary that this act take effect immediately.

CHAPTER 931

An act to amend Section 11166.5 of the Penal Code, relating to crimes.

[Approved by Governor September 14, 1990. Filed with Secretary of State September 17, 1990.]

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

SECTION 1. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health 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 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.

"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, and youth organizations 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; and social workers or probation officers; or 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.

"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; paramedics; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

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.

(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 shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the penalty for a crime or infraction, changes the definition of a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide costs of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 1603

An act to add Division 9.7 (commencing with Section 10900) to the Health and Safety Code, to amend Section 11166 of, and to add Section 11165.13 to, the Penal Code, relating to substance abuse.

[Approved by Governor September 30, 1990. Filed with Secretary of State September 30, 1990.]

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

SECTION 1. Division 9.7 (commencing with Section 10900) is added to the Health and Safety Code, to read:

DIVISION 9.7. PERINATAL SUBSTANCE ABUSE

CHAPTER 1. STATE ADMINISTRATION

10900. By July 1, 1991, the Health and Welfare Agency shall develop and disseminate a model needs assessment protocol for pregnant and postpartum substance abusing women in conjunction with the appropriate professional organizations in the areas of hospital administration, substance abuse prevention and treatment, social services, public health, and appropriate state agencies, including the State Department of Social Services, the State Department of Health Services, State Department of Developmental Services, and the State Department of Alcohol and Drug Programs. This model may be utilized by hospitals and counties pursuant to Section 10901.

CHAPTER 2. COUNTY ADMINISTRATION

10901. (a) Each county shall establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county, regarding the application and use of an assessment of the needs of, and a referral for, a substance exposed infant to a county welfare department pursuant to Section 11165.13 of the Penal Code.

(b) The assessment of the needs shall be performed by a health practitioner, as defined in Section 11165.8 of the Penal Code, or a medical social worker. The needs assessment shall be performed before the infant is released from the hospital.

(c) The purpose of the assessment of the needs is to do all of the following:

(1) Identify needed services for the mother, child, or family,

including, where applicable, services to assist the mother caring for her child and services to assist maintaining children in their homes.

(2) Determine the level of risk to the newborn upon release to the home and the corresponding level of services and intervention, if any, necessary to protect the newborn's health and safety, including a referral to the county welfare department for child welfare services.

(3) Gather data for information and planning purposes.

CHAPTER 3. MISCELLANEOUS

10902. It is the intent of the Legislature that funding for this chapter be provided in the annual Budget Act.

SEC. 2. Section 11165.13 is added to the Penal Code, to read:

11165.13. 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 10901 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.

SEC. 3. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, health 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 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 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. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) 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 his or her emotional well-being is endangered in any other way, may report such known or suspected instance of child abuse to a child protective agency.

(c) 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 14 years engaged in an act of sexual conduct, shall report such 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.

(d) 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.

(e) 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 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 the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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 the provisions of this article.

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

(g) 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 relate solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall only be reported to the county welfare department. A county probation or welfare department 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 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 only be reported 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 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.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 5. Sections 2 and 3 of this act shall become operative on July 1, 1991.

respecting the consumer credit contract, a notice addressed to any cosigner at that address shall be deemed notice to all the cosigners residing at that address.

(f) Nothing in this section shall require any particular form or language with respect to a notice of delinquency sent to either a primary obligor or cosigner.

(g) Within a reasonable time after a creditor has reported to a credit reporting agency that a delinquency or delinquencies that have been reported to the consumer credit reporting agency and included in the cosigner's file maintained by the consumer credit reporting agency have been cured, the consumer credit reporting agency shall indicate in the file that the payment was made.

(h) Nothing in this section shall be construed to require notice of a delinquency to be provided to a cosigner in any instance not expressly specified in this section, or to provide notice to persons other than cosigners.

(i) This section shall become operative on July 1, 1992.

CHAPTER 132

An act to amend Sections 11165.7 and 11166.5 of the Penal Code, relating to child abuse reporting.

[Approved by Governor July 20, 1991. Filed with
Secretary of State July 22, 1991.]

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

SECTION 1. Section 11165.7 of the Penal Code is amended to read:

11165.7. (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; or any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

(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.

SEC. 2. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, 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 its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health 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 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.

"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; or 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.

"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; paramedics; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

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.

(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 shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(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.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs which may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 133

An act to amend Sections 116.220, 116.370, 116.610, and 116.770 of the Code of Civil Procedure, relating to small claims court.

[Approved by Governor July 20, 1991. Filed with
Secretary of State July 22, 1991.]

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

SECTION 1. Section 116.220 of the Code of Civil Procedure is amended to read:

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivision (c), for recovery of money, if the amount of the demand does not exceed five thousand dollars (\$5,000).

(2) Except as provided in subdivision (c), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars (\$5,000), if the legality of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Section 1861.5 of the Civil Code if the amount of the demand does not exceed five thousand dollars (\$5,000).

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission, restitution, reformation, and specific performance, in lieu of, or in addition to,

CHAPTER 1102

An act to add Section 33308.1 to the Education Code and to add Section 11165.14 to the Penal Code, relating to schools.

[Approved by Governor October 14, 1991. Filed with Secretary of State October 14, 1991.]

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

SECTION 1. The Legislature finds and declares the following:

(a) That child abuse comes in many forms and occurs under many conditions.

(b) That the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987, requires any child care custodian, health practitioner, or employee of a child protective agency who knows or reasonably suspects a child has been the victim of child abuse to report that abuse to a child protective agency. A child protective agency for purposes of the act is a police or sheriff's department, a county probation department, or a county welfare department.

(c) That the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987, authorizes any other person who knows or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse to report the known or suspected instance of child abuse to a child protective agency.

(d) That the Child Abuse and Neglect Reporting Act requires that child protective agencies investigate the reports received within their respective jurisdictions, which may include criminal and noncriminal complaints that are reported by school districts, county offices of education, and other private and public entities and individuals; and to report their findings to certain entities when those findings warrant a report.

SEC. 2. It is the intent of the Legislature that parents and guardians of school pupils be informed on how to recognize and how to report child abuse.

SEC. 3. 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.

SEC. 4. Section 33308.1 is added to the Education Code, to read:
33308.1. The State Department of Education shall adopt guidelines to be disseminated to parents or guardians of pupils that

describe the procedures that a parent or guardian can follow in filing a complaint of child abuse, as defined in Section 11165.6 of the Penal Code, with the school or a child protective services agency against a school employee or other person that commits an act of child abuse, as defined in Section 11165.6 of the Penal Code, against a pupil at a schoolsite.

SEC. 5. Section 11165.14 is added to the Penal Code, to read:

11165.14. 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.

SEC. 6. The governing board of a school district or county office of education shall upon request disseminate the guidelines adopted by the State Department of Education pursuant to Section 33308.1 of the Education Code to parents or guardians in the primary language of the parent or guardian. The governing board of a school district or county office of education is encouraged to inform a parent or guardian that desires to file a complaint against a school employee or other person that commits an act of child abuse as defined in Section 11165.6 of the Penal Code against a pupil at a schoolsite of the procedures for filing that complaint with local child protective agencies pursuant to the Child Abuse and Neglect Reporting Act, established pursuant to Chapter 1444 of the Statutes of 1987. In the case of oral communications with the parent or guardian whose primary language is other than English, concerning that guideline or the procedures for filing child abuse complaints, the governing board shall provide an interpreter for that parent or guardian.

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 459

An act to amend Sections 11165.7, 11166, 11166.5, and 11172 of, and to add Section 11165.15 to, the Penal Code, relating to child abuse.

[Approved by Governor August 9, 1992. Filed with Secretary of State August 10, 1992.]

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

SECTION 1. Section 11165.7 of the Penal Code is amended to read:

11165.7. (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.

SEC. 2. Section 11165.15 is added to the Penal Code, to read:

11165.15. 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.

SEC. 3. Section 11166 of the Penal Code is amended to read:

11166. (a) Except as provided in subdivision (b), any child care custodian, health practitioner, 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 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 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. For the purpose of this article, the pregnancy of a minor does not, in and of itself, constitute the basis of reasonable suspicion of sexual abuse.

(b) Any child care custodian, health practitioner, employee of a child protective agency, or child visitation monitor 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) 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 14 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.

(d) 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.

(e) 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.

(f) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making such 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.

(g) 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 relate 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.

SEC. 4. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) On and after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, 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, 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.

"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; paramedics; and religious practitioners who diagnose, examine, or treat children.

"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:

(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.

SEC. 5. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, 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 such 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

CHAPTER 346

An act to amend Sections 11165.4, 11165.5, and 11165.6 of the Penal Code, relating to child abuse reporting.

[Approved by Governor September 7, 1993. Filed with Secretary of State September 8, 1993.]

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

SECTION 1. Section 11165.4 of the Penal Code is amended to read:

11165.4. 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.

SEC. 2. Section 11165.5 of the Penal Code is amended to read:

11165.5. 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.

SEC. 3. Section 11165.6 of the Penal Code is amended to read:

11165.6. As used in this article, "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 abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (unlawful 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. "Child abuse" does not mean a mutual affray between minors. "Child abuse" 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.

SEC. 4. No reimbursement is required by this act pursuant to 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 incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

CHAPTER 347

An act to amend Section 56826 of the Government Code relating to local government.

[Approved by Governor September 7, 1993. Filed with Secretary of State September 8, 1993.]

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

SECTION 1. Section 56826 of the Government Code is amended to read:

56826. (a) The commission shall not review a reorganization which includes an annexation to any city in Santa Clara County of unincorporated territory which is within the urban service area of the city if the reorganization is initiated by resolution of the legislative body of the city.

(b) The city council shall be the conducting authority for the reorganization and the proceedings for the reorganization shall be initiated and conducted as nearly as may be practicable in accordance with Part 4 (commencing with Section 57000).

The city council, in adopting the resolution approving the reorganization, shall make all of the following findings:

(1) That the unincorporated territory is within the urban service area of the city as adopted by the commission.

(2) That the county surveyor has determined the boundaries of the proposal to be definite and certain, and in compliance with the road annexation policies of the commission. The city shall reimburse the county for the actual costs incurred by the county surveyor in making this determination.

(3) That the proposal does not split lines of assessment or ownership.

(4) That the proposal does not create islands or areas in which it would be difficult to provide municipal services.

(5) That the proposal is consistent with the adopted general plan

upon those persons and corporations subject to that section for whom the commission establishes minimum or maximum rates or requires rates to be on file, up to a maximum of one-half of 1 percent of gross operating revenue, if the commission decides this increase is necessary to maintain adequate financing for the Transportation Rate Fund.

SEC. 2. This act is declaratory of existing law.

CHAPTER 510

An act to amend Sections 11166, 11166.5, and 11172 of, and to add Section 11165.16 to, the Penal Code, relating to child abuse and neglect reports.

[Approved by Governor September 26, 1993. Filed with Secretary of State September 27, 1993.]

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

SECTION 1. Section 11165.16 is added to the Penal Code, to read: 11165.16. (a) For the purposes of this article, the following terms have the following meanings:

(1) "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.

(2) "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 607f or 607g of the Civil Code.

(b) No firefighter, animal control officer, or humane society officer shall be subject to the reporting requirements of this article unless he or she has received training in identification and reporting of child abuse equivalent to that received by teachers and child care custodians.

SEC. 1.5. Section 11166 of the Penal Code is amended to read: 11166. (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) 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 14 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

SEC. 2. Section 11166.5 of the Penal Code is amended to read:

11166.5. (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.

"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; paramedics; and religious practitioners who diagnose, examine, or treat children.

"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.

(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.

SEC. 3. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, firefighter, 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 such 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, 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, animal control officer, humane society officer, employee of a child protective agency, child visitation monitor, or commercial film and photographic print

California Constitution.

CHAPTER 1253

An act to amend Section 273a of the Penal Code, relating to crimes

[Approved by Governor October 11, 1993. Filed with
Secretary of State October 11, 1993.]

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

SECTION 1. Section 273a of the Penal Code is amended to read:
273a. (a) (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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health is endangered, is punishable by imprisonment in a county jail not exceeding one year or in the state prison for 2, 4, or 6 years.

(2) Any person convicted under this subdivision 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 injury that results in death, or having the care or custody of any child, under circumstances likely to produce great bodily harm or death, willfully causes or permits that child to be injured or harmed, and that injury or harm results in death, shall receive a four-year enhancement for each such violation in addition to the sentence provided for that conviction. Nothing in this paragraph shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 192.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health may be endangered, is guilty of a misdemeanor.

CHAPTER 1263

An act to amend Section 6254 of the Government Code, to amend Section 12101 of the Health and Safety Code, and to amend Sections 273a, 487h, 11105.3, and 12305 of, and to add Section 12022.95 to, the Penal Code, relating to crime.

[Approved by Governor September 30, 1994. Filed with Secretary of State September 30, 1994.]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and

a person who is applying for a permit meets any of the criteria specified in subdivision (j) and shall either grant or deny clearance for a permit to be issued pursuant to the determination. The Department of Justice shall not disclose the contents of a person's records to any person who is not authorized to receive the information in order to ensure confidentiality.

SEC. 3. Section 273a of the Penal Code is amended to read:

273a. (a) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 3.5. Section 273a of the Penal Code is amended to read:

273a. (a) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in such a situation that its person or health may be endangered, is guilty of a misdemeanor.

(c) Any person who, having the care or custody of a minor child, assaults the child by means of force likely to produce great bodily injury, resulting in the child's death, is punishable in the state prison for a term of 15 years to life. Nothing in this subdivision shall be construed as affecting the applicability of subdivision (a) of Section 187 or Section 189.

SEC. 4. Section 487h of the Penal Code is amended to read:

Assembly Bill No. 295

CHAPTER 1080

An act to amend Sections 311, 311.1, 311.2, 311.3, 311.4, 311.11, 312.3, and 11166 of, and to add Sections 312.6 and 312.7 to, the Penal Code, relating to pornography.

[Approved by Governor September 29, 1996. Filed with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 295, Baldwin. Pornography.

(1) Existing law includes provisions governing obscene matter and child pornography. A violation of these provisions is a crime.

This bill would exempt from these provisions a person or entity that solely provides access or connection to or from a facility, system, or network over which that person or entity has no control, as provided. The bill would also exempt from these provisions an employer, for actions of an employee or agent, as provided. Additionally, the bill would create as a defense to a prosecution or civil action pursuant to these provisions that a person has taken good faith actions to restrict or prevent the transmission of, or access to, a specified communication.

(2) Existing law defines the term "matter" for purposes of the provisions governing obscene matter and child pornography.

This bill would expand the definition of the term "matter" to include any representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner any film or filmstrip. Because the bill would incorporate this expanded definition into these criminal provisions, it would change the definitions of various crimes, thereby imposing a state-mandated local program.

(3) The Child Abuse and Neglect Reporting Act requires a commercial film and photographic print processor who has knowledge of or observes a film, photograph, videotape, negative, or slide depicting a child under the age of 14 years engaged in an act of sexual conduct to report the instance of suspected child abuse to a law enforcement agency. A violation of this provision is a misdemeanor.

This bill would require a commercial film and photographic print processor who has knowledge of or observes such a depiction of a child under the age of 16 years engaged in an act of sexual conduct

(i) This section does not apply to a depiction of a legally emancipated minor or to lawful conduct between spouses if one or both are under the age of 18.

(j) It is a defense in any forfeiture proceeding that the matter seized was lawfully possessed in aid of legitimate scientific or educational purposes.

SEC. 8. Section 312.6 is added to the Penal Code, to read:

312.6. (a) It does not constitute a violation of this chapter for a person or entity solely to provide access or connection to or from a facility, system, or network over which that person or entity has no control, including related capabilities that are incidental to providing access or connection. This subdivision does not apply to an individual or entity that is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing, or knowing distribution of communications that violate this chapter.

(b) An employer is not liable under this chapter for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his or her employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

(c) It is a defense to prosecution under this chapter and in any civil action that may be instituted based on a violation of this chapter that a person has taken reasonable, effective, and appropriate actions in good faith to restrict or prevent the transmission of, or access to, a communication specified in this chapter.

SEC. 9. Section 312.7 is added to the Penal Code, to read:

312.7. Nothing in this chapter shall be construed to apply to interstate services or to any other activities or actions for which states are prohibited from imposing liability pursuant to Paragraph (4) of subsection (g) of Section 223 of Title 47 of the United States Code.

SEC. 10. Section 11166 of the Penal Code is amended to read:

11166. (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) 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will

Assembly Bill No. 3354

CHAPTER 1081

An act to amend Sections 11165.8, 11166, 11166.5, 11170, and 11172 of, and to add Section 11165.17 to, the Penal Code, relating to child abuse.

[Approved by Governor September 29, 1996. Filed with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3354, Brown. Child abuse and neglect reports.

(1) Existing law, the Child Abuse and Neglect Reporting Act, requires specified individuals, including child care custodians and health practitioners, to report known or suspected instances of child abuse to child protective agencies, except as provided. A violation of this reporting requirement is a misdemeanor.

This bill additionally would require clergy members to report known or suspected instances of child abuse to child protective agencies, as provided. The bill would exempt from its reporting requirement a clergy member who acquires knowledge or reasonable suspicion of child abuse during a penitential communication, as defined, and would make additional conforming changes. This bill would impose a state-mandated local program by expanding the scope of an existing crime and by imposing new duties on public officials of local agencies subject to the reporting requirement under the bill.

(2) Existing law requires that, when a report is made pursuant to specified provisions of the Child Abuse and Neglect Reporting Act, the agency investigating the claim of child abuse shall inform the person required to report under those provisions of the results of the investigation and of any action the agency is taking with regard to the child or family.

This bill additionally would require that, when a report is made pursuant to the provisions requiring members of the clergy to report child abuse under (1) above, the agency investigating the child abuse claim shall inform the person required to report under those provisions of the results of the investigation and of any action the agency is taking with regard to the child or family. By imposing additional duties on local agencies, the bill would impose a state-mandated local program.

(3) Existing law provides that specified individuals who report child abuse or, pursuant to a request from a child protective agency, provide the agency with access to the victim of child abuse shall not be subject to civil or criminal liability for those actions.

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.

SEC. 3.5. Section 11166 of the Penal Code is amended to read:

11166. (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) 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.

(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.

SEC. 4. Section 11166.5 of the Penal Code is amended to read:

11166.5. (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.

(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.

SEC. 5. Section 11170 of the Penal Code is amended to read:

11170. (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

Assembly Bill No. 3215

CHAPTER 1090

An act to amend Sections 273a and 273d of, and to add Section 273.1 to, the Penal Code, relating to crimes.

[Approved by Governor September 29, 1996. Filed with Secretary of State September 30, 1996.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3215, Hawkins. Crimes: child abuse: terms of probation.

Existing law provides that any person who 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 that child to be injured or endangered, is guilty of a crime.

Existing law also provides that any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a crime. If a person is convicted of violating this provision and probation is granted, the court shall require supervised counseling as a condition of probation.

This bill would provide that if a person is convicted of violating either of the above provisions and probation is granted, the court shall require specified minimum conditions of probation, including (1) mandatory minimum periods of probation, (2) criminal court protective orders protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions, (3) successful completion of no less than one year of a child abuser's treatment counseling program to be paid by the defendant if he or she is able, (4) and abstinence from the use of drugs or alcohol and subjection to random drug testing if the offense was committed while the defendant was under the influence of drugs or alcohol. This bill would impose a state-mandated local program by increasing the duties of probation officers.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and

school districts may pursue any available remedies to seek reimbursement for these costs.

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

SECTION 1. Section 273a of the Penal Code is amended to read:

273a. (a) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 2. Section 273d of the Penal Code is amended to read:

Assembly Bill No. 327

CHAPTER 83

An act to amend Section 11165.1 of the Penal Code, relating to crimes.

[Approved by Governor July 21, 1997. Filed with Secretary of State July 21, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 327, Havice. Sexual assault.

Existing law defines "sexual abuse" as sexual assault or sexual exploitation, for purposes of the Child Abuse and Neglect Reporting Act. "Sexual assault" is defined under the act to include several specified sex offenses. Failure to report known or suspected instances of child abuse, including sexual abuse, under the act is a misdemeanor.

This bill would add unlawful sexual intercourse with a child under the age of 16 years when the perpetrator is over the age of 21 years and lewd and lascivious acts with a child of 14 or 15 years of age when the perpetrator is more than 10 years older than the victim to the offenses included in the definition of sexual assault. Because the bill would expand the scope of a crime, the bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 11165.1 of the Penal Code is amended to read:

11165.1. 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 (penetration of a genital or anal opening by a foreign object), 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.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will

be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Assembly Bill No. 273

CHAPTER 134

An act to amend Sections 273a, 273d, and 1203.097 of the Penal Code, relating to crimes.

[Approved by Governor July 27, 1997. Filed with Secretary of State July 28, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

AB 273, Sweeney. Counseling programs: payment.

Existing law provides that if a person is convicted of child abuse and probation is granted, the court shall require the person to successfully complete a child abuser's treatment counseling program. Existing law also provides that if a person is convicted of domestic violence and probation is granted, the court shall require the person to attend an appropriate counseling program on domestic violence.

This bill would provide that the terms of probation for any of these offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but would not extend the period of probation beyond that period provided for in existing law. The bill also would provide that if the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees. By increasing probation supervision duties, this bill would impose a state-mandated local program.

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

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 273a of the Penal Code is amended to read:
273a. (a) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered; is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 2. Section 273d of the Penal Code is amended to read:

273d. (a) Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years, or in a county jail for not more than one year, by a fine of up to six thousand dollars (\$6,000), or by both that imprisonment and fine.

(b) Any person who is found guilty of violating subdivision (a) shall receive a four-year enhancement for a prior conviction of that

offense provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 36 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3) (A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

SEC. 3. Section 1203.097 of the Penal Code is amended to read:

1203.097. (a) If a person is granted probation for a crime in which the victim is a person defined in Section 6211 of the Family Code, the terms of probation shall include all of the following:

(1) A minimum period of probation of 36 months, which may include a period of summary probation as appropriate.

(2) A criminal court protective order protecting the victim from further acts of violence, threats, stalking, sexual abuse, and harassment, and, if appropriate, containing residence exclusion or stay-away conditions.

(3) Notice to the victim of the disposition of the case.

(4) Booking the defendant within one week of sentencing if the defendant has not already been booked.

Senate Bill No. 933

CHAPTER 311

An act to amend Sections 56140, 56200, 56205, and 56366 of, to add Sections 49069.5 and 56366.8 to, and to add Chapter 5.5 (commencing with Section 48850) to Part 27 of, the Education Code, to add Sections 7911, 7911.1, and 7912 to the Family Code, to amend Sections 1522, 1522.03, 1522.04, 1522.1, 1522.4, 1534, 1538, 1538.5, 1548, 1550, 1558, 1558.1, 1563, 1568.082, 1568.09, 1568.092, 1568.093, 1569.17, 1569.172, 1569.50, 1569.58, 1569.59, 1569.617, 1596.603, 1596.871, 1596.8713, 1596.877, 1596.885, 1596.8897, and 1596.8898 of, to add Sections 1520.1, 1520.11, 1522.02, 1522.41, 1522.42, 1522.43, 1534.5, 1568.042, 1569.1515, and 1596.952 to, the Health and Safety Code, to amend Section 11174.3 of the Penal Code, and to amend Sections 366, 727.1, 827, 10609.3, 11402, 11461, 11462, 11463, 11465, 16501.1, and 18358.30 of, to add Sections 361.21, 5867.5, 11466.21, 16501.2, and 16516.5 to, to add Chapter 2.5 (commencing with Section 16160) to Part 4 of, and to add Chapter 12.86 (commencing with Section 18987.6) to Part 6 of, Division 9 of, and to repeal Sections 11404.5 and 11467 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 18, 1998. Filed with
Secretary of State August 19, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 933, M. Thompson. Foster care.

Existing law provides that each person between the ages of 6 and 18 years, not otherwise exempted, is subject to compulsory full-time education and shall attend the public full-time day school or continuation school for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located. Existing law provides that a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district if the pupil is placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a legal commitment or placement.

This bill would impose a state-mandated local program by requiring every county office of education to make available to agencies that place children in licensed children's institutions information on educational options for children residing in licensed children's institutions within its jurisdiction. The bill would require

director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1598.8897 or any other law.

(e) The department may determine not to exclude a person from, or remove him or her from the position of, a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

SEC. 50. Section 1596.952 is added to the Health and Safety Code, to read:

1596.952. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer that has been licensed to operate, been employed in or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1596.851 and 1596.8898.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1596.851 and 1596.8898.

(d) Prior to instituting an administrative action pursuant to subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee has 15 days to remove the person from that position if the person does not have client contact, or immediately upon notification if the person has client contact.

SEC. 51. Section 11174.3 of the Penal Code is amended to read:

11174.3. (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.

SEC. 52. Section 361.21 is added to the Welfare and Institutions Code, to read:

361.21. (a) The court shall not order the placement of a minor in an out-of-state group home, unless the court finds, in its order of placement, that both of the following conditions have been met:

(1) The out-of-state group home is licensed or certified for the placement of minors by an agency of the state in which the minor will be placed.

(2) The out-of-state group home meets the requirements of Section 7911.1 of the Family Code.

(b) At least every six months, the court shall review each placement made pursuant to subdivision (a) in order to determine compliance with that subdivision.

the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 77. 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 the necessity are:

In order to make changes in provisions of law relating to children placed in foster care, as well as in provisions relating to facilities licensed by the State Department of Social Services, at the earliest possible time, it is necessary that this act go into immediate effect.

**PEACE OFFICERS—PUBLIC SAFETY—PEACE
OFFICER STANDARDS AND TRAINING**

CHAPTER 287

S.B. No. 1955

AN ACT to amend Section 1560 of the Evidence Code, to amend Sections 190.9, 209, 266c, 273.5, 289.6, 290, 347, 600, 667.71, 832.6, 976.5, 9991, 1170.11, 1170.17, 1174.4, 1240.1, 2933.5, 3046, 11160, 11165.1, 12020, 12022.53, and 12280 of the Penal Code, and to amend Sections 21221.5 and 23612 of the Vehicle Code, and to amend Sections 727.4 and 15610.63 of, and to amend and renumber Section 727.2 of, the Welfare and Institutions Code, relating to public safety.

[Filed with Secretary of State September 1, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1955, Committee on Public Safety. Public safety.

(1) Existing law deems satisfied the training requirements of a reserve officer who has previously satisfied the training requirements of the Commission on Peace Officer Standards and Training and has been serving as a level I or II reserve officer in a law enforcement agency, even if that reserve officer accepts a new appointment at the same level in another law enforcement agency.

This bill would require a reserve officer to satisfy current training requirements if there has been more than a 3-year break in service. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(2) Existing law authorizes the prosecution and punishment of a person under the age of 18 years as an adult for a criminal offense under specified circumstances upon a finding that the person is not a fit and proper subject to be dealt with under the juvenile court law. Existing statutory language provides that, except as otherwise provided, a person prosecuted under this provision must be sentenced under the juvenile court law unless the district attorney demonstrates by a preponderance of the evidence, that the person is a fit and proper subject to be dealt with under the juvenile court law based upon 5 specified circumstances.

This bill would amend that provision to correct that statutory language by providing that, except as otherwise provided, a person prosecuted under this provision must be sentenced under the juvenile court law unless the district attorney demonstrates by a preponderance of the evidence, that the person is not a fit and proper subject to be dealt with under the juvenile court law as specified.

(3) Existing law provides that when an accusatory pleading is filed in Sierra County, and the defendant is in the custody of Nevada County, the defendant may be arraigned in Nevada County. Existing law also provides for repeal of these provisions on January 1, 2001.

This bill would instead provide that these provisions would be repealed on January 1, 2005.

(4) Existing law specifies that a person who drives a motor vehicle is deemed to have given his or her consent to a chemical test of his or her blood or breath for the purpose of determining the alcoholic content of the blood if lawfully arrested for violating a specified provision of law.

This bill would correct a cross-reference in this provision.

(5) Existing law provides that the court in any noncapital criminal, juvenile court, or civil commitment case shall assign a court reporter who uses computer aided transcription equipment to report all proceedings, as specified.

This bill would delete this assignment requirement imposed upon a court in a noncapital criminal, juvenile court, or civil commitment case and place the requirement instead on the municipal and superior courts in which proceedings are conducted in any case in which a death sentence may be imposed.

apprise supervisors and administrators of reports may be established, except that these procedures shall not be inconsistent with this article. The internal procedures shall not require any employee required to make a report under this article to disclose his or her identity to the employer.

(h) For the purposes of this section, it is the Legislature's intent to avoid duplication of information.

SEC. 21. Section 11165.1 of the Penal Code is amended to read:

11165.1. 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.

SEC. 22. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst

CRIMES—PREVENTION—REPORTING CHILD ABUSE

CHAPTER 916

A.B. No. 1241

AN ACT to amend Sections 11164, 11165.5, 11165.7, 11165.12, 11165.13, 11165.14, 11166, 11166.1, 11166.2, 11166.3, 11166.5, 11166.7, 11166.8, 11166.9, 11167, 11167.5, 11168, 11169, 11170, 11171, 11171.5, 11172, 11174.1, and 11174.3 of, and to repeal Sections 11165.8, 11165.10, 11165.15, 11165.16, and 11165.17 of, and to repeal and add Sections 11165.6 and 11165.9 of, the Penal Code, relating to child abuse reporting.

[Filed with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1241, Rod Pacheco. Crime prevention: child abuse reporting.

(1) Existing law establishes the Child Abuse and Neglect Reporting Act (CANRA), which requires specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, whom the person 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, as defined. While the definition of child abuse includes specified forms of child abuse and neglect, the provisions of CANRA refer only to child abuse.

This bill would reorganize and recast the list of specified persons who are required to report as described above and designate those persons as mandated reporters, as defined. The bill would also reorganize other provisions of CANRA that reference those persons required to report, as specified. In addition, the bill would amend the provisions of CANRA to apply to child abuse and neglect.

(2) Existing law under CANRA defines "child abuse" to mean specified forms of abuse and neglect including a physical injury that is inflicted by other than accidental means on a child by another person.

This bill would recast the terms "child abuse" and "child abuse or neglect."

(3) Existing law under CANRA defines a child protective agency as a police or sheriff's department, a county probation department, or a county welfare department, and requires that reports of suspected child abuse or neglect be made to those agencies.

This bill would delete the term "child protective agency" from the definitional and functional provisions of the act and would specify the designated agencies authorized to receive reports of child abuse and neglect. The bill would also require any of those agencies to accept a report of suspected child abuse or neglect whether made by a mandated reporter or another person, or a referral from another agency, even if the agency to whom the report is made lacks jurisdiction to investigate the case, unless that agency immediately transfers the call to the appropriate agency as specified. By increasing the duties of local officials, this bill would impose a state-mandated local program.

(4) Existing law under CANRA imposes mandatory child abuse reporting duties on firefighters, animal control officers, and humane society officers, but exempts those individuals from those reporting requirements if that individual has not received specified training in the identification and reporting of child abuse.

This bill would delete that exemption.

(5) Existing law under CANRA requires any person in a specified category designated as a mandated reporter, 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 as specified. The CANRA specifies that the pregnancy of a minor does not, in and of itself, constitute a basis of reasonable suspicion of abuse. The

CANRA also authorizes the specified mandated reporters to report a known or suspected instance of child abuse to a child protective agency when he or she has knowledge of or reasonably suspects that mental suffering has been inflicted on a child or that the child's emotional well-being is endangered.

This bill would recast these provisions by requiring that a mandated reporter make a report to a specified agency 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 that reporter knows or reasonably suspects has been the victim of child abuse or neglect.

(6) Existing law under CANRA requires that a telephone report of a known or suspected instance of child abuse include specified information regarding the caller, the child, and the abuse.

This bill would recast this provision and specify additional information to be included in the report while requiring the report to be made, even if the information is incomplete.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

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

SECTION 1. Section 11164 of the Penal Code is amended to read:

11164. (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.

SEC. 2. Section 11165.5 of the Penal Code is amended to read:

11165.5. 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.

SEC. 3. Section 11165.6 of the Penal Code is repealed.

SEC. 4. Section 11165.6 is added to the Penal Code, to read:

11165.6. 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.

SEC. 5. Section 11165.7 of the Penal Code is amended to read:

11165.7. (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.

SEC. 6. Section 11165.8 of the Penal Code is repealed.

SEC. 7. Section 11165.9 of the Penal Code is repealed.

SEC. 8. Section 11165.9 is added to the Penal Code, to read:

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. 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.

SEC. 9. Section 11165.10 of the Penal Code is repealed.

SEC. 10. Section 11165.12 of the Penal Code is amended to read:

11165.12. 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.

SEC. 11. Section 11165.13 of the Penal Code is amended to read:

11165.13. 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.

SEC. 12. Section 11165.14 of the Penal Code is amended to read:

11165.14. 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.

SEC. 13. Section 11165.15 of the Penal Code is repealed.

SEC. 14. Section 11165.16 of the Penal Code is repealed.

SEC. 15. Section 11165.17 of the Penal Code is repealed.

SEC. 16. Section 11166 of the Penal Code is amended to read:

11166. (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) 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.

(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.

SEC. 17. Section 11166.1 of the Penal Code is amended to read:

11166.1. (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.

SEC. 18. Section 11166.2 of the Penal Code is amended to read:

11166.2. 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.

SEC. 19. Section 11166.3 of the Penal Code is amended to read:

11166.3. (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.

SEC. 20. Section 11166.5 of the Penal Code is amended to read:

11166.5. (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.

SEC. 21. Section 11166.7 of the Penal Code is amended to read:

11166.7. (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.

SEC. 22. Section 11166.8 of the Penal Code is amended to read:

11166.8. 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.

SEC. 23. Section 11166.9 of the Penal Code is amended to read:

11166.9. (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.

SEC. 24. Section 11167 of the Penal Code is amended to read:

11167. (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 817 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.

SEC. 25. Section 11167.5 of the Penal Code is amended to read:

11167.5. (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.

SEC. 26. Section 11168 of the Penal Code is amended to read:

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. Those forms shall be * * * distributed by the agencies specified in Section 11165.9.

SEC. 27. Section 11169 of the Penal Code is amended to read:

11169. (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.

SEC. 28. Section 11170 of the Penal Code is amended to read:

11170. (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.

SEC. 29. Section 11171 of the Penal Code is amended to read:

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 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.

SEC. 30. Section 11171.5 of the Penal Code is amended to read:

11171.5. (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.

SEC. 31. Section 11172 of the Penal Code is amended to read:

11172. (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.

* * *

SEC. 32. Section 11174.1 of the Penal Code is amended to read:

11174.1. (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.

SEC. 33. Section 11174.3 of the Penal Code is amended to read:

11174.3. (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 enable him or her to be as comfortable as possible. However, the member of the staff so selected 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.

SEC. 34. This act is not intended to abrogate the case of *Alejo v. City of Alhambra* (1999) 5 Cal.App.4th 1180.

SEC. 35. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement by local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

LABOR—FARM LABOR CONTRACTORS—LICENSING SPECIFICATIONS

CHAPTER 917

A.B. No. 1338

AN ACT to amend Sections 1684, 1684.5, 1687, 1698, and 1698.1 of, and to add Sections 1682.8 and 1695.55 to, the Labor Code, relating to farm labor contractors.

[Filed with Secretary of State September 29, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1338, Reyes. Farm labor contractors: licenses.

Existing law prescribes various fines and penalties for farm labor contractors who violate provisions of the law applicable to farm labor contractors.

This bill would authorize the Labor Commissioner to establish and maintain a Farm Labor Contractor Special Enforcement Unit, as specified, to enforce provisions of law relating to farm workers, as provided.

Existing law requires farm labor contractors to deposit a surety bond in the sum of \$10,000, as a condition to obtain a license from the Labor Commissioner. The contractor is permitted to give a deposit in lieu of a bond.

This bill would require a farm labor contractor to deposit a surety bond in specified amounts based on the size of the person's payroll, as provided. Farm labor contractors would no longer be permitted to give a deposit instead of a bond.

Existing law requires farm labor contractors to pay a \$350 annual license fee.

This bill would increase the licensing fee to \$500.

Existing law provides that \$25 of the annual licensing fee be deposited into a separate account, funds from which are to be disbursed by the Labor Commissioner to persons damaged by licensees.

assessed value of the taxable property of each of the unifying districts as that assessed value would be determined under Section 15268.

(e) For the purposes of this article, "general obligation bonds," as that term is used in Section 18 of Article XVI of the California Constitution, means bonds of a school district or community college district the repayment of which is provided for by this chapter and Chapter 1 (commencing with Section 15100) of Part 10, and includes bonds of a school facilities improvement district the repayment of which is provided for by this chapter and Chapter 2 (commencing with Section 15300).

SEC. 3. Section 15271 is added to the Education Code, to read:

15271. The governing board of a school district or community college district may proceed pursuant to this chapter on behalf of a school facilities improvement district that is created by and under the exclusive authority of the school district or community college district and act on behalf of the school facilities district as provided pursuant to Chapter 2 (commencing with Section 15300).

SEC. 4. Section 15340 of the Education Code is amended to read:

15340. (a) After adopting the resolution ordering the formation of the school facilities improvement district, the governing board may provide for and call a special bond election within the school facilities improvement district to, or may at the next statewide election, submit to the voters of the school facilities improvement district a proposition of whether or not an indebtedness of the district shall be incurred and bonds issued therefor in an amount not exceeding the estimate stated in the resolution ordering the school facilities improvement district formed. Notwithstanding any other provision of law, any special election called pursuant to this section may be called for any date except as set forth in Section 1100 of the Elections Code, and except as provided in subdivision (a) of Section 15266 for bonds authorized and issued under the authority of subdivision (b) of Section 15348 and Chapter 1.5 (commencing with Section 15264).

(b) The indebtedness and the bonds shall be payable from taxes to be levied and collected upon lands located within the school facilities improvement district.

SEC. 5. Section 15348 of the Education Code is amended to read:

15348. (a) The proposition shall be deemed approved upon approval by two-thirds of the votes cast by voters voting on the proposition of issuing bonds of the school facilities improvement district unless subdivision (b) is applicable.

(b) Alternatively, for a governing board of a school district or community college district that proceeds pursuant to Chapter 1.5 (commencing with Section 15264) and subject to the requirements therein on behalf of a school facilities improvement district that is created by and under the exclusive authority of the school district or community college district, as specified in Section 15359.3, the proposition shall be deemed approved upon approval by 55 percent of the votes cast by voters voting on the proposition of issuing bonds of the school facilities improvement district.

SEC. 6. Section 15359.3 is added to the Education Code, to read:

15359.3. The governing board of a school district or community college district may proceed pursuant to Chapter 1.5 (commencing with Section 15264) and subject to the requirements therein on behalf of a school facilities improvement district that is created by and under the exclusive authority of the school district or community college district under this chapter.

CRIMES AND OFFENSES—CHILD ABUSE—MANDATED REPORTER

CHAPTER 133

A.B. No. 102

AN ACT to amend Sections 11165.5, 11165.6, 11165.7, 11165.9, 11166, 11166.2, 11166.3, 11166.5, 11166.7, 11166.9, 11166.95, 11167, 11169, 11170, and 11172 of, and to add Section 11166.05 to, the Penal Code, relating to crime reporting and declaring the urgency thereof, to take effect immediately.

[Filed with Secretary of State July 31, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 102, Rod Pacheco. Child abuse reporting: endangerment of child's emotional well-being.

Existing law establishes that the Child Abuse and Neglect Reporting Act (CANRA), which requires specified persons who have knowledge of or observe a child in their professional capacity or within the scope of their employment, whom the person knows or reasonably suspects has been the victim of child abuse or neglect to report that known or suspected instance of child abuse or neglect to a child protective agency, as defined. Child protective agencies are then required to forward a written report of every child abuse or neglect case it investigates, which is determined not to be unfounded, to the Department of Justice.

This bill would provide, in addition, that any mandated reporter who has knowledge of or 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 make a report to a child protective agency. This bill would require child protective agencies to forward reports of child abuse or severe neglect to the Department of Justice. The bill would also specify that abuse or neglect in out-of-home care means physical abuse, including particular acts, and would make technical, nonsubstantive, or conforming changes to CANRA.

This bill would declare that it would take effect immediately as an urgency statute.

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

SECTION 1. Section 11165.5 of the Penal Code is amended to read:

11165.5. As used in this article, the term "abuse or neglect in out-of-home care" includes physical injury inflicted upon a child by another person by other than accidental means, 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.

SEC. 2. Section 11165.6 of the Penal Code is amended to read:

11165.6. As used in this article, the term "child abuse * * * or neglect" includes physical injury * * * inflicted by other than accidental means upon a child by another person. * * * 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, and unlawful corporal punishment or injury as defined in Section 11165.4 * * *. "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.

SEC. 3. Section 11165.7 of the Penal Code is amended to read:

11165.7. (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 volunteer 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 official 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 their employees specified in subdivision (a) in the duties of * * * mandated reporters 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.

SEC. 4. Section 11165.9 of the Penal Code is amended to read:

11165.9. Reports of suspected child abuse or neglect shall be made by mandated reporters of any police department * * * or sheriff's department, not including a school district police security department, county probation department, if designated by the county to receive mandated reports, or the county welfare 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 referred 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.

SEC. 5. Section 11166 of the Penal Code is amended to read:

11166. (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 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) 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.

(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, coworker, 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 * * * electronic transmission 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 * * * makes a telephone report under this subdivision * * *

(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 * * * makes a telephone report under this subdivision.

SEC. 6. Section 11166.05 is added to the Penal Code, to read:

11166.05. Any mandated reporter 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 or neglect to an agency specified in Section 11165.9.

SEC. 7. Section 11166.2 of the Penal Code is amended to read:

11166.2. 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, fax, or electronic transmission 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 * * * makes a telephone report under this subdivision. The agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

SEC. 8. Section 11166.3 of the Penal Code is amended to read:

11166.3. (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 subdivision (a) of Section 1502 * * *, 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.

SEC. 9. Section 11166.5 of the Penal Code is amended to read:

11166.5. (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 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 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 * * * paragraph (30) of subdivision (a) of Section 11165.7, 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 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 * * * paragraph (30) of subdivision (a) of Section 11165.7, 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.

SEC. 10. Section 11166.7 of the Penal Code is amended to read:

11166.7. (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 or neglect, 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.

SEC. 11. Section 11166.9 of the Penal Code is amended to read:

11166.9. (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 or neglect.

(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 or neglect, and address relevant issues such as grief and mourning, data collection, training for medical personnel in the identification of child abuse or neglect 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.

SEC. 12. Section 11166.95 of the Penal Code is amended to read:

11166.95. 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 or neglect 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 the Department of Justice shall develop a plan to track and maintain data on child deaths from abuse or 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.

SEC. 13. Section 11167 of the Penal Code is amended to read:

11167. (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 * * * 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 (e) of Section 11166 are not required to include their names.

SEC. 14. Section 11169 of the Penal Code is amended to read:

11169. (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 severe 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.

SEC. 15. Section 11170 of the Penal Code is amended to read:

11170. (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 (b) 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.

SEC. 16. Section 11172 of the Penal Code is amended to read:

11172. (a) No mandated reporter * * * 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 * * * or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required * * * or authorized reports. 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.

SEC. 17. 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 the necessity are:

In order to continue to protect children by providing for the reporting of child abuse or neglect that endangers a child's emotional well-being, it is necessary for this act to take effect immediately.

LABOR AND EMPLOYMENT—COMPLAINT—TIME LIMIT

CHAPTER 134

A.B. No. 1069

AN ACT to amend Section 98.7 of the Labor Code, relating to employment.

[Filed with Secretary of State July 31, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1069, Koretz. Labor: complaints.

Existing law provides that any person who believes that he or she has been discharged or otherwise discriminated against in violation of specified laws regulating employment that are under the jurisdiction of the Labor Commissioner, may file a complaint with the Division of Labor Standards Enforcement.

This bill would expand that provision to cover any law under the jurisdiction of the Labor Commissioner.

Existing law provides that if, after an investigation, the Labor Commissioner determines that no violation to a law has occurred, the Labor Commissioner shall dismiss the complaint and notify the complainant of his or her right to bring an action in an appropriate court, and, in the case of an alleged violation of specified discrimination laws, file a complaint against the state program with the United States Department of Labor.

This bill would provide that the filing of a timely complaint with the United States Department of Labor stays the Labor Commissioner's dismissal of the division complaint until the United States Secretary of Labor makes a determination regarding the alleged violation. Under the bill, within 15 days of receipt of that determination, the Labor Commissioner is required to notify the parties as to whether he or she will reopen the complaint filed with the division or whether he or she will reaffirm the dismissal.

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

SECTION 1. Section 98.7 of the Labor Code is amended to read:

98.7. (a) Any person who believes that he or she has been discharged or otherwise discriminated against in violation of any * * * law under the jurisdiction of the Labor Commissioner may file a complaint with the division within six months after the occurrence of the violation. The six-month period may be extended for good cause. The complaint shall be investigated by a discrimination complaint investigator in accordance with this section. The Labor Commissioner shall establish procedures for the investigation of discrimination complaints. A summary of the procedures shall be provided to each complainant and respondent at the time of initial contact. The Labor Commissioner shall inform complainants charging a violation of Section 6310 or 6311, at the time of initial contact, of his or her right to file a

(commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

(e) A master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under the master's direction or control.

(f) The master of a vessel is the person on board the vessel who is in charge of the vessel.

SEC. 26. Section 12006.6 of the Fish and Game Code is amended to read:

12006.6. Notwithstanding Section 12000 or 12002.8, and in addition to Section 12009, and notwithstanding the type of fishing license or permit held, if any person is convicted of a violation of Section 5521 or 5521.5, and the offense occurs in an area closed to the taking of abalone for commercial purposes, and the person takes or possesses more than 12 abalone at one time or * * * takes abalone * * * in excess of the annual bag limit, that person shall be punished by all of the following:

(a) A fine of not less than fifteen thousand dollars (\$15,000) or more than forty thousand dollars (\$40,000).

(b) The court shall order the department to permanently revoke, and the department shall permanently revoke, the commercial fishing license and any commercial fishing permits of that person. The person punished under this subdivision shall not, thereafter, be eligible for any license or permit to take or possess fish for sport or commercial purposes, including, but not limited to, a commercial fishing license or a sport fishing or sport ocean fishing license. Notwithstanding any other provision of law, the commercial license or permit of a person arrested for a violation punishable under this section may not be sold, transferred, loaned, leased, or used as security for any financial transaction until disposition of the charges is final.

(c) Any vessel, diving or other fishing gear or apparatus, or vehicle used in the commission of an offense punishable under this section shall be seized, and shall be ordered forfeited in the same manner prescribed for nets or traps used in violation of this code, as described in Article 3 (commencing with Section 8630) of Chapter 3 of Part 3 of Division 6, or in the manner prescribed in Section 12157.

(d) Not less than 50 percent of the revenue deposited in the Fish and Game Preservation Fund from fines and forfeitures collected pursuant to this section shall be allocated for the support of the Special Operations Unit of the Wildlife Protection Division of the department and used for law enforcement purposes.

SEC. 27. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SOCIAL SERVICES—JUVENILES—CUSTODY

CHAPTER 754

A.B. No. 1697

AN ACT to amend Section 1211 of the Code of Civil Procedure, to amend Sections 750 and 7895 of the Family Code, to amend Section 11165.7 of the Penal Code, and to amend Sections 358.1 and 827 of the Welfare and Institutions Code, relating to judicial proceedings.

[Filed with Secretary of State October 12, 2001.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, Committee on Judiciary. Judicial proceedings: juveniles: manner of holding property.

Existing law requires each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence, as specified, to include a factual discussion of specified factors including, but not limited to, whether the county welfare department has considered child protective services, and what plan, if any, exists for the return of the child to his or her parents, among others.

This bill would additionally require the social worker or child advocate to consider whether the child has any siblings under the court's jurisdiction and information related thereto, as specified.

Existing law provides that the juvenile case file of a minor may only be inspected by certain persons, as specified.

This bill would authorize a commissioner or other hearing officer assigned to a family law case with issues concerning custody or visitation to inspect the case file, and, if actively participating in such a family law case, would authorize counsel appointed for the minor in the family law case to inspect the case file. It also would limit the authority given under existing law for inspection by family court mediators and child custody evaluators to those such persons who are actively participating in such a family law case.

Because this bill would increase the duties of local officials, it would create a state-mandated local program.

Existing law provides for the manner of holding property by husband and wife.

This bill would specify that husband and wife may hold property as community property with a right of survivorship.

Existing law authorizes an appellate court to appoint counsel for an indigent appellant upon appeal from a judgment freeing a child who is a dependent child of the juvenile court from parental custody and control. Existing law provides that those costs are a charge against the state.

This bill would instead provide that those costs are a charge against the court.

Existing law, the Child Abuse and Neglect Reporting Act, provides for the protection of children suspected to be subject to child abuse or neglect. Existing law further requires specified "mandated reporters" to report suspected child abuse or neglect to police departments, sheriff's departments, county probation departments, or county welfare departments.

This bill would additionally classify employees or volunteers of a Court Appointed Special Advocate program as "mandated reporters."

Since a failure to make a required report is a misdemeanor, the bill would impose a state-mandated local program by expanding the scope of a crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

SECTION 1. Section 1211 of the Code of Civil Procedure is amended to read:

1211. (a) When a contempt is committed in the immediate view and presence of the court, or of the judge at chambers, it may be punished summarily; for which an order must be made, reciting the facts as occurring in such immediate view and presence, adjudging that the person proceeded against is thereby guilty of a contempt, and that he or she be punished as therein prescribed.

When the contempt is not committed in the immediate view and presence of the court, or of the judge at chambers, an affidavit shall be presented to the court or judge of the facts constituting the contempt, or a statement of the facts by the referees or arbitrators, or other judicial officers.

(b) In family law matters, filing of the Judicial Council form entitled "Order to Show Cause and Affidavit for Contempt (Family Law)" shall constitute compliance with this section.

SEC. 2. Section 750 of the Family Code is amended to read:

750. A husband and wife may hold property as joint tenants or tenants in common, or as community property, or as community property with a right of survivorship.

SEC. 3. Section 7895 of the Family Code is amended to read:

7895. (a) Upon appeal from a judgment freeing a child who is a dependent child of the juvenile court from parental custody and control, the appellate court shall appoint counsel for the appellant as provided by this section.

(b) Upon motion by the appellant and a finding that the appellant is unable to afford counsel, the appellate court shall appoint counsel for the indigent appellant, and appellant's counsel shall be provided a free copy of the reporter's and clerk's transcript. All of those costs are a charge against the court.

(c) The reporter's and clerk's transcripts shall be prepared and transmitted immediately after filing of the notice of appeal, at court expense and without advance payment of fees. If the appellant is able to afford counsel, the court may seek reimbursement from the appellant for the cost of the transcripts under subdivision (c) of Section 68511.3 of the Government Code as though the appellant had been granted permission to proceed in forma pauperis.

SEC. 4. Section 11165.7 of the Penal Code, as amended by Chapter 133 of the Statutes of 2001, is amended to read:

11165.7. (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 volunteer 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.
- (34) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of Court.
- (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 their employees specified in subdivision (a) in the duties of mandated reporters 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.

SEC. 5. Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1. Each social study or evaluation made by a social worker or child advocate appointed by the court, required to be received in evidence pursuant to Section 358, shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or social worker has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered these services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child to his or her parents and for achieving legal permanence for the child if efforts to reunify fail, is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the child will be served by granting reasonable visitation rights with the child to his or her grandparents, in order to maintain and strengthen the child's family relationships.

(d) Whether the child has siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(1) The nature of the relationship between the child and his or her siblings.

(2) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(3) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(4) If the siblings are not placed together, the frequency and nature of the visits between siblings.

(5) The impact of the sibling relationships on the child's placement and planning for legal permanence.

The factual discussion shall include a discussion of indicators of the nature of the child's sibling relationships, including, but not limited to, whether the siblings were raised together in the same home, whether the siblings have shared significant common experiences or have existing close and strong bonds, whether either sibling expresses a desire to visit or live with his or her sibling, as applicable, and whether ongoing contact is in the child's best emotional interest.

(e) Whether the * * * child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control.

(f) Whether the parent has been advised of his or her option to participate in adoption planning, including the option to enter into a postadoption contact agreement as described in Section 8714.7 of the Family Code, and to voluntarily relinquish the child for adoption if an adoption agency is willing to accept the relinquishment.

(g) The appropriateness of any relative placement pursuant to Section 361.3; however, this consideration shall not be cause for continuance of the dispositional hearing.

SEC. 6. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a)(1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

Exhibit 4
Copies of Code Sections Cited

**§ 273a. Willful harm or injury to child; endangering person or health;
punishment; conditions of probation**

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or

Title 9

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 that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) 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 or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

(Added by Stats.1905, c. 568, p. 759, § 5. Amended by Stats.1963, c. 783, p. 1811, § 1; Stats.1965, c. 697, p. 2091, § 1; Stats.1976, c. 1139, p. 5108, § 165, operative July 1, 1977; Stats.1980, c. 1117, p. 3590, § 4; Stats.1984, c. 1423, § 2, eff. Sept. 26, 1984; Stats.1993, c. 1253 (A.B.897), § 1; Stats.1994, c. 1263 (A.B.1328), § 3; Stats.1996, c. 1090 (A.B.3215), § 1; Stats.1997, c. 134 (A.B.273), § 1.)

§ 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.

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

11165. Child

As used in this article "child" means a person under the age of 18 years.
(Added by Stats.1987, c. 1459, § 2.)

§ 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.

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

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.

568

§ 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.

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

§ 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 physical injury inflicted upon a child by another person by other than accidental means, 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

§ 11165.6. Child abuse or neglect.

As used in this article, the term "child abuse * * * or neglect" includes physical injury * * * inflicted by other than accidental means upon a child by another person * * *, 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, and unlawful corporal punishment or injury as defined in Section 11165.4 * * *. "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.

(Added by Stats.2000, c. 916 (A.B.1241), § 4. Amended by Stats.2001, c. 133 (A.B.102), § 2, eff. July 31, 2001.)

§ 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 volunteer 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.

Additions or changes indicated by underline; deletions by asterisks * * *

(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.

(34) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of Court.

(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 their employees specified in subdivision (a) in the duties of mandated reporters 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.

§ 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 * * * or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare 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 referred 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.

(Added by Stats.2000, c. 916 (A.B.1241), § 8. Amended by Stats.2001, c. 133 (A.B.102), § 4, eff. July 31, 2001.)

§ 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.

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

§ 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, coworker, 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 * * * electronic transmission 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 * * * makes a telephone report under this subdivision * * *

(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 * * * makes a telephone report under this subdivision.

(Amended by Stats.2000, c. 916 (A.B.1241), § 16; Stats.2001, c. 133 (A.B.102), § 5, eff. July 31, 2001.)

§ 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 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 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 * * * paragraph (30) of subdivision (a) of Section 11165.7, 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 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 * * * paragraph (30) of subdivision (a) of Section 11165.7, 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.

Amended by Stats.2000, c. 916 (A.B.1241), § 20; Stats.2001, c. 133 (A.B.102), § 9, eff. July 31, 2001.)

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.

§ 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.