
San Bernardino Community College District
Board Policy
Chapter 3 – General Institution

BP 3518 CHILD ABUSE REPORTING

NOTE: *The language in red ink is legally advised.*

The Chancellor shall establish procedures related to the responsibility of employees, within the scope of employment or in their professional capacity, to report suspected abuse and neglect of children.

References: Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, and 11164-11174.3;
Welfare and Institutions Code Sections 300, 318, and 601;
Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, and 7892

NOTE: *The red ink signifies language that is legally advised and recommended and recommended by the Policy and Procedure Service and its legal counsel (Liebert Cassidy Whitmore).*

Adopted:

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29 **Legal Citations for BP 3518**

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31 **Penal Code Sections 261, 264.1, 273a, 273d, and 11164-1117.3; Welfare &**
32 **Institutions Code Sections 300, 318, and 601; Family Code Sections 7802, 7807,**
33 **7808, 7820-7829, 7890, and 7892; and Education Code Sections 87044 and 76200**
34 **et seq.**

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36 **PENAL CODE SECTIONS 261, 264.1, 273a, 273d, and 11164-1117.3**

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38 **261.** (a) Rape is an act of sexual intercourse accomplished with a
39 person not the spouse of the perpetrator, under any of the following
40 circumstances:

41 (1) Where a person is incapable, because of a mental disorder or
42 developmental or physical disability, of giving legal consent, and
43 this is known or reasonably should be known to the person committing
44 the act. Notwithstanding the existence of a conservatorship pursuant
45 to the provisions of the Lanterman-Petris-Short Act (Part 1
46 (commencing with Section 5000) of Division 5 of the Welfare and
47 Institutions **Code**), the prosecuting attorney shall prove, as an
48 element of the crime, that a mental disorder or developmental or
49 physical disability rendered the alleged victim incapable of giving
50 consent.

51 (2) Where it is accomplished against a person's will by means of
52 force, violence, duress, menace, or fear of immediate and unlawful
53 bodily injury on the person or another.

54 (3) Where a person is prevented from resisting by any intoxicating
55 or anesthetic substance, or any controlled substance, and this
56 condition was known, or reasonably should have been known by the
57 accused.

58 (4) Where a person is at the time unconscious of the nature of the
59 act, and this is known to the accused. As used in this paragraph,
60 "unconscious of the nature of the act" means incapable of resisting
61 because the victim meets one of the following conditions:

62 (A) Was unconscious or asleep.

63 (B) Was not aware, knowing, perceiving, or cognizant that the act
64 occurred.

65 (C) Was not aware, knowing, perceiving, or cognizant of the
66 essential characteristics of the act due to the perpetrator's fraud in
67 fact.

68 (D) Was not aware, knowing, perceiving, or cognizant of the
69 essential characteristics of the act due to the perpetrator's
70 fraudulent representation that the sexual penetration served a
71 professional purpose when it served no professional purpose.

72 (5) Where a person submits under the belief that the person
73 committing the act is the victim's spouse, and this belief is induced
74 by any artifice, pretense, or concealment practiced by the accused,
75 with intent to induce the belief.

76 (6) Where the act is accomplished against the victim's will by
77 threatening to retaliate in the future against the victim or any other
78 person, and there is a reasonable possibility that the perpetrator
79 will execute the threat. As used in this paragraph, "threatening to

80 retaliate" means a threat to kidnap or falsely imprison, or to inflict
81 extreme pain, serious bodily injury, or death.

82 (7) Where the act is accomplished against the victim's will by
83 threatening to use the authority of a public official to incarcerate,
84 arrest, or deport the victim or another, and the victim has a
85 reasonable belief that the perpetrator is a public official. As used
86 in this paragraph, "public official" means a person employed by a
87 governmental agency who has the authority, as part of that position,
88 to incarcerate, arrest, or deport another. The perpetrator does not
89 actually have to be a public official.

90 (b) As used in this section, "duress" means a direct or implied
91 threat of force, violence, danger, or retribution sufficient to coerce
92 a reasonable person of ordinary susceptibilities to perform an act
93 which otherwise would not have been performed, or acquiesce in an act
94 to which one otherwise would not have submitted. The total
95 circumstances, including the age of the victim, and his or her
96 relationship to the defendant, are factors to consider in appraising
97 the existence of duress.

98 (c) As used in this section, "menace" means any threat,
99 declaration, or act which shows an intention to inflict an injury upon
100 another.

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103 **264.1.** The provisions of Section 264 notwithstanding, in any case in
104 which the defendant, voluntarily acting in concert with another
105 person, by force or violence and against the will of the victim,
106 committed an act described in Section **261**, 262, or 289, either
107 personally or by aiding and abetting the other person, that fact shall
108 be charged in the indictment or information and if found to be true by
109 the jury, upon a jury trial, or if found to be true by the court, upon
110 a court trial, or if admitted by the defendant, the defendant shall
111 suffer confinement in the state prison for five, seven, or nine years.

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113 **273a.** (a) Any person who, under circumstances or conditions likely
114 to produce great bodily harm or death, willfully causes or permits
115 any child to suffer, or inflicts thereon unjustifiable physical pain
116 or mental suffering, or having the care or custody of any child,
117 willfully causes or permits the person or health of that child to be
118 injured, or willfully causes or permits that child to be placed in a
119 situation where his or her person or health is endangered, shall be
120 punished by imprisonment in a county jail not exceeding one year, or
121 in the state prison for two, four, or six years.

122 (b) Any person who, under circumstances or conditions other than
123 those likely to produce great bodily harm or death, willfully causes
124 or permits any child to suffer, or inflicts thereon unjustifiable
125 physical pain or mental suffering, or having the care or custody of
126 any child, willfully causes or permits the person or health of that
127 child to be injured, or willfully causes or permits that child to be
128 placed in a situation where his or her person or health may be
129 endangered, is guilty of a misdemeanor.

130 (c) If a person is convicted of violating this section and

131 probation is granted, the court shall require the following minimum
132 conditions of probation:

133 (1) A mandatory minimum period of probation of 48 months.

134 (2) A criminal court protective order protecting the victim from
135 further acts of violence or threats, and, if appropriate, residence
136 exclusion or stay-away conditions.

137 (3) (A) Successful completion of no less than one year of a child
138 abuser's treatment counseling program approved by the probation
139 department. The defendant shall be ordered to begin participation in
140 the program immediately upon the grant of probation. The counseling
141 program shall meet the criteria specified in Section **273.1**. The
142 defendant shall produce documentation of program enrollment to the
143 court within 30 days of enrollment, along with quarterly progress
144 reports.

145 (B) The terms of probation for offenders shall not be lifted until
146 all reasonable fees due to the counseling program have been paid in
147 full, but in no case shall probation be extended beyond the term
148 provided in subdivision (a) of Section 1203.1. If the court finds
149 that the defendant does not have the ability to pay the fees based on
150 the defendant's changed circumstances, the court may reduce or waive
151 the fees.

152 (4) If the offense was committed while the defendant was under the
153 influence of drugs or alcohol, the defendant shall abstain from the
154 use of drugs or alcohol during the period of probation and shall be
155 subject to random drug testing by his or her probation officer.

156 (5) The court may waive any of the above minimum conditions of
157 probation upon a finding that the condition would not be in the best
158 interests of justice. The court shall state on the record its reasons
159 for any waiver.

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162 **273d.** (a) Any person who willfully inflicts upon a child any cruel or
163 inhuman corporal punishment or an injury resulting in a traumatic
164 condition is guilty of a felony and shall be punished by imprisonment
165 in the state prison for two, four, or six years, or in a county jail
166 for not more than one year, by a fine of up to six thousand dollars
167 (\$6,000), or by both that imprisonment and fine.

168 (b) Any person who is found guilty of violating subdivision (a)
169 shall receive a four-year enhancement for a prior conviction of that
170 offense provided that no additional term shall be imposed under this
171 subdivision for any prison term served prior to a period of 10 years
172 in which the defendant remained free of both prison custody and the
173 commission of an offense that results in a felony conviction.

174 (c) If a person is convicted of violating this section and
175 probation is granted, the court shall require the following minimum
176 conditions of probation:

177 (1) A mandatory minimum period of probation of 36 months.

178 (2) A criminal court protective order protecting the victim from
179 further acts of violence or threats, and, if appropriate, residence
180 exclusion or stay-away conditions.

181 (3) (A) Successful completion of no less than one year of a child
182 abuser's treatment counseling program. The defendant shall be ordered

183 to begin participation in the program immediately upon the grant of
184 probation. The counseling program shall meet the criteria specified
185 in Section 273.1. The defendant shall produce documentation of
186 program enrollment to the court within 30 days of enrollment, along
187 with quarterly progress reports.

188 (B) The terms of probation for offenders shall not be lifted until
189 all reasonable fees due to the counseling program have been paid in
190 full, but in no case shall probation be extended beyond the term
191 provided in subdivision (a) of Section 1203.1. If the court finds
192 that the defendant does not have the ability to pay the fees based on
193 the defendant's changed circumstances, the court may reduce or waive
194 the fees.

195 (4) If the offense was committed while the defendant was under the
196 influence of drugs or alcohol, the defendant shall abstain from the
197 use of drugs or alcohol during the period of probation and shall be
198 subject to random drug testing by his or her probation officer.

199 (5) The court may waive any of the above minimum conditions of
200 probation upon a finding that the condition would not be in the best
201 interests of justice. The court shall state on the record its reasons
202 for any waiver.

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205 **11164.** (a) This article shall be known and may be cited as the
206 Child Abuse and Neglect Reporting Act.

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

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215 **11165.** As used in this article "child" means a person under the age
216 of 18 years.

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219 **11165.1.** As used in this article, "sexual abuse" means sexual
220 assault or sexual exploitation as defined by the following:

221 (a) "Sexual assault" means conduct in violation of one or more of
222 the following sections: Section 261 (rape), subdivision (d) of
223 Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest),
224 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision
225 (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral
226 copulation), 289 (sexual penetration), or 647.6 (child molestation).

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

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

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

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

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

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

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

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

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

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

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273 **11165.2.** As used in this article, "neglect" means the negligent
274 treatment or the maltreatment of a child by a person responsible for
275 the child's welfare under circumstances indicating harm or threatened
276 harm to the child's health or welfare. The term includes both acts
277 and omissions on the part of the responsible person.

278 (a) "Severe neglect" means the negligent failure of a person having
279 the care or custody of a child to protect the child from severe
280 malnutrition or medically diagnosed nonorganic failure to thrive.
281 "Severe neglect" also means those situations of neglect where any
282 person having the care or custody of a child willfully causes or
283 permits the person or health of the child to be placed in a situation
284 such that his or her person or health is endangered, as proscribed by

285 Section 11165.3, including the intentional failure to provide adequate
286 food, clothing, shelter, or medical care.

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

291 For the purposes of this chapter, a child receiving treatment by
292 spiritual means as provided in Section 16509.1 of the Welfare and
293 Institutions **Code** or not receiving specified medical treatment for
294 religious reasons, shall not for that reason alone be considered a
295 neglected child. An informed and appropriate medical decision made by
296 parent or guardian after consultation with a physician or physicians
297 who have examined the minor does not constitute neglect.

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300 **11165.3.** As used in this article, "the willful harming or injuring of
301 a child or the endangering of the person or health of a child," means
302 a situation in which any person willfully causes or permits any child
303 to suffer, or inflicts thereon, unjustifiable physical pain or mental
304 suffering, or having the care or custody of any child, willfully
305 causes or permits the person or health of the child to be placed in a
306 situation in which his or her person or health is endangered.

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309 **11165.4.** As used in this article, "unlawful corporal punishment or
310 injury" means a situation where any person willfully inflicts upon any
311 child any cruel or inhuman corporal punishment or injury resulting in
312 a traumatic condition. It does not include an amount of force that is
313 reasonable and necessary for a person employed by or engaged in a
314 public school to quell a disturbance threatening physical injury to
315 person or damage to property, for purposes of self-defense, or to
316 obtain possession of weapons or other dangerous objects within the
317 control of the pupil, as authorized by Section 49001 of the Education
318 **Code**. It also does not include the exercise of the degree of physical
319 control authorized by Section 44807 of the Education **Code**. It also
320 does not include an injury caused by reasonable and necessary force
321 used by a peace officer acting within the course and scope of his or
322 her employment as a peace officer.

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325 **11165.5.** As used in this article, the term "abuse or neglect in out-
326 of-home care" includes physical injury inflicted upon a child by
327 another person by other than accidental means, sexual abuse as defined
328 in Section 11165.1, neglect as defined in Section 11165.2, unlawful
329 corporal punishment or injury as defined in Section 11165.4, or the
330 willful harming or injuring of a child or the endangering of the
331 person or health of a child, as defined in Section 11165.3, where the
332 person responsible for the child's welfare is a licensee,
333 administrator, or employee of any facility licensed to care for
334 children, or an administrator or employee of a public or private
335 school or other institution or agency. "Abuse or neglect in out-of-
336 home care" does not include an injury caused by reasonable and

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

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341 **11165.6.** As used in this article, the term "child abuse or neglect"
342 includes physical injury inflicted by other than accidental means upon
343 a child by another person, sexual abuse as defined in Section 11165.1,
344 neglect as defined in Section 11165.2, the willful harming or injuring
345 of a child or the endangering of the person or health of a child, as
346 defined in Section 11165.3, and unlawful corporal punishment or injury
347 as defined in Section 11165.4. "Child abuse or neglect" does not
348 include a mutual affray between minors. "Child abuse or neglect" does
349 not include an injury caused by reasonable and necessary force used by
350 a peace officer acting within the course and scope of his or her
351 employment as a peace officer.

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354 **11165.7.** (a) As used in this article, "mandated reporter" is defined
355 as any of the following:

356 (1) A teacher.

357 (2) An instructional aide.

358 (3) A teacher's aide or teacher's assistant employed by any public
359 or private school.

360 (4) A classified employee of any public school.

361 (5) An administrative officer or supervisor of child welfare and
362 attendance, or a certificated pupil personnel employee of any public
363 or private school.

364 (6) An administrator of a public or private day camp.

365 (7) An administrator or employee of a public or private youth
366 center, youth recreation program, or youth organization.

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

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

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

375 (11) A Head Start program teacher.

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

378 (13) A public assistance worker.

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

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

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

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

388 (18) A district attorney investigator, inspector, or local child
389 support agency caseworker unless the investigator, inspector, or
390 caseworker is working with an attorney appointed pursuant to Section
391 317 of the Welfare and Institutions **Code** to represent a minor.

392 (19) A peace officer, as defined in Chapter 4.5 (commencing with
393 Section 830) of Title 3 of Part 2, who is not otherwise described in
394 this section.

395 (20) A firefighter, except for volunteer firefighters.

396 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
397 resident, intern, podiatrist, chiropractor, licensed nurse, dental
398 hygienist, optometrist, marriage, family and child counselor, clinical
399 social worker, or any other person who is currently licensed under
400 Division 2 (commencing with Section 500) of the Business and
401 Professions **Code**.

402 (22) Any emergency medical technician I or II, paramedic, or other
403 person certified pursuant to Division 2.5 (commencing with Section
404 1797) of the Health and Safety **Code**.

405 (23) A psychological assistant registered pursuant to Section 2913
406 of the Business and Professions **Code**.

407 (24) A marriage, family, and child therapist trainee, as defined in
408 subdivision (c) of Section 4980.03 of the Business and Professions
409 **Code**.

410 (25) An unlicensed marriage, family, and child therapist intern
411 registered under Section 4980.44 of the Business and Professions **Code**.

412 (26) A state or county public health employee who treats a minor
413 for venereal disease or any other condition.

414 (27) A coroner.

415 (28) A medical examiner, or any other person who performs
416 autopsies.

417 (29) A commercial film and photographic print processor, as
418 specified in subdivision (d) of Section 11166. As used in this
419 article, "commercial film and photographic print processor" means any
420 person who develops exposed photographic film into negatives, slides,
421 or prints, or who makes prints from negatives or slides, for
422 compensation. The term includes any employee of such a person; it
423 does not include a person who develops film or makes prints for a
424 public agency.

425 (30) A child visitation monitor. As used in this article, "child
426 visitation monitor" means any person who, for financial compensation,
427 acts as monitor of a visit between a child and any other person when
428 the monitoring of that visit has been ordered by a court of law.

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

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

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

438 (32) A clergy member, as specified in subdivision (c) of Section
439 11166. As used in this article, "clergy member" means a priest,

440 minister, rabbi, religious practitioner, or similar functionary of a
441 church, temple, or recognized denomination or organization.

442 (33) Any custodian of records of a clergy member, as specified in
443 this section and subdivision (c) of Section 11166.

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

446 (35) An employee or volunteer of a Court Appointed Special Advocate
447 program, as defined in Rule 1424 of the California Rules of Court.

448 (36) A custodial officer as defined in Section 831.5.

449 (37) Any person providing services to a minor child under Section
450 12300 or 12300.1 of the Welfare and Institutions **Code**.

451 (b) Except as provided in paragraph (35) of subdivision (a),
452 volunteers of public or private organizations whose duties require
453 direct contact with and supervision of children are not mandated
454 reporters but are encouraged to obtain training in the identification
455 and reporting of child abuse and neglect and are further encouraged to
456 report known or suspected instances of child abuse or neglect to an
457 agency specified in Section 11165.9.

458 (c) Employers are strongly encouraged to provide their employees
459 who are mandated reporters with training in the duties imposed by this
460 article. This training shall include training in child abuse and
461 neglect identification and training in child abuse and neglect
462 reporting. Whether or not employers provide their employees with
463 training in child abuse and neglect identification and reporting, the
464 employers shall provide their employees who are mandated reporters
465 with the statement required pursuant to subdivision (a) of Section
466 11166.5.

467 (d) School districts that do not train their employees specified in
468 subdivision (a) in the duties of mandated reporters under the child
469 abuse reporting laws shall report to the State Department of Education
470 the reasons why this training is not provided.

471 (e) Unless otherwise specifically provided, the absence of training
472 shall not excuse a mandated reporter from the duties imposed by this
473 article.

474 (f) Public and private organizations are encouraged to provide
475 their volunteers whose duties require direct contact with and
476 supervision of children with training in the identification and
477 reporting of child abuse and neglect.

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480 **11165.9.** Reports of suspected child abuse or neglect shall be made by
481 mandated reporters to any police department or sheriff's department,
482 not including a school district police or security department, county
483 probation department, if designated by the county to receive mandated
484 reports, or the county welfare department. Any of those agencies shall
485 accept a report of suspected child abuse or neglect whether offered by
486 a mandated reporter or another person, or referred by another agency,
487 even if the agency to whom the report is being made lacks subject
488 matter or geographical jurisdiction to investigate the reported case,
489 unless the agency can immediately electronically transfer the call to
490 an agency with proper jurisdiction. When an agency takes a report
491 about a case of suspected child abuse or neglect in which that agency

492 lacks jurisdiction, the agency shall immediately refer the case by
493 telephone, fax, or electronic transmission to an agency with proper
494 jurisdiction. Agencies that are required to receive reports of
495 suspected child abuse or neglect may not refuse to accept a report of
496 suspected child abuse or neglect from a mandated reporter or another
497 person unless otherwise authorized pursuant to this section, and shall
498 maintain a record of all reports received.

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501 **11165.11.** As used in this article, "licensing agency" means the State
502 Department of Social Services office responsible for the licensing and
503 enforcement of the California Community Care Facilities Act (Chapter
504 3 (commencing with Section 1500) of Division 2 of the Health and
505 Safety **Code**), the California Child Day Care Act (Chapter 3.4
506 (commencing with Section 1596.70) of Division 2 of the Health and
507 Safety **Code**), and Chapter 3.5 (commencing with Section 1596.90) of
508 Division 2 of the Health and Safety **Code**), or the county licensing
509 agency which has contracted with the state for performance of those
510 duties.

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513 **11165.12.** As used in this article, the following definitions shall
514 control:

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

519 (b) "Substantiated report" means a report that is determined by the
520 investigator who conducted the investigation to constitute child abuse
521 or neglect, as defined in Section 11165.6, based upon evidence that
522 makes it more likely than not that child abuse or neglect, as defined,
523 occurred.

524 (c) "Inconclusive report" means a report that is determined by the
525 investigator who conducted the investigation not to be unfounded, but
526 the findings are inconclusive and there is insufficient evidence to
527 determine whether child abuse or neglect, as defined in Section
528 11165.6, has occurred.

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531 **11165.13.** For purposes of this article, a positive toxicology screen
532 at the time of the delivery of an infant is not in and of itself a
533 sufficient basis for reporting child abuse or neglect. However, any
534 indication of maternal substance abuse shall lead to an assessment of
535 the needs of the mother and child pursuant to Section 123605 of the
536 Health and Safety **Code**. If other factors are present that indicate
537 risk to a child, then a report shall be made. However, a report based
538 on risk to a child which relates solely to the inability of the parent
539 to provide the child with regular care due to the parent's substance
540 abuse shall be made only to a county welfare or probation department,
541 and not to a law enforcement agency.

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544 **11165.14.** The appropriate local law enforcement agency shall
545 investigate a child abuse complaint filed by a parent or guardian of a
546 pupil with a school or an agency specified in Section 11165.9 against
547 a school employee or other person that commits an act of child abuse,
548 as defined in this article, against a pupil at a schoolsite and shall
549 transmit a substantiated report, as defined in Section 11165.12, of
550 that investigation to the governing board of the appropriate school
551 district or county office of education. A substantiated report
552 received by a governing board of a school district or county office of
553 education shall be subject to the provisions of Section 44031 of the
554 Education **Code**.

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557 **11166.** (a) Except as provided in subdivision (d), a mandated
558 reporter shall make a report to an agency specified in Section
559 11165.9 whenever the mandated reporter, in his or her professional
560 capacity or within the scope of his or her employment, has knowledge
561 of or observes a child whom the mandated reporter knows or reasonably
562 suspects has been the victim of child abuse or neglect. The mandated
563 reporter shall make an initial report to the agency immediately or
564 as soon as is practicably possible by telephone and the mandated
565 reporter shall prepare and send, fax, or electronically transmit a
566 written followup report thereof within 36 hours of receiving the
567 information concerning the incident. The mandated reporter may
568 include with the report any nonprivileged documentary evidence the
569 mandated reporter possesses relating to the incident.

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

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

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

584 (b) If after reasonable efforts a mandated reporter is unable to
585 submit an initial report by telephone, he or she shall immediately or
586 as soon as is practicably possible, by fax or electronic
587 transmission, make a one-time automated written report on the form
588 prescribed by the Department of Justice, and shall also be available
589 to respond to a telephone follow-up call by the agency with which he
590 or she filed the report. A mandated reporter who files a one-time
591 automated written report because he or she was unable to submit an
592 initial report by telephone is not required to submit a written
593 follow-up report.

594 (1) The one-time automated written report form prescribed by the
595 Department of Justice shall be clearly identifiable so that it is not

596 mistaken for a standard written follow-up report. In addition, the
597 automated one-time report shall contain a section that allows the
598 mandated reporter to state the reason the initial telephone call was
599 not able to be completed. The reason for the submission of the
600 one-time automated written report in lieu of the procedure prescribed
601 in subdivision (a) shall be captured in the Child Welfare
602 Services/Case Management System (CWS/CMS). The department shall work
603 with stakeholders to modify reporting forms and the CWS/CMS as is
604 necessary to accommodate the changes enacted by these provisions.

605 (2) This subdivision shall not become operative until the CWS/CMS
606 is updated to capture the information prescribed in this subdivision.
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608 (3) This subdivision shall become inoperative three years after
609 this subdivision becomes operative or on January 1, 2009, which ever
610 occurs first.

611 (4) On the inoperative date of these provisions, a report shall be
612 submitted to the counties and the Legislature by the Department of
613 Social Services that reflects the data collected from automated
614 one-time reports indicating the reasons stated as to why the
615 automated one-time report was filed in lieu of the initial telephone
616 report.

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

621 (c) Any mandated reporter who fails to report an incident of known
622 or reasonably suspected child abuse or neglect as required by this
623 section is guilty of a misdemeanor punishable by up to six months
624 confinement in a county jail or by a fine of one thousand dollars
625 (\$1,000) or by both that imprisonment and fine. If a mandated
626 reporter intentionally conceals his or her failure to report an
627 incident known by the mandated reporter to be abuse or severe neglect
628 under this section, the failure to report is a continuing offense
629 until an agency specified in Section 11165.9 discovers the offense.

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

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

645 (3) (A) On or before January 1, 2004, a clergy member or any
646 custodian of records for the clergy member may report to an agency
647 specified in Section 11165.9 that the clergy member or any custodian

648 of records for the clergy member, prior to January 1, 1997, in his or
649 her professional capacity or within the scope of his or her
650 employment, other than during a penitential communication, acquired
651 knowledge or had a reasonable suspicion that a child had been the
652 victim of sexual abuse that the clergy member or any custodian of
653 records for the clergy member did not previously report the abuse to
654 an agency specified in Section 11165.9. The provisions of Section
655 11172 shall apply to all reports made pursuant to this paragraph.

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

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

663 (e) Any commercial film and photographic print processor who has
664 knowledge of or observes, within the scope of his or her professional
665 capacity or employment, any film, photograph, videotape, negative,
666 or slide depicting a child under the age of 16 years engaged in an
667 act of sexual conduct, shall report the instance of suspected child
668 abuse to the law enforcement agency having jurisdiction over the case
669 immediately, or as soon as practicably possible, by telephone and
670 shall prepare and send, fax, or electronically transmit a written
671 report of it with a copy of the film, photograph, videotape,
672 negative, or slide attached within 36 hours of receiving the
673 information concerning the incident. As used in this subdivision,
674 "sexual conduct" means any of the following:

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

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

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

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

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

685 (f) Any mandated reporter who knows or reasonably suspects that the
686 home or institution in which a child resides is unsuitable for the
687 child because of abuse or neglect of the child shall bring the
688 condition to the attention of the agency to which, and at the same
689 time as, he or she makes a report of the abuse or neglect pursuant to
690 subdivision (a).

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

695 (h) When two or more persons, who are required to report, jointly
696 have knowledge of a known or suspected instance of child abuse or
697 neglect, and when there is agreement among them, the telephone report
698 may be made by a member of the team selected by mutual agreement and a
699 single report may be made and signed by the selected member of the

700 reporting team. Any member who has knowledge that the member
701 designated to report has failed to do so shall thereafter make the
702 report.

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

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

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

716 (j) A county probation or welfare department shall immediately, or
717 as soon as practicably possible, report by telephone, fax, or
718 electronic transmission to the law enforcement agency having
719 jurisdiction over the case, to the agency given the responsibility
720 for investigation of cases under Section 300 of the Welfare and
721 Institutions **Code**, and to the district attorney's office every known
722 or suspected instance of child abuse or neglect, as defined in
723 Section 11165.6, except acts or omissions coming within subdivision
724 (b) of Section 11165.2, or reports made pursuant to Section 11165.13
725 based on risk to a child which relates solely to the inability of the
726 parent to provide the child with regular care due to the parent's
727 substance abuse, which shall be reported only to the county welfare
728 or probation department. A county probation or welfare department also
729 shall send, fax, or electronically transmit a written report thereof
730 within 36 hours of receiving the information concerning the incident
731 to any agency to which it makes a telephone report under this
732 subdivision.

733 (k) A law enforcement agency shall immediately, or as soon as
734 practicably possible, report by telephone, fax, or electronic
735 transmission to the agency given responsibility for investigation of
736 cases under Section 300 of the Welfare and Institutions **Code** and to
737 the district attorney's office every known or suspected instance of
738 child abuse or neglect reported to it, except acts or omissions
739 coming within subdivision (b) of Section 11165.2, which shall be
740 reported only to the county welfare or probation department. A law
741 enforcement agency shall report to the county welfare or probation
742 department every known or suspected instance of child abuse or
743 neglect reported to it which is alleged to have occurred as a result
744 of the action of a person responsible for the child's welfare, or as
745 the result of the failure of a person responsible for the child's
746 welfare to adequately protect the minor from abuse when the person
747 responsible for the child's welfare knew or reasonably should have
748 known that the minor was in danger of abuse. A law enforcement agency
749 also shall send, fax, or electronically transmit a written report
750 thereof within 36 hours of receiving the information concerning the

751 incident to any agency to which it makes a telephone report under this
752 subdivision.

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755 **11166.01.** (a) Except as provided in subdivision (b), any supervisor
756 or administrator who violates paragraph (1) of subdivision (h) of
757 Section 11166 shall be punished by not more than six months in a
758 county jail, by a fine of not more than one thousand dollars
759 (\$1,000), or by both that fine and imprisonment.

760 (b) Notwithstanding Section 11162, any mandated reporter who
761 willfully fails to report abuse or neglect, or any person who impedes
762 or inhibits a report of abuse or neglect, in violation of this
763 article, where that abuse or neglect results in death or great bodily
764 injury, shall be punished by not more than one year in a county jail,
765 by a fine of not more than five thousand dollars (\$5,000), or by both
766 that fine and imprisonment.

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769 **11166.05.** Any mandated reporter who has knowledge of or who
770 reasonably suspects that a child is suffering serious emotional damage
771 or is at a substantial risk of suffering serious emotional damage,
772 evidenced by states of being or behavior, including, but not limited
773 to, severe anxiety, depression, withdrawal, or untoward aggressive
774 behavior toward self or others, may make a report to an agency
775 specified in Section 11165.9.

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778 **11166.1.** (a) When an agency receives a report pursuant to Section
779 11166 that contains either of the following, it shall, within 24
780 hours, notify the licensing office with jurisdiction over the
781 facility:

782 (1) A report of abuse alleged to have occurred in facilities
783 licensed to care for children by the State Department of Social
784 Services.

785 (2) A report of the death of a child who was, at the time of
786 death, living at, enrolled in, or regularly attending a facility
787 licensed to care for children by the State Department of Social
788 Services, unless the circumstances of the child's death are clearly
789 unrelated to the child's care at the facility.

790 The agency shall send the licensing agency a copy of its
791 investigation and any other pertinent materials.

792 (b) Any employee of an agency specified in Section 11165.9 who has
793 knowledge of, or observes in his or her professional capacity or
794 within the scope of his or her employment, a child in protective
795 custody whom he or she knows or reasonably suspects has been the
796 victim of child abuse or neglect shall, within 36 hours, send or have
797 sent to the attorney who represents the child in dependency court, a
798 copy of the report prepared in accordance with Section 11166. The
799 agency shall maintain a copy of the written report. All information
800 requested by the attorney for the child or the child's guardian ad
801 litem shall be provided by the agency within 30 days of the request.

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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.

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.

11166.5. (a) On and after January 1, 1985, any mandated reporter as specified in Section 11165.7, with the exception of child visitation

855 monitors, prior to commencing his or her employment, and as a
856 prerequisite to that employment, shall sign a statement on a form
857 provided to him or her by his or her employer to the effect that he
858 or she has knowledge of the provisions of Section 11166 and will
859 comply with those provisions. The statement shall inform the
860 employee that he or she is a mandated reporter and inform the
861 employee of his or her reporting obligations under Section 11166 and
862 of his or her confidentiality rights under subdivision (d) of Section
863 11167. The employer shall provide a copy of Sections 11165.7,
864 11166, and 11167 to the employee.

865 On and after January 1, 1993, any person who acts as a child
866 visitation monitor, as defined in paragraph (30) of subdivision (a)
867 of Section 11165.7, prior to engaging in monitoring the first visit
868 in a case, shall sign a statement on a form provided to him or her by
869 the court which ordered the presence of that third person during the
870 visit, to the effect that he or she has knowledge of the provisions
871 of Section 11166 and will comply with those provisions.

872 The signed statements shall be retained by the employer or the
873 court, as the case may be. The cost of printing, distribution, and
874 filing of these statements shall be borne by the employer or the
875 court.

876 This subdivision is not applicable to persons employed by public or
877 private youth centers, youth recreation programs, and youth
878 organizations as members of the support staff or maintenance staff and
879 who do not work with, observe, or have knowledge of children as part
880 of their official duties.

881 (b) On and after January 1, 1986, when a person is issued a state
882 license or certificate to engage in a profession or occupation, the
883 members of which are required to make a report pursuant to Section
884 11166, the state agency issuing the license or certificate shall send
885 a statement substantially similar to the one contained in
886 subdivision (a) to the person at the same time as it transmits the
887 document indicating licensure or certification to the person. In
888 addition to the requirements contained in subdivision (a), the
889 statement also shall indicate that failure to comply with the
890 requirements of Section 11166 is a misdemeanor, punishable by up to
891 six months in a county jail, by a fine of one thousand dollars
892 (\$1,000), or by both that imprisonment and fine.

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

897 (d) On and after January 1, 1993, any child visitation monitor, as
898 defined in paragraph (30) of subdivision (a) of Section 11165.7, who
899 desires to act in that capacity shall have received training in the
900 duties imposed by this article, including training in child abuse
901 identification and child abuse reporting. The person, prior to
902 engaging in monitoring the first visit in a case, shall sign a
903 statement on a form provided to him or her by the court which ordered
904 the presence of that third person during the visit, to the effect
905 that he or she has received this training. This statement may be
906 included in the statement required by subdivision (a) or it may be a

907 separate statement. This statement shall be filed, along with the
908 statement required by subdivision (a), in the court file of the case
909 for which the visitation monitoring is being provided.

910 (e) Any person providing services to a minor child, as described
911 in paragraph (37) of subdivision (a) of Section 11165.7, shall not be
912 required to make a report pursuant to Section 11166 unless that
913 person has received training, or instructional materials in the
914 appropriate language, on the duties imposed by this article,
915 including identifying and reporting child abuse and neglect.

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918 **11167.** (a) Reports of suspected child abuse or neglect pursuant to
919 Section 11166 shall include the name, business address, and telephone
920 number of the mandated reporter; the capacity that makes the person
921 a mandated reporter; and the information that gave rise to the
922 reasonable suspicion of child abuse or neglect and the source or
923 sources of that information. If a report is made, the following
924 information, if known, shall also be included in the report: the
925 child's name, the child's address, present location, and, if
926 applicable, school, grade, and class; the names, addresses, and
927 telephone numbers of the child's parents or guardians; and the name,
928 address, telephone number, and other relevant personal information
929 about the person or persons who might have abused or neglected the
930 child. The mandated reporter shall make a report even if some of this
931 information is not known or is uncertain to him or her.

932 (b) Information relevant to the incident of child abuse or neglect
933 may be given to an investigator from an agency that is investigating
934 the known or suspected case of child abuse or neglect.

935 (c) Information relevant to the incident of child abuse or
936 neglect, including the investigation report and other pertinent
937 materials, may be given to the licensing agency when it is
938 investigating a known or suspected case of child abuse or neglect.

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

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

955 (e) Notwithstanding the confidentiality requirements of this
956 section, a representative of a child protective services agency
957 performing an investigation that results from a report of suspected
958 child abuse or neglect made pursuant to Section 11166, at the time of

959 the initial contact with the individual who is subject to the
960 investigation, shall advise the individual of the complaints or
961 allegations against him or her, in a manner that is consistent with
962 laws protecting the identity of the reporter under this article.

963 (f) Persons who may report pursuant to subdivision (f) of Section
964 11166 are not required to include their names.

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967 **11167.5.** (a) The reports required by Sections 11166 and 11166.2,
968 and child abuse or neglect investigative reports that result in a
969 summary report being filed with the Department of Justice pursuant to
970 subdivision (a) of Section 11169 shall be confidential and may be
971 disclosed only as provided in subdivision (b). Any violation of the
972 confidentiality provided by this article is a misdemeanor punishable
973 by imprisonment in a county jail not to exceed six months, by a fine
974 of five hundred dollars (\$500), or by both that imprisonment and fine.

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

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

979 (2) Persons or agencies to whom disclosure of information is
980 permitted under subdivision (b) of Section 11170 or subdivision (a)
981 of Section 11170.5.

982 (3) Persons or agencies with whom investigations of child abuse or
983 neglect are coordinated under the regulations promulgated under
984 Section 11174.

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

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

989 (6) The State Department of Social Services or any county
990 licensing agency which has contracted with the state, as specified in
991 paragraph (4) of subdivision (b) of Section 11170, when an individual
992 has applied for a community care license or child day care license, or
993 for employment in an out-of-home care facility, or when a complaint
994 alleges child abuse or neglect by an operator or employee of an out-
995 of-home care facility.

996 (7) Hospital scan teams. As used in this paragraph, "hospital
997 scan team" means a team of three or more persons established by a
998 hospital, or two or more hospitals in the same county, consisting of
999 health care professionals and representatives of law enforcement and
1000 child protective services, the members of which are engaged in the
1001 identification of child abuse or neglect. The disclosure authorized
1002 by this section includes disclosure among all hospital scan teams.

1003 (8) Coroners and medical examiners when conducting a postmortem
1004 examination of a child.

1005 (9) The Board of Prison Terms, who may subpoena an employee of a
1006 county welfare department who can provide relevant evidence and
1007 reports that both (A) are not unfounded, pursuant to Section
1008 11165.12, and (B) concern only the current incidents upon which
1009 parole revocation proceedings are pending against a parolee charged
1010 with child abuse or neglect. The reports and information shall be

1011 confidential pursuant to subdivision (d) of Section 11167.

1012 (10) Personnel from an agency responsible for making a placement
1013 of a child pursuant to Section 361.3 of, and Article 7 (commencing
1014 with Section 305) of Chapter 2 of Part 1 of Division 2 of, the
1015 Welfare and Institutions **Code**.

1016 (11) Persons who have been identified by the Department of Justice
1017 as listed in the Child Abuse Central Index pursuant to paragraph (6)
1018 of subdivision (b) of Section 11170 or subdivision (c) of Section
1019 11170, or persons who have verified with the Department of Justice
1020 that they are listed in the Child Abuse Central Index as provided in
1021 subdivision (e) of Section 11170. Disclosure under this paragraph is
1022 required notwithstanding the California Public Records Act, Chapter
1023 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the
1024 Government **Code**. Nothing in this paragraph shall preclude a
1025 submitting agency prior to disclosure from redacting any information
1026 necessary to maintain confidentiality as required by law.

1027 (12) Out-of-state law enforcement agencies conducting an
1028 investigation of child abuse or neglect only when an agency makes the
1029 request for reports of suspected child abuse or neglect in writing
1030 and on official letterhead, identifying the suspected abuser or
1031 victim by name. The request shall be signed by the department
1032 supervisor of the requesting law enforcement agency. The written
1033 request shall cite the out-of-state statute or interstate compact
1034 provision that requires that the information contained within these
1035 reports is to be disclosed only to law enforcement, prosecutorial
1036 entities, or multidisciplinary investigative teams, and shall cite
1037 the criminal penalties for unlawful disclosure provided by the
1038 requesting state or the applicable interstate compact provision. In
1039 the absence of both (A) a specific out-of-state statute or interstate
1040 compact provision that requires that the information contained
1041 within these reports be disclosed only to law enforcement,
1042 prosecutorial entities, or multidisciplinary investigative teams, and
1043 (B) criminal penalties equivalent to the penalties in California for
1044 unlawful disclosure, access shall be denied.

1045 (13) Each chairperson of a county child death review team, or his
1046 or her designee, to whom disclosure of information is permitted under
1047 this article, relating to the death of one or more children and any
1048 prior child abuse or neglect investigation reports maintained
1049 involving the same victim, siblings, or suspects. Local child death
1050 review teams may share any relevant information regarding case
1051 reviews involving child death with other child death review teams.

1052 (c) Authorized persons within county health departments shall be
1053 permitted to receive copies of any reports made by health
1054 practitioners, as defined in paragraphs (21) to (28), inclusive, of
1055 subdivision (a) of Section 11165.7, and pursuant to Section 11165.13,
1056 and copies of assessments completed pursuant to Sections 123600 and
1057 123605 of the Health and Safety **Code**, to the extent permitted by
1058 federal law. Any information received pursuant to this subdivision
1059 is protected by subdivision (e).

1060 (d) Nothing in this section requires the Department of Justice to
1061 disclose information contained in records maintained under Section
1062 11170 or under the regulations promulgated pursuant to Section 11174,

1063 except as otherwise provided in this article.

1064 (e) This section shall not be interpreted to allow disclosure of
1065 any reports or records relevant to the reports of child abuse or
1066 neglect if the disclosure would be prohibited by any other provisions
1067 of state or federal law applicable to the reports or records
1068 relevant to the reports of child abuse or neglect.

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1071 **11168.** The written reports required by Section 11166 shall be
1072 submitted on forms adopted by the Department of Justice after
1073 consultation with representatives of the various professional medical
1074 associations and hospital associations and county probation or
1075 welfare departments. Those forms shall be distributed by the
1076 agencies specified in Section 11165.9.

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1079 **11169.** (a) An agency specified in Section 11165.9 shall forward to
1080 the Department of Justice a report in writing of every case it
1081 investigates of known or suspected child abuse or severe neglect
1082 which is determined not to be unfounded, other than cases coming
1083 within subdivision (b) of Section 11165.2. An agency shall not
1084 forward a report to the Department of Justice unless it has conducted
1085 an active investigation and determined that the report is not
1086 unfounded, as defined in Section 11165.12. If a report has
1087 previously been filed which subsequently proves to be unfounded, the
1088 Department of Justice shall be notified in writing of that fact and
1089 shall not retain the report. The reports required by this section
1090 shall be in a form approved by the Department of Justice and may be
1091 sent by fax or electronic transmission. An agency specified in
1092 Section 11165.9 receiving a written report from another agency
1093 specified in Section 11165.9 shall not send that report to the
1094 Department of Justice.

1095 (b) At the time an agency specified in Section 11165.9 forwards a
1096 report in writing to the Department of Justice pursuant to
1097 subdivision (a), the agency shall also notify in writing the known or
1098 suspected child abuser that he or she has been reported to the Child
1099 Abuse Central Index. The notice required by this section shall be in
1100 a form approved by the Department of Justice. The requirements of
1101 this subdivision shall apply with respect to reports forwarded to the
1102 department on or after the date on which this subdivision becomes
1103 operative.

1104 (c) Agencies shall retain child abuse or neglect investigative
1105 reports that result in a report filed with the Department of Justice
1106 pursuant to subdivision (a) for the same period of time that the
1107 information is required to be maintained on the Child Abuse Central
1108 Index pursuant to this section and subdivision (a) of Section 11170.
1109 Nothing in this section precludes an agency from retaining the
1110 reports for a longer period of time if required by law.

1111 (d) The immunity provisions of Section 11172 shall not apply to
1112 the submission of a report by an agency pursuant to this section.
1113 However, nothing in this section shall be construed to alter or
1114 diminish any other immunity provisions of state or federal law.

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1117 **11170.** (a) (1) The Department of Justice shall maintain an index of
1118 all reports of child abuse and severe neglect submitted pursuant to
1119 Section 11169. The index shall be continually updated by the
1120 department and shall not contain any reports that are determined to
1121 be unfounded. The department may adopt rules governing recordkeeping
1122 and reporting pursuant to this article.

1123 (2) The department shall act only as a repository of reports of
1124 suspected child abuse and severe neglect to be maintained in the
1125 Child Abuse Central Index pursuant to paragraph (1). The submitting
1126 agencies are responsible for the accuracy, completeness, and
1127 retention of the reports described in this section. The department
1128 shall be responsible for ensuring that the Child Abuse Central Index
1129 accurately reflects the report it receives from the submitting agency.

1130 (3) Information from an inconclusive or unsubstantiated report
1131 filed pursuant to subdivision (a) of Section 11169 shall be deleted
1132 from the Child Abuse Central Index after 10 years if no subsequent
1133 report concerning the same suspected child abuser is received within
1134 that time period. If a subsequent report is received within that 10-
1135 year period, information from any prior report, as well as any
1136 subsequently filed report, shall be maintained on the Child Abuse
1137 Central Index for a period of 10 years from the time the most recent
1138 report is received by the department.

1139 (b) (1) The Department of Justice shall immediately notify an
1140 agency that submits a report pursuant to Section 11169, or a
1141 prosecutor who requests notification, of any information maintained
1142 pursuant to subdivision (a) that is relevant to the known or
1143 suspected instance of child abuse or severe neglect reported by the
1144 agency. The agency shall make that information available to the
1145 reporting medical practitioner, child custodian, guardian ad litem
1146 appointed under Section 326, or counsel appointed under Section 317
1147 or 318 of the Welfare and Institutions **Code**, or the appropriate
1148 licensing agency, if he or she is treating or investigating a case of
1149 known or suspected child abuse or severe neglect.

1150 (2) When a report is made pursuant to subdivision (a) of Section
1151 11166, the investigating agency, upon completion of the investigation
1152 or after there has been a final disposition in the matter, shall
1153 inform the person required to report of the results of the
1154 investigation and of any action the agency is taking with regard to
1155 the child or family.

1156 (3) The Department of Justice shall make available to a law
1157 enforcement agency, county welfare department, or county probation
1158 department that is conducting a child abuse investigation relevant
1159 information contained in the index.

1160 (4) The department shall make available to the State Department of
1161 Social Services or to any county licensing agency that has
1162 contracted with the state for the performance of licensing duties
1163 information regarding a known or suspected child abuser maintained
1164 pursuant to this section and subdivision (a) of Section 11169
1165 concerning any person who is an applicant for licensure or any adult
1166 who resides or is employed in the home of an applicant for licensure

1167 or who is an applicant for employment in a position having
1168 supervisory or disciplinary power over a child or children, or who
1169 will provide 24-hour care for a child or children in a residential
1170 home or facility, pursuant to Section 1522.1 or 1596.877 of the Health
1171 and Safety **Code**, or Section 8714, 8802, 8912, or 9000 of the Family
1172 **Code**.

1173 (5) For purposes of child death review, the Department of Justice
1174 shall make available to the chairperson, or the chairperson's
1175 designee, for each county child death review team, or the State Child
1176 Death Review Council, information maintained in the Child Abuse
1177 Central Index pursuant to subdivision (a) of Section 11170 relating to
1178 the death of one or more children and any prior child abuse or neglect
1179 investigation reports maintained involving the same victims, siblings,
1180 or suspects. Local child death review teams may share any relevant
1181 information regarding case reviews involving child death with other
1182 child death review teams.

1183 (6) The department shall make available to investigative agencies
1184 or probation officers, or court investigators acting pursuant to
1185 Section 1513 of the Probate **Code**, responsible for placing children or
1186 assessing the possible placement of children pursuant to Article 6
1187 (commencing with Section 300), Article 7 (commencing with Section
1188 305), Article 10 (commencing with Section 360), or Article 14
1189 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of
1190 the Welfare and Institutions **Code**, Article 2 (commencing with
1191 Section 1510) or Article 3 (commencing with Section 1540) of Chapter
1192 1 of Part 2 of Division 4 of the Probate **Code**, information regarding
1193 a known or suspected child abuser contained in the index concerning
1194 any adult residing in the home where the child may be placed, when
1195 this information is requested for purposes of ensuring that the
1196 placement is in the best interests of the child. Upon receipt of
1197 relevant information concerning child abuse or neglect investigation
1198 reports contained in the index from the Department of Justice
1199 pursuant to this subdivision, the agency or court investigator shall
1200 notify, in writing, the person listed in the Child Abuse Central
1201 Index that he or she is in the index. The notification shall include
1202 the name of the reporting agency and the date of the report.

1203 (7) The Department of Justice shall make available to a government
1204 agency conducting a background investigation pursuant to Section 1031
1205 of the Government **Code** of an applicant seeking employment as a peace
1206 officer, as defined in Section 830, information regarding a known or
1207 suspected child abuser maintained pursuant to this section concerning
1208 the applicant.

1209 (8) (A) Persons or agencies, as specified in subdivision (b), if
1210 investigating a case of known or suspected child abuse or neglect, or
1211 the State Department of Social Services or any county licensing
1212 agency pursuant to paragraph (4), or an investigative agency,
1213 probation officer, or court investigator responsible for placing
1214 children or assessing the possible placement of children pursuant to
1215 paragraph (6), or a government agency conducting a background
1216 investigation of an applicant seeking employment as a peace officer
1217 pursuant to paragraph (7), to whom disclosure of any information
1218 maintained pursuant to subdivision (a) is authorized, are responsible

1219 for obtaining the original investigative report from the reporting
1220 agency, and for drawing independent conclusions regarding the quality
1221 of the evidence disclosed, and its sufficiency for making decisions
1222 regarding investigation, prosecution, licensing, placement of a
1223 child, or employment as a peace officer.

1224 (B) If Child Abuse Central Index information is requested by an
1225 agency for the temporary placement of a child in an emergency
1226 situation pursuant to Article 7 (commencing with Section 305) of
1227 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
1228 **Code**, the department is exempt from the requirements of Section
1229 1798.18 of the Civil **Code** if compliance would cause a delay in
1230 providing an expedited response to the agency's inquiry and if
1231 further delay in placement may be detrimental to the child.

1232 (9) (A) Whenever information contained in the Department of Justice
1233 files is furnished as the result of an application for employment or
1234 licensing pursuant to paragraph (4) or (7), the Department of Justice
1235 may charge the person or entity making the request a fee. The fee
1236 shall not exceed the reasonable costs to the department of providing
1237 the information. The only increase shall be at a rate not to exceed
1238 the legislatively approved cost-of-living adjustment for the
1239 department. In no case shall the fee exceed fifteen dollars (\$15).

1240 (B) All moneys received by the department pursuant to this section
1241 to process trustline applications for purposes of Chapter 3.35
1242 (commencing with Section 1596.60) of Division 2 of the Health and
1243 Safety **Code** shall be deposited in a special account in the General
1244 Fund that is hereby established and named the Department of Justice
1245 Child Abuse Fund. Moneys in the fund shall be available, upon
1246 appropriation by the Legislature, for expenditure by the department
1247 to offset the costs incurred to process trustline automated child
1248 abuse or neglect system checks pursuant to this section.

1249 (C) All moneys, other than that described in subparagraph (B),
1250 received by the department pursuant to this paragraph shall be
1251 deposited in a special account in the General Fund which is hereby
1252 created and named the Department of Justice Sexual Habitual Offender
1253 Fund. The funds shall be available, upon appropriation by the
1254 Legislature, for expenditure by the department to offset the costs
1255 incurred pursuant to Chapter 9.5 (commencing with Section 13885) and
1256 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and
1257 the DNA and Forensic Identification Data Base and Data Bank Act of
1258 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),
1259 and for maintenance and improvements to the statewide Sexual Habitual
1260 Offender Program and the DNA offender identification file (CAL-DNA)
1261 authorized by Chapter 9.5 (commencing with Section 13885) of Title 6
1262 of Part 4 and the DNA and Forensic Identification Data Base and Data
1263 Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9
1264 of Part 1).

1265 (c) The Department of Justice shall make available to any agency
1266 responsible for placing children pursuant to Article 7 (commencing
1267 with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
1268 and Institutions **Code**, upon request, relevant information concerning
1269 child abuse or neglect reports contained in the index, when making a
1270 placement with a responsible relative pursuant to Sections 281.5,

1271 305, and 361.3 of the Welfare and Institutions **Code**. Upon receipt of
1272 relevant information concerning child abuse or neglect reports
1273 contained in the index from the Department of Justice pursuant to
1274 this subdivision, the agency shall also notify in writing the person
1275 listed in the Child Abuse Central Index that he or she is in the
1276 index. The notification shall include the location of the original
1277 investigative report and the submitting agency. The notification
1278 shall be submitted to the person listed at the same time that all
1279 other parties are notified of the information, and no later than the
1280 actual judicial proceeding that determines placement.

1281 If Child Abuse Central Index information is requested by an agency
1282 for the placement of a child with a responsible relative in an
1283 emergency situation pursuant to Article 7 (commencing with Section
1284 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and
1285 Institutions **Code**, the department is exempt from the requirements of
1286 Section 1798.18 of the Civil **Code** if compliance would cause a delay in
1287 providing an expedited response to the child protective agency's
1288 inquiry and if further delay in placement may be detrimental to the
1289 child.

1290 (d) The department shall make available any information maintained
1291 pursuant to subdivision (a) to out-of-state law enforcement agencies
1292 conducting investigations of known or suspected child abuse or
1293 neglect only when an agency makes the request for information in
1294 writing and on official letterhead, identifying the suspected abuser
1295 or victim by name. The request shall be signed by the department
1296 supervisor of the requesting law enforcement agency. The written
1297 requests shall cite the out-of-state statute or interstate compact
1298 provision that requires that the information contained within these
1299 reports shall be disclosed only to law enforcement, prosecutorial
1300 entities, or multidisciplinary investigative teams, and shall cite
1301 the criminal penalties for unlawful disclosure of any confidential
1302 information provided by the requesting state or the applicable
1303 interstate compact provision. In the absence of a specified
1304 out-of-state statute or interstate compact provision that requires
1305 that the information contained within these reports shall be disclosed
1306 only to law enforcement, prosecutorial entities, or multidisciplinary
1307 investigative teams, and criminal penalties equivalent to the
1308 penalties in California for unlawful disclosure, access shall be
1309 denied.

1310 (e) (1) Any person may determine if he or she is listed in the
1311 Child Abuse Central Index by making a request in writing to the
1312 Department of Justice. The request shall be notarized and include the
1313 person's name, address, date of birth, and either a social security
1314 number or a California identification number. Upon receipt of a
1315 notarized request, the Department of Justice shall make available to
1316 the requesting person information identifying the date of the report
1317 and the submitting agency. The requesting person is responsible for
1318 obtaining the investigative report from the submitting agency
1319 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

1320 (2) No person or agency shall require or request another person to
1321 furnish a copy of a record concerning himself or herself, or
1322 notification that a record concerning himself or herself exists or

1323 does not exist, pursuant to paragraph (1) of this subdivision.

1324 (f) If a person is listed in the Child Abuse Central Index only as
1325 a victim of child abuse or neglect, and that person is 18 years of age
1326 or older, that person may have his or her name removed from the index
1327 by making a written request to the Department of Justice. The request
1328 shall be notarized and include the person's name, address, social
1329 security number, and date of birth.

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1332 **11170.5.** (a) Notwithstanding paragraph (4) of subdivision (b) of
1333 Section 11170, the Department of Justice shall make available to a
1334 licensed adoption agency, as defined in Section 8530 of the Family
1335 **Code**, information regarding a known or suspected child abuser
1336 maintained in the Child Abuse Central Index, pursuant to subdivision
1337 (a) of Section 11170, concerning any person who has submitted to the
1338 agency an application for adoption.

1339 (b) A licensed adoption agency, to which disclosure of any
1340 information pursuant to subdivision (a) is authorized, is responsible
1341 for obtaining the original investigative report from the reporting
1342 agency, and for drawing independent conclusions regarding the quality
1343 of the evidence disclosed and the sufficiency of the evidence for
1344 making decisions when evaluating an application for adoption.

1345 (c) Whenever information contained in the Department of Justice
1346 files is furnished as the result of an application for adoption
1347 pursuant to subdivision (a), the Department of Justice may charge the
1348 agency making the request a fee. The fee shall not exceed the
1349 reasonable costs to the department of providing the information. The
1350 only increase shall be at a rate not to exceed the legislatively
1351 approved cost-of-living adjustment for the department. In no case
1352 shall the fee exceed fifteen dollars (\$15).

1353 All moneys received by the department pursuant to this subdivision
1354 shall be deposited in the Department of Justice Sexual Habitual
1355 Offender Fund pursuant to subparagraph (C) of paragraph (9) of
1356 subdivision (b) of Section 11170.

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1359 **11171.** (a) (1) The Legislature hereby finds and declares that
1360 adequate protection of victims of child physical abuse or neglect has
1361 been hampered by the lack of consistent and comprehensive medical
1362 examinations.

1363 (2) Enhancing examination procedures, documentation, and evidence
1364 collection relating to child abuse or neglect will improve the
1365 investigation and prosecution of child abuse or neglect as well as
1366 other child protection efforts.

1367 (b) The agency or agencies designated by the Director of Finance
1368 pursuant to Section 13820 shall, in cooperation with the State
1369 Department of Social Services, the Department of Justice, the
1370 California Association of Crime Lab Directors, the California
1371 District Attorneys Association, the California State Sheriffs
1372 Association, the California Peace Officers Association, the
1373 California Medical Association, the California Police Chiefs'
1374 Association, child advocates, the California Medical Training Center,

1375 child protective services, and other appropriate experts, establish
1376 medical forensic forms, instructions, and examination protocols for
1377 victims of child physical abuse or neglect using as a model the form
1378 and guidelines developed pursuant to Section 13823.5.

1379 (c) The forms shall include, but not be limited to, a place for
1380 notation concerning each of the following:

1381 (1) Any notification of injuries or any report of suspected child
1382 physical abuse or neglect to law enforcement authorities or children's
1383 protective services, in accordance with existing reporting procedures.

1384 (2) Addressing relevant consent issues, if indicated.

1385 (3) The taking of a patient history of child physical abuse or
1386 neglect that includes other relevant medical history.

1387 (4) The performance of a physical examination for evidence of
1388 child physical abuse or neglect.

1389 (5) The collection or documentation of any physical evidence of
1390 child physical abuse or neglect, including any recommended
1391 photographic procedures.

1392 (6) The collection of other medical or forensic specimens,
1393 including drug ingestion or toxication, as indicated.

1394 (7) Procedures for the preservation and disposition of evidence.

1395 (8) Complete documentation of medical forensic exam findings with
1396 recommendations for diagnostic studies, including blood tests and X-
1397 rays.

1398 (9) An assessment as to whether there are findings that indicate
1399 physical abuse or neglect.

1400 (d) The forms shall become part of the patient's medical record
1401 pursuant to guidelines established by the advisory committee of the
1402 agency or agencies designated by the Director of Finance pursuant to
1403 Section 13820 and subject to the confidentiality laws pertaining to
1404 the release of a medical forensic examination records.

1405 (e) The forms shall be made accessible for use on the Internet.

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1408 **11171.2.** (a) A physician and surgeon or dentist or their agents
1409 and by their direction may take skeletal X-rays of the child without
1410 the consent of the child's parent or guardian, but only for purposes
1411 of diagnosing the case as one of possible child abuse or neglect and
1412 determining the extent of the child abuse or neglect.

1413 (b) Neither the physician-patient privilege nor the
1414 psychotherapist-patient privilege applies to information reported
1415 pursuant to this article in any court proceeding or administrative
1416 hearing.

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1419 **11171.5.** (a) If a peace officer, in the course of an investigation of
1420 child abuse or neglect, has reasonable cause to believe that the child
1421 has been the victim of physical abuse, the officer may apply to a
1422 magistrate for an order directing that the victim be X-rayed without
1423 parental consent.

1424 Any X-ray taken pursuant to this subdivision shall be administered
1425 by a physician and surgeon or dentist or their agents.

1426 (b) With respect to the cost of an X-ray taken by the county
1427 coroner or at the request of the county coroner in suspected child
1428 abuse or neglect cases, the county may charge the parent or legal
1429 guardian of the child-victim the costs incurred by the county for the
1430 X-ray.

1431 (c) No person who administers an X-ray pursuant to this section
1432 shall be entitled to reimbursement from the county for any
1433 administrative cost that exceeds 5 percent of the cost of the X-ray.

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1436 **11172.** (a) No mandated reporter shall be civilly or criminally
1437 liable for any report required or authorized by this article, and
1438 this immunity shall apply even if the mandated reporter acquired the
1439 knowledge or reasonable suspicion of child abuse or neglect outside
1440 of his or her professional capacity or outside the scope of his or
1441 her employment. Any other person reporting a known or suspected
1442 instance of child abuse or neglect shall not incur civil or criminal
1443 liability as a result of any report authorized by this article unless
1444 it can be proven that a false report was made and the person knew
1445 that the report was false or was made with reckless disregard of the
1446 truth or falsity of the report, and any person who makes a report of
1447 child abuse or neglect known to be false or with reckless disregard
1448 of the truth or falsity of the report is liable for any damages
1449 caused. No person required to make a report pursuant to this
1450 article, nor any person taking photographs at his or her direction,
1451 shall incur any civil or criminal liability for taking photographs of
1452 a suspected victim of child abuse or neglect, or causing photographs
1453 to be taken of a suspected victim of child abuse or neglect, without
1454 parental consent, or for disseminating the photographs with the
1455 reports required by this article. However, this section shall not be
1456 construed to grant immunity from this liability with respect to any
1457 other use of the photographs.

1458 (b) Any person, who, pursuant to a request from a government
1459 agency investigating a report of suspected child abuse or neglect,
1460 provides the requesting agency with access to the victim of a known
1461 or suspected instance of child abuse or neglect shall not incur civil
1462 or criminal liability as a result of providing that access.

1463 (c) The Legislature finds that even though it has provided
1464 immunity from liability to persons required or authorized to make
1465 reports pursuant to this article, that immunity does not eliminate
1466 the possibility that actions may be brought against those persons
1467 based upon required or authorized reports. In order to further limit
1468 the financial hardship that those persons may incur as a result of
1469 fulfilling their legal responsibilities, it is necessary that they
1470 not be unfairly burdened by legal fees incurred in defending those
1471 actions. Therefore, a mandated reporter may present a claim to the
1472 State Board of Control for reasonable attorney's fees and costs
1473 incurred in any action against that person on the basis of making a
1474 report required or authorized by this article if the court has
1475 dismissed the action upon a demurrer or motion for summary judgment
1476 made by that person, or if he or she prevails in the action. The
1477 State Board of Control shall allow that claim if the requirements of

1478 this subdivision are met, and the claim shall be paid from an
1479 appropriation to be made for that purpose. Attorney's fees awarded
1480 pursuant to this section shall not exceed an hourly rate greater than
1481 the rate charged by the Attorney General of the State of California
1482 at the time the award is made and shall not exceed an aggregate
1483 amount of fifty thousand dollars (\$50,000).

1484 This subdivision shall not apply if a public entity has provided
1485 for the defense of the action pursuant to Section 995 of the
1486 Government **Code**.

1487 (d) A court may award attorney's fees and costs to a commercial
1488 film and photographic print processor when a suit is brought against
1489 the processor because of a disclosure mandated by this article and
1490 the court finds this suit to be frivolous.

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1493 **11174.** The Department of Justice, in cooperation with the State
1494 Department of Social Services, shall prescribe by regulation
1495 guidelines for the investigation of abuse in out-of-home care, as
1496 defined in Section 11165.5, and shall ensure that the investigation
1497 is conducted in accordance with the regulations and guidelines.

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1500 **11174.1.** (a) The Department of Justice, in cooperation with the
1501 State Department of Social Services, shall prescribe by regulation
1502 guidelines for the investigation of child abuse or neglect, as
1503 defined in Section 11165.6, in facilities licensed to care for
1504 children, and shall ensure that the investigation is conducted in
1505 accordance with the regulations and guidelines.

1506 (b) For community treatment facilities, day treatment facilities,
1507 group homes, and foster family agencies, the State Department of
1508 Social Services shall prescribe the following regulations:

1509 (1) Regulations designed to assure that all licensees and
1510 employees of community treatment facilities, day treatment
1511 facilities, group homes, and foster family agencies licensed to care
1512 for children have had appropriate training, as determined by the
1513 State Department of Social Services, in consultation with
1514 representatives of licensees, on the provisions of this article.

1515 (2) Regulations designed to assure the community treatment
1516 facilities, day treatment facilities, group homes, and foster family
1517 agencies licensed to care for children maintain a written protocol
1518 for the investigation and reporting of child abuse or neglect, as
1519 defined in Section 11165.6, alleged to have occurred involving a
1520 child placed in the facility.

1521 (c) The State Department of Social Services shall provide such
1522 orientation and training as it deems necessary to assure that its
1523 officers, employees, or agents who conduct inspections of facilities
1524 licensed to care for children are knowledgeable about the reporting
1525 requirements of this article and have adequate training to identify
1526 conditions leading to, and the signs of, child abuse or neglect, as
1527 defined in Section 11165.6.

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1530 **11174.3.** (a) Whenever a representative of a government agency
1531 investigating suspected child abuse or neglect or the State
1532 Department of Social Services deems it necessary, a suspected victim
1533 of child abuse or neglect may be interviewed during school hours, on
1534 school premises, concerning a report of suspected child abuse or
1535 neglect that occurred within the child's home or out-of-home care
1536 facility. The child shall be afforded the option of being
1537 interviewed in private or selecting any adult who is a member of the
1538 staff of the school, including any certificated or classified
1539 employee or volunteer aide, to be present at the interview. A
1540 representative of the agency investigating suspected child abuse or
1541 neglect or the State Department of Social Services shall inform the
1542 child of that right prior to the interview.

1543 The purpose of the staff person's presence at the interview is to
1544 lend support to the child and enable him or her to be as comfortable
1545 as possible. However, the member of the staff so elected shall not
1546 participate in the interview. The member of the staff so present
1547 shall not discuss the facts or circumstances of the case with the
1548 child. The member of the staff so present, including, but not
1549 limited to, a volunteer aide, is subject to the confidentiality
1550 requirements of this article, a violation of which is punishable as
1551 specified in Section 11167.5. A representative of the school shall
1552 inform a member of the staff so selected by a child of the
1553 requirements of this section prior to the interview. A staff member
1554 selected by a child may decline the request to be present at the
1555 interview. If the staff person selected agrees to be present, the
1556 interview shall be held at a time during school hours when it does
1557 not involve an expense to the school. Failure to comply with the
1558 requirements of this section does not affect the admissibility of
1559 evidence in a criminal or civil proceeding.

1560 (b) The Superintendent of Public Instruction shall notify each
1561 school district and each agency specified in Section 11165.9 to
1562 receive mandated reports, and the State Department of Social Services
1563 shall notify each of its employees who participate in the
1564 investigation of reports of child abuse or neglect, of the
1565 requirements of this section.

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1568 **WELFARE AND INSTITUTIONS CODE SECTIONS 300 & 318**

1569

1570 **300.** Any child who comes within any of the following descriptions
1571 is within the jurisdiction of the juvenile court which may adjudge
1572 that person to be a dependent child of the court:

1573 (a) The child has suffered, or there is a substantial risk that
1574 the child will suffer, serious physical harm inflicted
1575 nonaccidentally upon the child by the child's parent or guardian. For
1576 the purposes of this subdivision, a court may find there is a
1577 substantial risk of serious future injury based on the manner in
1578 which a less serious injury was inflicted, a history of repeated
1579 inflictions of injuries on the child or the child's siblings, or a
1580 combination of these and other actions by the parent or guardian
1581 which indicate the child is at risk of serious physical harm. For

1582 purposes of this subdivision, "serious physical harm" does not
1583 include reasonable and age-appropriate spanking to the buttocks where
1584 there is no evidence of serious physical injury.

1585 (b) The child has suffered, or there is a substantial risk that
1586 the child will suffer, serious physical harm or illness, as a result
1587 of the failure or inability of his or her parent or guardian to
1588 adequately supervise or protect the child, or the willful or
1589 negligent failure of the child's parent or guardian to adequately
1590 supervise or protect the child from the conduct of the custodian with
1591 whom the child has been left, or by the willful or negligent failure
1592 of the parent or guardian to provide the child with adequate food,
1593 clothing, shelter, or medical treatment, or by the inability of the
1594 parent or guardian to provide regular care for the child due to the
1595 parent's or guardian's mental illness, developmental disability, or
1596 substance abuse. No child shall be found to be a person described by
1597 this subdivision solely due to the lack of an emergency shelter for
1598 the family. Whenever it is alleged that a child comes within the
1599 jurisdiction of the court on the basis of the parent's or guardian's
1600 willful failure to provide adequate medical treatment or specific
1601 decision to provide spiritual treatment through prayer, the court
1602 shall give deference to the parent's or guardian's medical treatment,
1603 nontreatment, or spiritual treatment through prayer alone in
1604 accordance with the tenets and practices of a recognized church or
1605 religious denomination, by an accredited practitioner thereof, and
1606 shall not assume jurisdiction unless necessary to protect the child
1607 from suffering serious physical harm or illness. In making its
1608 determination, the court shall consider (1) the nature of the
1609 treatment proposed by the parent or guardian, (2) the risks to the
1610 child posed by the course of treatment or non-treatment proposed by
1611 the parent or guardian, (3) the risk, if any, of the course of
1612 treatment being proposed by the petitioning agency, and (4) the likely
1613 success of the courses of treatment or non-treatment proposed by the
1614 parent or guardian and agency. The child shall continue to be a
1615 dependent child pursuant to this subdivision only so long as is
1616 necessary to protect the child from risk of suffering serious physical
1617 harm or illness.

1618 (c) The child is suffering serious emotional damage, or is at
1619 substantial risk of suffering serious emotional damage, evidenced by
1620 severe anxiety, depression, withdrawal, or untoward aggressive
1621 behavior toward self or others, as a result of the conduct of the
1622 parent or guardian or who has no parent or guardian capable of
1623 providing appropriate care. No child shall be found to be a person
1624 described by this subdivision if the willful failure of the parent or
1625 guardian to provide adequate mental health treatment is based on a
1626 sincerely held religious belief and if a less intrusive judicial
1627 intervention is available.

1628 (d) The child has been sexually abused, or there is a substantial
1629 risk that the child will be sexually abused, as defined in Section
1630 11165.1 of the Penal **Code**, by his or her parent or guardian or a
1631 member of his or her household, or the parent or guardian has failed
1632 to adequately protect the child from sexual abuse when the parent or
1633 guardian knew or reasonably should have known that the child was in

1634 danger of sexual abuse.

1635 (e) The child is under the age of five years and has suffered
1636 severe physical abuse by a parent, or by any person known by the
1637 parent, if the parent knew or reasonably should have known that the
1638 person was physically abusing the child. For the purposes of this
1639 subdivision, "severe physical abuse" means any of the following: any
1640 single act of abuse which causes physical trauma of sufficient
1641 severity that, if left untreated, would cause permanent physical
1642 disfigurement, permanent physical disability, or death; any single
1643 act of sexual abuse which causes significant bleeding, deep bruising,
1644 or significant external or internal swelling; or more than one act
1645 of physical abuse, each of which causes bleeding, deep bruising,
1646 significant external or internal swelling, bone fracture, or
1647 unconsciousness; or the willful, prolonged failure to provide
1648 adequate food. A child may not be removed from the physical custody
1649 of his or her parent or guardian on the basis of a finding of severe
1650 physical abuse unless the social worker has made an allegation of
1651 severe physical abuse pursuant to Section 332.

1652 (f) The child's parent or guardian caused the death of another
1653 child through abuse or neglect.

1654 (g) The child has been left without any provision for support;
1655 physical custody of the child has been voluntarily surrendered
1656 pursuant to Section 1255.7 of the Health and Safety **Code** and the
1657 child has not been reclaimed within the 14-day period specified in
1658 subdivision (e) of that section; the child's parent has been
1659 incarcerated or institutionalized and cannot arrange for the care of
1660 the child; or a relative or other adult custodian with whom the child
1661 resides or has been left is unwilling or unable to provide care or
1662 support for the child, the whereabouts of the parent are unknown, and
1663 reasonable efforts to locate the parent have been unsuccessful.

1664 (h) The child has been freed for adoption by one or both parents
1665 for 12 months by either relinquishment or termination of parental
1666 rights or an adoption petition has not been granted.

1667 (i) The child has been subjected to an act or acts of cruelty by
1668 the parent or guardian or a member of his or her household, or the
1669 parent or guardian has failed to adequately protect the child from an
1670 act or acts of cruelty when the parent or guardian knew or
1671 reasonably should have known that the child was in danger of being
1672 subjected to an act or acts of cruelty.

1673 (j) The child's sibling has been abused or neglected, as defined
1674 in subdivision (a), (b), (d), (e), or (i), and there is a substantial
1675 risk that the child will be abused or neglected, as defined in those
1676 subdivisions. The court shall consider the circumstances surrounding
1677 the abuse or neglect of the sibling, the age and gender of each
1678 child, the nature of the abuse or neglect of the sibling, the mental
1679 condition of the parent or guardian, and any other factors the court
1680 considers probative in determining whether there is a substantial
1681 risk to the child.

1682 It is the intent of the Legislature that nothing in this section
1683 disrupt the family unnecessarily or intrude inappropriately into
1684 family life, prohibit the use of reasonable methods of parental
1685 discipline, or prescribe a particular method of parenting. Further,

1686 nothing in this section is intended to limit the offering of
1687 voluntary services to those families in need of assistance but who do
1688 not come within the descriptions of this section. To the extent that
1689 savings accrue to the state from child welfare services funding
1690 obtained as a result of the enactment of the act that enacted this
1691 section, those savings shall be used to promote services which
1692 support family maintenance and family reunification plans, such as
1693 client transportation, out-of-home respite care, parenting training,
1694 and the provision of temporary or emergency in-home caretakers and
1695 persons teaching and demonstrating homemaking skills. The Legislature
1696 further declares that a physical disability, such as blindness or
1697 deafness, is no bar to the raising of happy and well-adjusted children
1698 and that a court's determination pursuant to this section shall center
1699 upon whether a parent's disability prevents him or her from exercising
1700 care and control. The Legislature further declares that a child whose
1701 parent has been adjudged a dependent child of the court pursuant to
1702 this section shall not be considered to be at risk of abuse or neglect
1703 solely because of the age, dependent status, or foster care status of
1704 the parent.

1705 As used in this section, "guardian" means the legal guardian of
1706 the child.

1707
1708

1709 **318.** If a district attorney has represented a minor in a dependency
1710 proceeding, that district attorney shall not appear, on behalf of
1711 the people of the State of California, in any juvenile court hearing
1712 which is based upon a petition that alleges that the same minor is a
1713 person within the description of Section 602.

1714 Records kept by the district attorney in the course of
1715 representation of a minor described in Section 300 are confidential
1716 and shall be held separately, and shall not be inspected by members of
1717 the district attorney's office not directly involved in the
1718 representation of that minor. A district attorney who represents or
1719 who has represented a minor in a proceeding brought pursuant to
1720 Section 300 shall not discuss the substance of that case with a
1721 district attorney representing the people pursuant to Section 681 in a
1722 proceeding brought pursuant to Section 602 in which that same minor is
1723 the subject of the petition.

1724

1725 **WELFARE AND INSTITUTIONS CODE SECTION 601**

1726

1727 **601.** (a) Any person under the age of 18 years who persistently or
1728 habitually refuses to obey the reasonable and proper orders or
1729 directions of his or her parents, guardian, or custodian, or who is
1730 beyond the control of that person, or who is under the age of 18 years
1731 when he or she violated any ordinance of any city or county of this
1732 state establishing a curfew based solely on age is within the
1733 jurisdiction of the juvenile court which may adjudge the minor to be a
1734 ward of the court.

1735 (b) If a minor has four or more trancies within one school year
1736 as defined in Section 48260 of the Education **Code** or a school

1737 attendance review board or probation officer determines that the
1738 available public and private services are insufficient or
1739 inappropriate to correct the habitual truancy of the minor, or to
1740 correct the minor's persistent or habitual refusal to obey the
1741 reasonable and proper orders or directions of school authorities, or
1742 if the minor fails to respond to directives of a school attendance
1743 review board or probation officer or to services provided, the minor
1744 is then within the jurisdiction of the juvenile court which may
1745 adjudge the minor to be a ward of the court. However, it is the
1746 intent of the Legislature that no minor who is adjudged a ward of the
1747 court pursuant solely to this subdivision shall be removed from the
1748 custody of the parent or guardian except during school hours.

1749 (c) To the extent practically feasible, a minor who is adjudged a
1750 ward of the court pursuant to this section shall not be permitted to
1751 come into or remain in contact with any minor ordered to participate
1752 in a truancy program, or the equivalent thereof, pursuant to Section
1753 602.

1754 (d) Any peace officer or school administrator may issue a notice to
1755 appear to a minor who is within the jurisdiction of the juvenile court
1756 pursuant to this section.

1757

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1759 **FAMILY CODE SECTIONS 7802, 7807, 7808, 7820-7829, 7892**

1760

1761 **7802.** A proceeding may be brought under this part for the purpose
1762 of having a minor child declared free from the custody and control of
1763 either or both parents.

1764

1765 **7807.** (a) Sections 3020, 3022, 3040 to 3043, inclusive, and 3409 do
1766 not apply in a proceeding under this part.

1767 (b) All proceedings affecting a child under Divisions 8
1768 (commencing with Section 3000) to 11 (commencing with Section 6500),
1769 inclusive, and Parts 1 (commencing with Section 7500) to 3
1770 (commencing with Section 7600), inclusive, of this division shall be
1771 stayed pending final determination of proceedings to declare the
1772 minor free from parental custody and control under this part.

1773 (c) Nothing in this section may limit the jurisdiction of the court
1774 pursuant to Part 3 (commencing with Section 6240) and Part 4
1775 (commencing with Section 6300) of Division 10 with respect to domestic
1776 violence orders.

1777

1778

1779 **7808.** This part does not apply to a minor adjudged a dependent
1780 child of the juvenile court pursuant to subdivision (c) of Section
1781 360 of the Welfare and Institutions **Code** on and after January 1,
1782 1989, during the period in which the minor is a dependent child of
1783 the court. For those minors, the exclusive means for the termination
1784 of parental rights are provided in the following statutes:

1785 (a) Section 366.26 of the Welfare and Institutions **Code**.

1786 (b) Sections 8604 to 8606, inclusive, and 8700 of this **code**.

1787 (c) Chapter 5 (commencing with Section 7660) of Part 3 of this

1788 division of this **code**.

1789

1790 **7820.** A proceeding may be brought under this part for the purpose
1791 of having a child under the age of 18 years declared free from the
1792 custody and control of either or both parents if the child comes
1793 within any of the descriptions set out in this chapter.

1794

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1796 **7821.** A finding pursuant to this chapter shall be supported by
1797 clear and convincing evidence.

1798

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1800 **7822.** (a) A proceeding under this part may be brought where the
1801 child has been left without provision for the child's identification
1802 by the child's parent or parents or by others or has been left by
1803 both parents or the sole parent in the care and custody of another
1804 for a period of six months or by one parent in the care and custody
1805 of the other parent for a period of one year without any provision for
1806 the child's support, or without communication from the parent or
1807 parents, with the intent on the part of the parent or parents to
1808 abandon the child.

1809 (b) The failure to provide identification, failure to provide
1810 support, or failure to communicate is presumptive evidence of the
1811 intent to abandon. If the parent or parents have made only token
1812 efforts to support or communicate with the child, the court may
1813 declare the child abandoned by the parent or parents.

1814 (c) If the child has been left without provision for the child's
1815 identification and the whereabouts of the parents are unknown, a
1816 petition may be filed after the 120th day following the discovery of
1817 the child and citation by publication may be commenced. The petition
1818 may not be heard until after the 180th day following the discovery of
1819 the child.

1820 (d) If the parent has placed the child for adoption and has not
1821 refused to give the required consent to adoption, evidence of the
1822 adoptive placement shall not in itself preclude the court from finding
1823 an intent on the part of that parent to abandon the child. If the
1824 parent has placed the child for adoption and has refused to give the
1825 required consent to adoption but has not taken reasonable action to
1826 obtain custody of the child, evidence of the adoptive placement shall
1827 not in itself preclude the court from finding an intent on the part of
1828 that parent to abandon the child.

1829

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1831 **7823.** (a) A proceeding under this part may be brought where all of
1832 the following requirements are satisfied:

1833 (1) The child has been neglected or cruelly treated by either or
1834 both parents.

1835 (2) The child has been a dependent child of the juvenile court
1836 under any subdivision of Section 300 of the Welfare and Institutions

1837 **Code** and the parent or parents have been deprived of the child's
1838 custody for one year before the filing of a petition pursuant to this
1839 part.

1840 (b) Physical custody by the parent or parents for insubstantial
1841 periods of time does not interrupt the running of the one-year period.

1842
1843

1844 **7824.** (a) "Disability" as used in this section means any physical
1845 or mental incapacity which renders the parent or parents unable to
1846 care for and control the child adequately.

1847 (b) A proceeding under this part may be brought where all of the
1848 following requirements are satisfied:

1849 (1) The child is one whose parent or parents (A) suffer a
1850 disability because of the habitual use of alcohol, or any of the
1851 controlled substances specified in Schedules I to V, inclusive, of
1852 Division 10 (commencing with Section 11000) of the Health and Safety
1853 **Code**, except when these controlled substances are used as part of a
1854 medically prescribed plan, or (B) are morally depraved.

1855 (2) The child has been a dependent child of the juvenile court, and
1856 the parent or parents have been deprived of the child's custody
1857 continuously for one year immediately before the filing of a petition
1858 pursuant to this part.

1859 (c) Physical custody by the parent or parents for insubstantial
1860 periods of time does not interrupt the running of the one-year period.

1861
1862

1863 **7825.** (a) A proceeding under this part may be brought where both of
1864 the following requirements are satisfied:

1865 (1) The child is one whose parent or parents are convicted of a
1866 felony.

1867 (2) The facts of the crime of which the parent or parents were
1868 convicted are of such a nature so as to prove the unfitness of the
1869 parent or parents to have the future custody and control of the child.

1870 (b) The mother of a child may bring a proceeding under this part
1871 against the father of the child, where the child was conceived as a
1872 result of an act in violation of Section 261 of the Penal **Code**, and
1873 where the father was convicted of that violation. For purposes of
1874 this subdivision, there is a conclusive presumption that the father is
1875 unfit to have custody or control of the child.

1876
1877

1878 **7826.** A proceeding under this part may be brought where both of the
1879 following requirements are satisfied:

1880 (a) The child is one whose parent or parents have been declared by
1881 a court of competent jurisdiction, wherever situated, to be
1882 developmentally disabled or mentally ill.

1883 (b) In the state or country in which the parent or parents reside
1884 or are hospitalized, the Director of Mental Health or the Director of
1885 Developmental Services, or their equivalent, if any, and the
1886 superintendent of the hospital, if any, of which the parent or
1887 parents are inmates or patients, certify that the parent or parents
1888 so declared to be developmentally disabled or mentally ill will not

1889 be capable of supporting or controlling the child in a proper manner.
1890

1891
1892 **7827.** (a) "Mentally disabled" as used in this section means that a
1893 parent or parents suffer a mental incapacity or disorder that renders
1894 the parent or parents unable to care for and control the child
1895 adequately.

1896 (b) A proceeding under this part may be brought where the child is
1897 one whose parent or parents are mentally disabled and are likely to
1898 remain so in the foreseeable future.

1899 (c) Except as provided in subdivision (d), the evidence of any two
1900 experts, each of whom shall be a physician and surgeon, certified
1901 either by the American Board of Psychiatry and Neurology or under
1902 Section 6750 of the Welfare and Institutions **Code**, a licensed
1903 psychologist who has a doctoral degree in psychology and at least
1904 five years of postgraduate experience in the diagnosis and treatment
1905 of emotional and mental disorders, is required to support a finding
1906 under this section. In addition to this requirement, the court shall
1907 have the discretion to call a licensed marriage and **family**
1908 therapist, or a licensed clinical social worker, either of whom shall
1909 have at least five years of relevant postlicensure experience, in
1910 circumstances where the court determines that this testimony is in
1911 the best interest of the child and is warranted by the circumstances
1912 of the particular **family** or parenting issues involved. However, the
1913 court may not call a licensed marriage and **family** therapist or
1914 licensed clinical social worker pursuant to this section who is the
1915 adoption service provider, as defined in Section 8502, of the child
1916 who is the subject of the petition to terminate parental rights.

1917 (d) If the parent or parents reside in another state or in a
1918 foreign country, the evidence required by this section may be supplied
1919 by the affidavits of two experts, each of whom shall be either of the
1920 following:

1921 (1) A physician and surgeon who is a resident of that state or
1922 foreign country, and who has been certified by a medical organization
1923 or society of that state or foreign country to practice psychiatric or
1924 neurological medicine.

1925 (2) A licensed psychologist who has a doctoral degree in
1926 psychology and at least five years of postgraduate experience in the
1927 diagnosis and treatment of emotional and mental disorders and who is
1928 licensed in that state or authorized to practice in that country.

1929 (e) If the rights of a parent are sought to be terminated pursuant
1930 to this section, and the parent has no attorney, the court shall
1931 appoint an attorney for the parent pursuant to Article 4 (commencing
1932 with Section 7860) of Chapter 3, whether or not a request for the
1933 appointment is made by the parent.
1934

1935
1936 **7828.** (a) A proceeding under this part may be brought where all of
1937 the following requirements are satisfied:

1938 (1) The child is one who has been in out-of-home placement under
1939 the supervision of the juvenile court, the county welfare department,

1940 or other public or private licensed child-placing agency for a one-
1941 year period.

1942 (2) The court finds that return of the child to the child's parent
1943 or parents would be detrimental to the child and that the parent or
1944 parents have failed during the one-year period, and are likely to fail
1945 in the future, to maintain an adequate parental relationship with the
1946 child, which includes providing both a home and care and control for
1947 the child.

1948 (b) If the child has been adjudged a dependent child of the
1949 juvenile court and placed in out-of-home placement pursuant to
1950 Section 361 of the Welfare and Institutions **Code**, the one-year period
1951 is calculated from the date of the dispositional hearing at which the
1952 child was placed in out-of-home placement pursuant to that section.

1953 (c) If the child is in placement under the supervision of a county
1954 welfare department or other public or private licensed child-placing
1955 agency, pursuant to a voluntary placement, as described in Section
1956 16507.4 of the Welfare and Institutions **Code**, the one-year period is
1957 calculated from the date the child entered out-of-home placement.

1958 (d) Trial placement of the child in the physical custody of the
1959 parent or visitation of the child with the parent during the one-year
1960 period, when the trial placement or visitation does not result in
1961 permanent placement of the child with the parent, does not interrupt
1962 the running of the one-year period.

1963 (e) The court shall make a determination that reasonable services
1964 have been provided or offered to the parents which were designed to
1965 aid the parents to overcome the problems which led to the deprivation
1966 or continued loss of custody and that despite the availability of
1967 these services, return of the child to the parents would be
1968 detrimental to the child. The probation officer or social worker
1969 currently assigned to the case of the child shall appear at the
1970 termination proceedings. If the child has been adjudged to be a
1971 dependent child of the court pursuant to Section 300 of the Welfare
1972 and Institutions **Code**, the court shall review and consider the
1973 contents of the juvenile court file in determining if the services
1974 offered were reasonable under the circumstances.

1975
1976
1977 **7829.** A proceeding under this part may be brought where both of the
1978 following requirements are satisfied:

1979 (a) The child has been found to be a dependent child of the
1980 juvenile court.

1981 (b) The juvenile court has determined, pursuant to paragraph (3),
1982 (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and
1983 Institutions **Code**, that reunification services shall not be provided
1984 to the child's parent or guardian.

1985
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1987 **7890.** In a proceeding under this part, the court shall consider the
1988 wishes of the child, bearing in mind the age of the child, and shall
1989 act in the best interest of the child.

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1991
1992 **7892.** (a) The testimony of the child may be taken in chambers and
1993 outside the presence of the child's parent or parents if the child's
1994 parent or parents are represented by counsel, the counsel is present,
1995 and any of the following circumstances exist:
1996 (1) The court determines that testimony in chambers is necessary to
1997 ensure truthful testimony.
1998 (2) The child is likely to be intimidated by a formal courtroom
1999 setting.
2000 (3) The child is afraid to testify in front of the child's parent
2001 or parents.
2002 (b) The testimony of a child also may be taken in chambers and
2003 outside the presence of the guardian or guardians of a child under the
2004 circumstances specified in subdivision (a).
2005 (c) A finding pursuant to this section shall be supported by clear
2006 and convincing evidence.
2007 (d) After testimony in chambers, the parent or parents of the child
2008 may elect to have the court reporter read back the testimony or have
2009 the testimony summarized by counsel for the parent or parents.