
San Bernardino Community College District
Administrative Procedure
Chapter 3 – General Institution

AP 3518 CHILD ABUSE REPORTING

NOTE: *The language in red ink is legally advised. Local practice can be inserted here, but must comply with applicable law. Following is an illustrative example.*

The District recognizes the responsibility of its staff to report to the appropriate agency when there is a reasonable suspicion that an abuse or neglect of a child may have occurred. Mandated reporters include faculty, educational administrators and classified staff. Volunteers are not mandated reporters, but are encouraged to report suspected abuse or neglect of a child.

Child abuse is defined as physical abuse, neglect, sexual abuse and/or emotional maltreatment. This procedure addresses the sexual assault, sexual exploitation, and/or sexual abuse of a child; the willful cruelty or unjustifiable punishment of a child; incidents of corporal punishment or injury against a child; abuse in out-of-home care; and the severe and/or general neglect of a child (definitions contained in Penal Code Section 11165).

“Reasonable suspicion” occurs when “it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position drawing when appropriate on his/her training and experience, to suspect child abuse” (Penal Code Section 11166(a)).

A child protective agency is a police or sheriff’s department, a county probation department, or a county welfare department. School district police or security departments are not child protective agencies (Penal Code Section 11165.9).

Any person not mandated by law to report suspected child abuse has immunity unless the report is proven to be false and the person reporting knows it is false, or the report is made with reckless disregard of the truth or falsity of the incident (Penal Code Section 11172(a)). Reporting is an individual responsibility. An employee making a report cannot be required to disclose his/her identity to the employer (Penal Code Section 11166(h)). However, a person who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine (Penal Code Section 11172(e)).

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46 Mandated reporters must report immediately any reasonable suspicion of child abuse to
47 a local child protective agency and follow up with a written report within 36 hours. [List
48 local child protective services]. The written report may be mailed or submitted by
49 facsimile or electronic transmission.

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51 Child abuse reporting forms are available in [Insert college location(s)].

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53 No mandated reporter who reports a known or suspected instance of child abuse shall
54 be civilly or criminally liable for any report required or authorized by the Penal Code.
55 Any person other than a child care custodian reporting a known or suspected instance
56 of child abuse shall not incur any liability as a result of making any report of child abuse,
57 unless it can be proven that a false report was made and the person knew that the
58 report was false. (Penal Code Section 11172(a))

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60 When [list designated officials] releases a minor pupil to a peace officer for the purpose
61 of removing the minor from the campus, the District official shall take immediate steps to
62 notify the parent or guardian regarding the release of the minor to the officer, and
63 regarding the place to which the minor is reportedly being taken (Education Code
64 Section 87044), except when a minor has been taken into custody as a victim of
65 suspected child abuse, as defined in Penal Code Section 11165 or pursuant to Welfare
66 and Institutions Code Section 305. In those cases, the official shall provide the peace
67 officer with the address and telephone number of the minor's parent or guardian.

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69 Non-accidental physical injury is considered to be a health and safety emergency; and
70 parental consent is not required for release of student information under the Family
71 Education Rights and Privacy Act, or the California Student Records Act (Education
72 Code Sections 76200 et seq.).

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74 Information relevant to the incident of child abuse may be given to an investigator from
75 a child protective agency who is investigating the known or suspected cause of child
76 abuse (Penal Code Section 11167(b)).

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78 The District shall provide a mandated reporter with a statement informing the employee
79 that he/she is a mandated reporter and inform the employee of his/her reporting
80 obligations under Penal Code Section 11166 and of his/her confidentiality rights under
81 subdivision (d) of Penal Code Section 11167. The District shall provide a copy of Penal
82 Code Sections 11165.7, 11166, and 11167 to the employee. Prior to commencing
83 his/her employment and as a prerequisite to that employment, employee shall sign and
84 return the statement to the District. The signed statements shall be retained by the
85 District (Penal Code Section 11166.5).

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87 The District will distribute this procedure to all employees.

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89 **References:** Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289,
90 647a, and 11164-11174.3;

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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 by the Policy and Procedure Service and its legal counsel (Liebert Cassidy Whitmore).

Approved:

Legal Citations for AP 3518

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

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

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

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

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

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

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

(A) Was unconscious or asleep.

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

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

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

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

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

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

152 (7) Where the act is accomplished against the victim's will by
153 threatening to use the authority of a public official to incarcerate,
154 arrest, or deport the victim or another, and the victim has a
155 reasonable belief that the perpetrator is a public official. As used
156 in this paragraph, "public official" means a person employed by a
157 governmental agency who has the authority, as part of that position,
158 to incarcerate, arrest, or deport another. The perpetrator does not
159 actually have to be a public official.

160 (b) As used in this section, "duress" means a direct or implied
161 threat of force, violence, danger, or retribution sufficient to coerce
162 a reasonable person of ordinary susceptibilities to perform an act
163 which otherwise would not have been performed, or acquiesce in an act
164 to which one otherwise would not have submitted. The total
165 circumstances, including the age of the victim, and his or her
166 relationship to the defendant, are factors to consider in appraising
167 the existence of duress.

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

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173 **264.1.** The provisions of Section 264 notwithstanding, in any case in
174 which the defendant, voluntarily acting in concert with another
175 person, by force or violence and against the will of the victim,
176 committed an act described in Section **261**, 262, or 289, either
177 personally or by aiding and abetting the other person, that fact shall
178 be charged in the indictment or information and if found to be true by
179 the jury, upon a jury trial, or if found to be true by the court, upon
180 a court trial, or if admitted by the defendant, the defendant shall
181 suffer confinement in the state prison for five, seven, or nine years.

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183 **273a.** (a) Any person who, under circumstances or conditions likely
184 to produce great bodily harm or death, willfully causes or permits
185 any child to suffer, or inflicts thereon unjustifiable physical pain
186 or mental suffering, or having the care or custody of any child,
187 willfully causes or permits the person or health of that child to be
188 injured, or willfully causes or permits that child to be placed in a
189 situation where his or her person or health is endangered, shall be
190 punished by imprisonment in a county jail not exceeding one year, or
191 in the state prison for two, four, or six years.

192 (b) Any person who, under circumstances or conditions other than
193 those likely to produce great bodily harm or death, willfully causes
194 or permits any child to suffer, or inflicts thereon unjustifiable
195 physical pain or mental suffering, or having the care or custody of
196 any child, willfully causes or permits the person or health of that
197 child to be injured, or willfully causes or permits that child to be
198 placed in a situation where his or her person or health may be
199 endangered, is guilty of a misdemeanor.

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

201 probation is granted, the court shall require the following minimum
202 conditions of probation:

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

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

207 (3) (A) Successful completion of no less than one year of a child
208 abuser's treatment counseling program approved by the probation
209 department. The defendant shall be ordered to begin participation in
210 the program immediately upon the grant of probation. The counseling
211 program shall meet the criteria specified in Section **273.1**. The
212 defendant shall produce documentation of program enrollment to the
213 court within 30 days of enrollment, along with quarterly progress
214 reports.

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

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

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

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232 **273d.** (a) Any person who willfully inflicts upon a child any cruel or
233 inhuman corporal punishment or an injury resulting in a traumatic
234 condition is guilty of a felony and shall be punished by imprisonment
235 in the state prison for two, four, or six years, or in a county jail
236 for not more than one year, by a fine of up to six thousand dollars
237 (\$6,000), or by both that imprisonment and fine.

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

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

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

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

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

253 to begin participation in the program immediately upon the grant of
254 probation. The counseling program shall meet the criteria specified
255 in Section 273.1. The defendant shall produce documentation of
256 program enrollment to the court within 30 days of enrollment, along
257 with quarterly progress reports.

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

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

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

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275 **11164.** (a) This article shall be known and may be cited as the
276 Child Abuse and Neglect Reporting Act.

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

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285 **11165.** As used in this article "child" means a person under the age
286 of 18 years.

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289 **11165.1.** As used in this article, "sexual abuse" means sexual
290 assault or sexual exploitation as defined by the following:

291 (a) "Sexual assault" means conduct in violation of one or more of
292 the following sections: Section 261 (rape), subdivision (d) of
293 Section 261.5 (statutory rape), 264.1 (rape in concert), 285 (incest),
294 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision
295 (c) of Section 288 (lewd or lascivious acts upon a child), 288a (oral
296 copulation), 289 (sexual penetration), or 647.6 (child molestation).

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

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

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

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

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

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

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

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

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

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

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343 **11165.2.** As used in this article, "neglect" means the negligent
344 treatment or the maltreatment of a child by a person responsible for
345 the child's welfare under circumstances indicating harm or threatened
346 harm to the child's health or welfare. The term includes both acts
347 and omissions on the part of the responsible person.

348 (a) "Severe neglect" means the negligent failure of a person having
349 the care or custody of a child to protect the child from severe
350 malnutrition or medically diagnosed nonorganic failure to thrive.
351 "Severe neglect" also means those situations of neglect where any
352 person having the care or custody of a child willfully causes or
353 permits the person or health of the child to be placed in a situation
354 such that his or her person or health is endangered, as proscribed by

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

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

361 For the purposes of this chapter, a child receiving treatment by
362 spiritual means as provided in Section 16509.1 of the Welfare and
363 Institutions **Code** or not receiving specified medical treatment for
364 religious reasons, shall not for that reason alone be considered a
365 neglected child. An informed and appropriate medical decision made by
366 parent or guardian after consultation with a physician or physicians
367 who have examined the minor does not constitute neglect.
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370 **11165.3.** As used in this article, "the willful harming or injuring of
371 a child or the endangering of the person or health of a child," means
372 a situation in which any person willfully causes or permits any child
373 to suffer, or inflicts thereon, unjustifiable physical pain or mental
374 suffering, or having the care or custody of any child, willfully
375 causes or permits the person or health of the child to be placed in a
376 situation in which his or her person or health is endangered.
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379 **11165.4.** As used in this article, "unlawful corporal punishment or
380 injury" means a situation where any person willfully inflicts upon any
381 child any cruel or inhuman corporal punishment or injury resulting in
382 a traumatic condition. It does not include an amount of force that is
383 reasonable and necessary for a person employed by or engaged in a
384 public school to quell a disturbance threatening physical injury to
385 person or damage to property, for purposes of self-defense, or to
386 obtain possession of weapons or other dangerous objects within the
387 control of the pupil, as authorized by Section 49001 of the Education
388 **Code**. It also does not include the exercise of the degree of physical
389 control authorized by Section 44807 of the Education **Code**. It also
390 does not include an injury caused by reasonable and necessary force
391 used by a peace officer acting within the course and scope of his or
392 her employment as a peace officer.
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395 **11165.5.** As used in this article, the term "abuse or neglect in out-
396 of-home care" includes physical injury inflicted upon a child by
397 another person by other than accidental means, sexual abuse as defined
398 in Section 11165.1, neglect as defined in Section 11165.2, unlawful
399 corporal punishment or injury as defined in Section 11165.4, or the
400 willful harming or injuring of a child or the endangering of the
401 person or health of a child, as defined in Section 11165.3, where the
402 person responsible for the child's welfare is a licensee,
403 administrator, or employee of any facility licensed to care for
404 children, or an administrator or employee of a public or private
405 school or other institution or agency. "Abuse or neglect in out-of-
406 home care" does not include an injury caused by reasonable and

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

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411 **11165.6.** As used in this article, the term "child abuse or neglect"
412 includes physical injury inflicted by other than accidental means upon
413 a child by another person, sexual abuse as defined in Section 11165.1,
414 neglect as defined in Section 11165.2, the willful harming or injuring
415 of a child or the endangering of the person or health of a child, as
416 defined in Section 11165.3, and unlawful corporal punishment or injury
417 as defined in Section 11165.4. "Child abuse or neglect" does not
418 include a mutual affray between minors. "Child abuse or neglect" does
419 not include an injury caused by reasonable and necessary force used by
420 a peace officer acting within the course and scope of his or her
421 employment as a peace officer.

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424 **11165.7.** (a) As used in this article, "mandated reporter" is defined
425 as any of the following:

426 (1) A teacher.

427 (2) An instructional aide.

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

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

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

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

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

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

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

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

445 (11) A Head Start program teacher.

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

448 (13) A public assistance worker.

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

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

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

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

458 (18) A district attorney investigator, inspector, or local child
459 support agency caseworker unless the investigator, inspector, or
460 caseworker is working with an attorney appointed pursuant to Section
461 317 of the Welfare and Institutions **Code** to represent a minor.

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

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

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

472 (22) Any emergency medical technician I or II, paramedic, or other
473 person certified pursuant to Division 2.5 (commencing with Section
474 1797) of the Health and Safety **Code**.

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

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

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

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

484 (27) A coroner.

485 (28) A medical examiner, or any other person who performs
486 autopsies.

487 (29) A commercial film and photographic print processor, as
488 specified in subdivision (d) of Section 11166. As used in this
489 article, "commercial film and photographic print processor" means any
490 person who develops exposed photographic film into negatives, slides,
491 or prints, or who makes prints from negatives or slides, for
492 compensation. The term includes any employee of such a person; it
493 does not include a person who develops film or makes prints for a
494 public agency.

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

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

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

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

508 (32) A clergy member, as specified in subdivision (c) of Section
509 11166. As used in this article, "clergy member" means a priest,

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

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

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

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

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

519 (37) Any person providing services to a minor child under Section
520 12300 or 12300.1 of the Welfare and Institutions **Code**.

521 (b) Except as provided in paragraph (35) of subdivision (a),
522 volunteers of public or private organizations whose duties require
523 direct contact with and supervision of children are not mandated
524 reporters but are encouraged to obtain training in the identification
525 and reporting of child abuse and neglect and are further encouraged to
526 report known or suspected instances of child abuse or neglect to an
527 agency specified in Section 11165.9.

528 (c) Employers are strongly encouraged to provide their employees
529 who are mandated reporters with training in the duties imposed by this
530 article. This training shall include training in child abuse and
531 neglect identification and training in child abuse and neglect
532 reporting. Whether or not employers provide their employees with
533 training in child abuse and neglect identification and reporting, the
534 employers shall provide their employees who are mandated reporters
535 with the statement required pursuant to subdivision (a) of Section
536 11166.5.

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

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

544 (f) Public and private organizations are encouraged to provide
545 their volunteers whose duties require direct contact with and
546 supervision of children with training in the identification and
547 reporting of child abuse and neglect.

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550 **11165.9.** Reports of suspected child abuse or neglect shall be made by
551 mandated reporters to any police department or sheriff's department,
552 not including a school district police or security department, county
553 probation department, if designated by the county to receive mandated
554 reports, or the county welfare department. Any of those agencies shall
555 accept a report of suspected child abuse or neglect whether offered by
556 a mandated reporter or another person, or referred by another agency,
557 even if the agency to whom the report is being made lacks subject
558 matter or geographical jurisdiction to investigate the reported case,
559 unless the agency can immediately electronically transfer the call to
560 an agency with proper jurisdiction. When an agency takes a report
561 about a case of suspected child abuse or neglect in which that agency

562 lacks jurisdiction, the agency shall immediately refer the case by
563 telephone, fax, or electronic transmission to an agency with proper
564 jurisdiction. Agencies that are required to receive reports of
565 suspected child abuse or neglect may not refuse to accept a report of
566 suspected child abuse or neglect from a mandated reporter or another
567 person unless otherwise authorized pursuant to this section, and shall
568 maintain a record of all reports received.

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571 **11165.11.** As used in this article, "licensing agency" means the State
572 Department of Social Services office responsible for the licensing and
573 enforcement of the California Community Care Facilities Act (Chapter
574 3 (commencing with Section 1500) of Division 2 of the Health and
575 Safety **Code**), the California Child Day Care Act (Chapter 3.4
576 (commencing with Section 1596.70) of Division 2 of the Health and
577 Safety **Code**), and Chapter 3.5 (commencing with Section 1596.90) of
578 Division 2 of the Health and Safety **Code**), or the county licensing
579 agency which has contracted with the state for performance of those
580 duties.

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583 **11165.12.** As used in this article, the following definitions shall
584 control:

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

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

594 (c) "Inconclusive report" means a report that is determined by the
595 investigator who conducted the investigation not to be unfounded, but
596 the findings are inconclusive and there is insufficient evidence to
597 determine whether child abuse or neglect, as defined in Section
598 11165.6, has occurred.

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601 **11165.13.** For purposes of this article, a positive toxicology screen
602 at the time of the delivery of an infant is not in and of itself a
603 sufficient basis for reporting child abuse or neglect. However, any
604 indication of maternal substance abuse shall lead to an assessment of
605 the needs of the mother and child pursuant to Section 123605 of the
606 Health and Safety **Code**. If other factors are present that indicate
607 risk to a child, then a report shall be made. However, a report based
608 on risk to a child which relates solely to the inability of the parent
609 to provide the child with regular care due to the parent's substance
610 abuse shall be made only to a county welfare or probation department,
611 and not to a law enforcement agency.

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614 **11165.14.** The appropriate local law enforcement agency shall
615 investigate a child abuse complaint filed by a parent or guardian of a
616 pupil with a school or an agency specified in Section 11165.9 against
617 a school employee or other person that commits an act of child abuse,
618 as defined in this article, against a pupil at a schoolsite and shall
619 transmit a substantiated report, as defined in Section 11165.12, of
620 that investigation to the governing board of the appropriate school
621 district or county office of education. A substantiated report
622 received by a governing board of a school district or county office of
623 education shall be subject to the provisions of Section 44031 of the
624 Education **Code**.

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627 **11166.** (a) Except as provided in subdivision (d), a mandated
628 reporter shall make a report to an agency specified in Section
629 11165.9 whenever the mandated reporter, in his or her professional
630 capacity or within the scope of his or her employment, has knowledge
631 of or observes a child whom the mandated reporter knows or reasonably
632 suspects has been the victim of child abuse or neglect. The mandated
633 reporter shall make an initial report to the agency immediately or
634 as soon as is practicably possible by telephone and the mandated
635 reporter shall prepare and send, fax, or electronically transmit a
636 written followup report thereof within 36 hours of receiving the
637 information concerning the incident. The mandated reporter may
638 include with the report any nonprivileged documentary evidence the
639 mandated reporter possesses relating to the incident.

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

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

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

654 (b) If after reasonable efforts a mandated reporter is unable to
655 submit an initial report by telephone, he or she shall immediately or
656 as soon as is practicably possible, by fax or electronic
657 transmission, make a one-time automated written report on the form
658 prescribed by the Department of Justice, and shall also be available
659 to respond to a telephone follow-up call by the agency with which he
660 or she filed the report. A mandated reporter who files a one-time
661 automated written report because he or she was unable to submit an
662 initial report by telephone is not required to submit a written
663 follow-up report.

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

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

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

677 (3) This subdivision shall become inoperative three years after
678 this subdivision becomes operative or on January 1, 2009, which ever
679 occurs first.

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

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

689 (c) Any mandated reporter who fails to report an incident of known
690 or reasonably suspected child abuse or neglect as required by this
691 section is guilty of a misdemeanor punishable by up to six months
692 confinement in a county jail or by a fine of one thousand dollars
693 (\$1,000) or by both that imprisonment and fine. If a mandated
694 reporter intentionally conceals his or her failure to report an
695 incident known by the mandated reporter to be abuse or severe neglect
696 under this section, the failure to report is a continuing offense
697 until an agency specified in Section 11165.9 discovers the offense.

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

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

713 (3) (A) On or before January 1, 2004, a clergy member or any
714 custodian of records for the clergy member may report to an agency
715 specified in Section 11165.9 that the clergy member or any custodian
716 of records for the clergy member, prior to January 1, 1997, in his or
717 her professional capacity or within the scope of his or her

718 employment, other than during a penitential communication, acquired
719 knowledge or had a reasonable suspicion that a child had been the
720 victim of sexual abuse that the clergy member or any custodian of
721 records for the clergy member did not previously report the abuse to
722 an agency specified in Section 11165.9. The provisions of Section
723 11172 shall apply to all reports made pursuant to this paragraph.

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

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

731 (e) Any commercial film and photographic print processor who has
732 knowledge of or observes, within the scope of his or her professional
733 capacity or employment, any film, photograph, videotape, negative,
734 or slide depicting a child under the age of 16 years engaged in an
735 act of sexual conduct, shall report the instance of suspected child
736 abuse to the law enforcement agency having jurisdiction over the case
737 immediately, or as soon as practicably possible, by telephone and
738 shall prepare and send, fax, or electronically transmit a written
739 report of it with a copy of the film, photograph, videotape,
740 negative, or slide attached within 36 hours of receiving the
741 information concerning the incident. As used in this subdivision,
742 "sexual conduct" means any of the following:

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

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

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

749 (4) Sodomasochistic abuse for the purpose of sexual stimulation of
750 the viewer.

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

753 (f) Any mandated reporter who knows or reasonably suspects that the
754 home or institution in which a child resides is unsuitable for the
755 child because of abuse or neglect of the child shall bring the
756 condition to the attention of the agency to which, and at the same
757 time as, he or she makes a report of the abuse or neglect pursuant to
758 subdivision (a).

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

763 (h) When two or more persons, who are required to report, jointly
764 have knowledge of a known or suspected instance of child abuse or
765 neglect, and when there is agreement among them, the telephone report
766 may be made by a member of the team selected by mutual agreement and a
767 single report may be made and signed by the selected member of the
768 reporting team. Any member who has knowledge that the member

769 designated to report has failed to do so shall thereafter make the
770 report.

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

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

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

784 (j) A county probation or welfare department shall immediately, or
785 as soon as practicably possible, report by telephone, fax, or
786 electronic transmission to the law enforcement agency having
787 jurisdiction over the case, to the agency given the responsibility
788 for investigation of cases under Section 300 of the Welfare and
789 Institutions **Code**, and to the district attorney's office every known
790 or suspected instance of child abuse or neglect, as defined in
791 Section 11165.6, except acts or omissions coming within subdivision
792 (b) of Section 11165.2, or reports made pursuant to Section 11165.13
793 based on risk to a child which relates solely to the inability of the
794 parent to provide the child with regular care due to the parent's
795 substance abuse, which shall be reported only to the county welfare
796 or probation department. A county probation or welfare department also
797 shall send, fax, or electronically transmit a written report thereof
798 within 36 hours of receiving the information concerning the incident
799 to any agency to which it makes a telephone report under this
800 subdivision.

801 (k) A law enforcement agency shall immediately, or as soon as
802 practicably possible, report by telephone, fax, or electronic
803 transmission to the agency given responsibility for investigation of
804 cases under Section 300 of the Welfare and Institutions **Code** and to
805 the district attorney's office every known or suspected instance of
806 child abuse or neglect reported to it, except acts or omissions
807 coming within subdivision (b) of Section 11165.2, which shall be
808 reported only to the county welfare or probation department. A law
809 enforcement agency shall report to the county welfare or probation
810 department every known or suspected instance of child abuse or
811 neglect reported to it which is alleged to have occurred as a result
812 of the action of a person responsible for the child's welfare, or as
813 the result of the failure of a person responsible for the child's
814 welfare to adequately protect the minor from abuse when the person
815 responsible for the child's welfare knew or reasonably should have
816 known that the minor was in danger of abuse. A law enforcement agency
817 also shall send, fax, or electronically transmit a written report
818 thereof within 36 hours of receiving the information concerning the
819 incident to any agency to which it makes a telephone report under this
820 subdivision.

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

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

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

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

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

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

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

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

11166.2. In addition to the reports required under Section 11166,

873 any agency specified in Section 11165.9 shall immediately or as soon
874 as practically possible report by telephone, fax, or electronic
875 transmission to the appropriate licensing agency every known or
876 suspected instance of child abuse or neglect when the instance of
877 abuse or neglect occurs while the child is being cared for in a child
878 day care facility, involves a child day care licensed staff person,
879 or occurs while the child is under the supervision of a community
880 care facility or involves a community care facility licensee or staff
881 person. The agency shall also send, fax, or electronically transmit a
882 written report thereof within 36 hours of receiving the information
883 concerning the incident to any agency to which it makes a telephone
884 report under this subdivision. The agency shall send the licensing
885 agency a copy of its investigation report and any other pertinent
886 materials.

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889 **11166.3.** (a) The Legislature intends that in each county the law
890 enforcement agencies and the county welfare or probation department
891 shall develop and implement cooperative arrangements in order to
892 coordinate existing duties in connection with the investigation of
893 suspected child abuse or neglect cases. The local law enforcement
894 agency having jurisdiction over a case reported under Section 11166
895 shall report to the county welfare or probation department that it is
896 investigating the case within 36 hours after starting its
897 investigation. The county welfare department or probation department
898 shall, in cases where a minor is a victim of actions specified in
899 Section 288 of this **code** and a petition has been filed pursuant to
900 Section 300 of the Welfare and Institutions **Code** with regard to the
901 minor, evaluate what action or actions would be in the best interest
902 of the child victim. Notwithstanding any other provision of law, the
903 county welfare department or probation department shall submit in
904 writing its findings and the reasons therefor to the district
905 attorney on or before the completion of the investigation. The
906 written findings and the reasons therefor shall be delivered or made
907 accessible to the defendant or his or her counsel in the manner
908 specified in Section 859.

909 (b) The local law enforcement agency having jurisdiction over a
910 case reported under Section 11166 shall report to the district office
911 of the State Department of Social Services any case reported under
912 this section if the case involves a facility specified in paragraph
913 (5) or (6) of subdivision (a) of Section 1502, Section 1596.750 or
914 1596.76 of the Health and Safety **Code**, and the licensing of the
915 facility has not been delegated to a county agency. The law
916 enforcement agency shall send a copy of its investigation report and
917 any other pertinent materials to the licensing agency upon the
918 request of the licensing agency.

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921 **11166.5.** (a) On and after January 1, 1985, any mandated reporter as
922 specified in Section 11165.7, with the exception of child visitation
923 monitors, prior to commencing his or her employment, and as a
924 prerequisite to that employment, shall sign a statement on a form

925 provided to him or her by his or her employer to the effect that he
926 or she has knowledge of the provisions of Section 11166 and will
927 comply with those provisions. The statement shall inform the
928 employee that he or she is a mandated reporter and inform the
929 employee of his or her reporting obligations under Section 11166 and
930 of his or her confidentiality rights under subdivision (d) of Section
931 11167. The employer shall provide a copy of Sections 11165.7,
932 11166, and 11167 to the employee.

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

940 The signed statements shall be retained by the employer or the
941 court, as the case may be. The cost of printing, distribution, and
942 filing of these statements shall be borne by the employer or the
943 court.

944 This subdivision is not applicable to persons employed by public or
945 private youth centers, youth recreation programs, and youth
946 organizations as members of the support staff or maintenance staff and
947 who do not work with, observe, or have knowledge of children as part
948 of their official duties.

949 (b) On and after January 1, 1986, when a person is issued a state
950 license or certificate to engage in a profession or occupation, the
951 members of which are required to make a report pursuant to Section
952 11166, the state agency issuing the license or certificate shall send
953 a statement substantially similar to the one contained in
954 subdivision (a) to the person at the same time as it transmits the
955 document indicating licensure or certification to the person. In
956 addition to the requirements contained in subdivision (a), the
957 statement also shall indicate that failure to comply with the
958 requirements of Section 11166 is a misdemeanor, punishable by up to
959 six months in a county jail, by a fine of one thousand dollars
960 (\$1,000), or by both that imprisonment and fine.

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

965 (d) On and after January 1, 1993, any child visitation monitor, as
966 defined in paragraph (30) of subdivision (a) of Section 11165.7, who
967 desires to act in that capacity shall have received training in the
968 duties imposed by this article, including training in child abuse
969 identification and child abuse reporting. The person, prior to
970 engaging in monitoring the first visit in a case, shall sign a
971 statement on a form provided to him or her by the court which ordered
972 the presence of that third person during the visit, to the effect
973 that he or she has received this training. This statement may be
974 included in the statement required by subdivision (a) or it may be a
975 separate statement. This statement shall be filed, along with the
976 statement required by subdivision (a), in the court file of the case

977 for which the visitation monitoring is being provided.

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

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986 **11167.** (a) Reports of suspected child abuse or neglect pursuant to
987 Section 11166 shall include the name, business address, and telephone
988 number of the mandated reporter; the capacity that makes the person
989 a mandated reporter; and the information that gave rise to the
990 reasonable suspicion of child abuse or neglect and the source or
991 sources of that information. If a report is made, the following
992 information, if known, shall also be included in the report: the
993 child's name, the child's address, present location, and, if
994 applicable, school, grade, and class; the names, addresses, and
995 telephone numbers of the child's parents or guardians; and the name,
996 address, telephone number, and other relevant personal information
997 about the person or persons who might have abused or neglected the
998 child. The mandated reporter shall make a report even if some of this
999 information is not known or is uncertain to him or her.

1000 (b) Information relevant to the incident of child abuse or neglect
1001 may be given to an investigator from an agency that is investigating
1002 the known or suspected case of child abuse or neglect.

1003 (c) Information relevant to the incident of child abuse or
1004 neglect, including the investigation report and other pertinent
1005 materials, may be given to the licensing agency when it is
1006 investigating a known or suspected case of child abuse or neglect.

1007 (d) (1) The identity of all persons who report under this article
1008 shall be confidential and disclosed only among agencies receiving or
1009 investigating mandated reports, to the prosecutor in a criminal
1010 prosecution or in an action initiated under Section 602 of the
1011 Welfare and Institutions **Code** arising from alleged child abuse, or to
1012 counsel appointed pursuant to subdivision (c) of Section 317 of the
1013 Welfare and Institutions **Code**, or to the county counsel or prosecutor
1014 in a proceeding under Part 4 (commencing with Section 7800) of
1015 Division 12 of the Family **Code** or Section 300 of the Welfare and
1016 Institutions **Code**, or to a licensing agency when abuse or neglect in
1017 out-of-home care is reasonably suspected, or when those persons waive
1018 confidentiality, or by court order.

1019 (2) No agency or person listed in this subdivision shall disclose
1020 the identity of any person who reports under this article to that
1021 person's employer, except with the employee's consent or by court
1022 order.

1023 (e) Notwithstanding the confidentiality requirements of this
1024 section, a representative of a child protective services agency
1025 performing an investigation that results from a report of suspected
1026 child abuse or neglect made pursuant to Section 11166, at the time of
1027 the initial contact with the individual who is subject to the
1028 investigation, shall advise the individual of the complaints or

1029 allegations against him or her, in a manner that is consistent with
1030 laws protecting the identity of the reporter under this article.

1031 (f) Persons who may report pursuant to subdivision (f) of Section
1032 11166 are not required to include their names.

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1035 **11167.5.** (a) The reports required by Sections 11166 and 11166.2,
1036 and child abuse or neglect investigative reports that result in a
1037 summary report being filed with the Department of Justice pursuant to
1038 subdivision (a) of Section 11169 shall be confidential and may be
1039 disclosed only as provided in subdivision (b). Any violation of the
1040 confidentiality provided by this article is a misdemeanor punishable
1041 by imprisonment in a county jail not to exceed six months, by a fine
1042 of five hundred dollars (\$500), or by both that imprisonment and fine.

1043 (b) Reports of suspected child abuse or neglect and information
1044 contained therein may be disclosed only to the following:

1045 (1) Persons or agencies to whom disclosure of the identity of the
1046 reporting party is permitted under Section 11167.

1047 (2) Persons or agencies to whom disclosure of information is
1048 permitted under subdivision (b) of Section 11170 or subdivision (a)
1049 of Section 11170.5.

1050 (3) Persons or agencies with whom investigations of child abuse or
1051 neglect are coordinated under the regulations promulgated under
1052 Section 11174.

1053 (4) Multidisciplinary personnel teams as defined in subdivision
1054 (d) of Section 18951 of the Welfare and Institutions **Code**.

1055 (5) Persons or agencies responsible for the licensing of
1056 facilities which care for children, as specified in Section 11165.7.

1057 (6) The State Department of Social Services or any county
1058 licensing agency which has contracted with the state, as specified in
1059 paragraph (4) of subdivision (b) of Section 11170, when an individual
1060 has applied for a community care license or child day care license, or
1061 for employment in an out-of-home care facility, or when a complaint
1062 alleges child abuse or neglect by an operator or employee of an out-
1063 of-home care facility.

1064 (7) Hospital scan teams. As used in this paragraph, "hospital
1065 scan team" means a team of three or more persons established by a
1066 hospital, or two or more hospitals in the same county, consisting of
1067 health care professionals and representatives of law enforcement and
1068 child protective services, the members of which are engaged in the
1069 identification of child abuse or neglect. The disclosure authorized
1070 by this section includes disclosure among all hospital scan teams.

1071 (8) Coroners and medical examiners when conducting a postmortem
1072 examination of a child.

1073 (9) The Board of Prison Terms, who may subpoena an employee of a
1074 county welfare department who can provide relevant evidence and
1075 reports that both (A) are not unfounded, pursuant to Section
1076 11165.12, and (B) concern only the current incidents upon which
1077 parole revocation proceedings are pending against a parolee charged
1078 with child abuse or neglect. The reports and information shall be
1079 confidential pursuant to subdivision (d) of Section 11167.

1080 (10) Personnel from an agency responsible for making a placement

1081 of a child pursuant to Section 361.3 of, and Article 7 (commencing
1082 with Section 305) of Chapter 2 of Part 1 of Division 2 of, the
1083 Welfare and Institutions **Code**.

1084 (11) Persons who have been identified by the Department of Justice
1085 as listed in the Child Abuse Central Index pursuant to paragraph (6)
1086 of subdivision (b) of Section 11170 or subdivision (c) of Section
1087 11170, or persons who have verified with the Department of Justice
1088 that they are listed in the Child Abuse Central Index as provided in
1089 subdivision (e) of Section 11170. Disclosure under this paragraph is
1090 required notwithstanding the California Public Records Act, Chapter
1091 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the
1092 Government **Code**. Nothing in this paragraph shall preclude a
1093 submitting agency prior to disclosure from redacting any information
1094 necessary to maintain confidentiality as required by law.

1095 (12) Out-of-state law enforcement agencies conducting an
1096 investigation of child abuse or neglect only when an agency makes the
1097 request for reports of suspected child abuse or neglect in writing
1098 and on official letterhead, identifying the suspected abuser or
1099 victim by name. The request shall be signed by the department
1100 supervisor of the requesting law enforcement agency. The written
1101 request shall cite the out-of-state statute or interstate compact
1102 provision that requires that the information contained within these
1103 reports is to be disclosed only to law enforcement, prosecutorial
1104 entities, or multidisciplinary investigative teams, and shall cite
1105 the criminal penalties for unlawful disclosure provided by the
1106 requesting state or the applicable interstate compact provision. In
1107 the absence of both (A) a specific out-of-state statute or interstate
1108 compact provision that requires that the information contained
1109 within these reports be disclosed only to law enforcement,
1110 prosecutorial entities, or multidisciplinary investigative teams, and
1111 (B) criminal penalties equivalent to the penalties in California for
1112 unlawful disclosure, access shall be denied.

1113 (13) Each chairperson of a county child death review team, or his
1114 or her designee, to whom disclosure of information is permitted under
1115 this article, relating to the death of one or more children and any
1116 prior child abuse or neglect investigation reports maintained
1117 involving the same victim, siblings, or suspects. Local child death
1118 review teams may share any relevant information regarding case
1119 reviews involving child death with other child death review teams.

1120 (c) Authorized persons within county health departments shall be
1121 permitted to receive copies of any reports made by health
1122 practitioners, as defined in paragraphs (21) to (28), inclusive, of
1123 subdivision (a) of Section 11165.7, and pursuant to Section 11165.13,
1124 and copies of assessments completed pursuant to Sections 123600 and
1125 123605 of the Health and Safety **Code**, to the extent permitted by
1126 federal law. Any information received pursuant to this subdivision
1127 is protected by subdivision (e).

1128 (d) Nothing in this section requires the Department of Justice to
1129 disclose information contained in records maintained under Section
1130 11170 or under the regulations promulgated pursuant to Section 11174,
1131 except as otherwise provided in this article.

1132 (e) This section shall not be interpreted to allow disclosure of

1133 any reports or records relevant to the reports of child abuse or
1134 neglect if the disclosure would be prohibited by any other provisions
1135 of state or federal law applicable to the reports or records
1136 relevant to the reports of child abuse or neglect.
1137

1138
1139 **11168.** The written reports required by Section 11166 shall be
1140 submitted on forms adopted by the Department of Justice after
1141 consultation with representatives of the various professional medical
1142 associations and hospital associations and county probation or
1143 welfare departments. Those forms shall be distributed by the
1144 agencies specified in Section 11165.9.
1145

1146
1147 **11169.** (a) An agency specified in Section 11165.9 shall forward to
1148 the Department of Justice a report in writing of every case it
1149 investigates of known or suspected child abuse or severe neglect
1150 which is determined not to be unfounded, other than cases coming
1151 within subdivision (b) of Section 11165.2. An agency shall not
1152 forward a report to the Department of Justice unless it has conducted
1153 an active investigation and determined that the report is not
1154 unfounded, as defined in Section 11165.12. If a report has
1155 previously been filed which subsequently proves to be unfounded, the
1156 Department of Justice shall be notified in writing of that fact and
1157 shall not retain the report. The reports required by this section
1158 shall be in a form approved by the Department of Justice and may be
1159 sent by fax or electronic transmission. An agency specified in
1160 Section 11165.9 receiving a written report from another agency
1161 specified in Section 11165.9 shall not send that report to the
1162 Department of Justice.

1163 (b) At the time an agency specified in Section 11165.9 forwards a
1164 report in writing to the Department of Justice pursuant to
1165 subdivision (a), the agency shall also notify in writing the known or
1166 suspected child abuser that he or she has been reported to the Child
1167 Abuse Central Index. The notice required by this section shall be in
1168 a form approved by the Department of Justice. The requirements of
1169 this subdivision shall apply with respect to reports forwarded to the
1170 department on or after the date on which this subdivision becomes
1171 operative.

1172 (c) Agencies shall retain child abuse or neglect investigative
1173 reports that result in a report filed with the Department of Justice
1174 pursuant to subdivision (a) for the same period of time that the
1175 information is required to be maintained on the Child Abuse Central
1176 Index pursuant to this section and subdivision (a) of Section 11170.
1177 Nothing in this section precludes an agency from retaining the
1178 reports for a longer period of time if required by law.

1179 (d) The immunity provisions of Section 11172 shall not apply to
1180 the submission of a report by an agency pursuant to this section.
1181 However, nothing in this section shall be construed to alter or
1182 diminish any other immunity provisions of state or federal law.
1183

1184

1185 **11170.** (a) (1) The Department of Justice shall maintain an index of
1186 all reports of child abuse and severe neglect submitted pursuant to
1187 Section 11169. The index shall be continually updated by the
1188 department and shall not contain any reports that are determined to
1189 be unfounded. The department may adopt rules governing recordkeeping
1190 and reporting pursuant to this article.

1191 (2) The department shall act only as a repository of reports of
1192 suspected child abuse and severe neglect to be maintained in the
1193 Child Abuse Central Index pursuant to paragraph (1). The submitting
1194 agencies are responsible for the accuracy, completeness, and
1195 retention of the reports described in this section. The department
1196 shall be responsible for ensuring that the Child Abuse Central Index
1197 accurately reflects the report it receives from the submitting agency.

1198 (3) Information from an inconclusive or unsubstantiated report
1199 filed pursuant to subdivision (a) of Section 11169 shall be deleted
1200 from the Child Abuse Central Index after 10 years if no subsequent
1201 report concerning the same suspected child abuser is received within
1202 that time period. If a subsequent report is received within that 10-
1203 year period, information from any prior report, as well as any
1204 subsequently filed report, shall be maintained on the Child Abuse
1205 Central Index for a period of 10 years from the time the most recent
1206 report is received by the department.

1207 (b) (1) The Department of Justice shall immediately notify an
1208 agency that submits a report pursuant to Section 11169, or a
1209 prosecutor who requests notification, of any information maintained
1210 pursuant to subdivision (a) that is relevant to the known or
1211 suspected instance of child abuse or severe neglect reported by the
1212 agency. The agency shall make that information available to the
1213 reporting medical practitioner, child custodian, guardian ad litem
1214 appointed under Section 326, or counsel appointed under Section 317
1215 or 318 of the Welfare and Institutions **Code**, or the appropriate
1216 licensing agency, if he or she is treating or investigating a case of
1217 known or suspected child abuse or severe neglect.

1218 (2) When a report is made pursuant to subdivision (a) of Section
1219 11166, the investigating agency, upon completion of the investigation
1220 or after there has been a final disposition in the matter, shall
1221 inform the person required to report of the results of the
1222 investigation and of any action the agency is taking with regard to
1223 the child or family.

1224 (3) The Department of Justice shall make available to a law
1225 enforcement agency, county welfare department, or county probation
1226 department that is conducting a child abuse investigation relevant
1227 information contained in the index.

1228 (4) The department shall make available to the State Department of
1229 Social Services or to any county licensing agency that has
1230 contracted with the state for the performance of licensing duties
1231 information regarding a known or suspected child abuser maintained
1232 pursuant to this section and subdivision (a) of Section 11169
1233 concerning any person who is an applicant for licensure or any adult
1234 who resides or is employed in the home of an applicant for licensure
1235 or who is an applicant for employment in a position having
1236 supervisory or disciplinary power over a child or children, or who

1237 will provide 24-hour care for a child or children in a residential
1238 home or facility, pursuant to Section 1522.1 or 1596.877 of the Health
1239 and Safety **Code**, or Section 8714, 8802, 8912, or 9000 of the Family
1240 **Code**.

1241 (5) For purposes of child death review, the Department of Justice
1242 shall make available to the chairperson, or the chairperson's
1243 designee, for each county child death review team, or the State Child
1244 Death Review Council, information maintained in the Child Abuse
1245 Central Index pursuant to subdivision (a) of Section 11170 relating to
1246 the death of one or more children and any prior child abuse or neglect
1247 investigation reports maintained involving the same victims, siblings,
1248 or suspects. Local child death review teams may share any relevant
1249 information regarding case reviews involving child death with other
1250 child death review teams.

1251 (6) The department shall make available to investigative agencies
1252 or probation officers, or court investigators acting pursuant to
1253 Section 1513 of the Probate **Code**, responsible for placing children or
1254 assessing the possible placement of children pursuant to Article 6
1255 (commencing with Section 300), Article 7 (commencing with Section
1256 305), Article 10 (commencing with Section 360), or Article 14
1257 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of
1258 the Welfare and Institutions **Code**, Article 2 (commencing with
1259 Section 1510) or Article 3 (commencing with Section 1540) of Chapter
1260 1 of Part 2 of Division 4 of the Probate **Code**, information regarding
1261 a known or suspected child abuser contained in the index concerning
1262 any adult residing in the home where the child may be placed, when
1263 this information is requested for purposes of ensuring that the
1264 placement is in the best interests of the child. Upon receipt of
1265 relevant information concerning child abuse or neglect investigation
1266 reports contained in the index from the Department of Justice
1267 pursuant to this subdivision, the agency or court investigator shall
1268 notify, in writing, the person listed in the Child Abuse Central
1269 Index that he or she is in the index. The notification shall include
1270 the name of the reporting agency and the date of the report.

1271 (7) The Department of Justice shall make available to a government
1272 agency conducting a background investigation pursuant to Section 1031
1273 of the Government **Code** of an applicant seeking employment as a peace
1274 officer, as defined in Section 830, information regarding a known or
1275 suspected child abuser maintained pursuant to this section concerning
1276 the applicant.

1277 (8) (A) Persons or agencies, as specified in subdivision (b), if
1278 investigating a case of known or suspected child abuse or neglect, or
1279 the State Department of Social Services or any county licensing
1280 agency pursuant to paragraph (4), or an investigative agency,
1281 probation officer, or court investigator responsible for placing
1282 children or assessing the possible placement of children pursuant to
1283 paragraph (6), or a government agency conducting a background
1284 investigation of an applicant seeking employment as a peace officer
1285 pursuant to paragraph (7), to whom disclosure of any information
1286 maintained pursuant to subdivision (a) is authorized, are responsible
1287 for obtaining the original investigative report from the reporting
1288 agency, and for drawing independent conclusions regarding the quality

1289 of the evidence disclosed, and its sufficiency for making decisions
1290 regarding investigation, prosecution, licensing, placement of a
1291 child, or employment as a peace officer.

1292 (B) If Child Abuse Central Index information is requested by an
1293 agency for the temporary placement of a child in an emergency
1294 situation pursuant to Article 7 (commencing with Section 305) of
1295 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions
1296 **Code**, the department is exempt from the requirements of Section
1297 1798.18 of the Civil **Code** if compliance would cause a delay in
1298 providing an expedited response to the agency's inquiry and if
1299 further delay in placement may be detrimental to the child.

1300 (9) (A) Whenever information contained in the Department of Justice
1301 files is furnished as the result of an application for employment or
1302 licensing pursuant to paragraph (4) or (7), the Department of Justice
1303 may charge the person or entity making the request a fee. The fee
1304 shall not exceed the reasonable costs to the department of providing
1305 the information. The only increase shall be at a rate not to exceed
1306 the legislatively approved cost-of-living adjustment for the
1307 department. In no case shall the fee exceed fifteen dollars (\$15).

1308 (B) All moneys received by the department pursuant to this section
1309 to process trustline applications for purposes of Chapter 3.35
1310 (commencing with Section 1596.60) of Division 2 of the Health and
1311 Safety **Code** shall be deposited in a special account in the General
1312 Fund that is hereby established and named the Department of Justice
1313 Child Abuse Fund. Moneys in the fund shall be available, upon
1314 appropriation by the Legislature, for expenditure by the department
1315 to offset the costs incurred to process trustline automated child
1316 abuse or neglect system checks pursuant to this section.

1317 (C) All moneys, other than that described in subparagraph (B),
1318 received by the department pursuant to this paragraph shall be
1319 deposited in a special account in the General Fund which is hereby
1320 created and named the Department of Justice Sexual Habitual Offender
1321 Fund. The funds shall be available, upon appropriation by the
1322 Legislature, for expenditure by the department to offset the costs
1323 incurred pursuant to Chapter 9.5 (commencing with Section 13885) and
1324 Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and
1325 the DNA and Forensic Identification Data Base and Data Bank Act of
1326 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1),
1327 and for maintenance and improvements to the statewide Sexual Habitual
1328 Offender Program and the DNA offender identification file (CAL-DNA)
1329 authorized by Chapter 9.5 (commencing with Section 13885) of Title 6
1330 of Part 4 and the DNA and Forensic Identification Data Base and Data
1331 Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9
1332 of Part 1).

1333 (c) The Department of Justice shall make available to any agency
1334 responsible for placing children pursuant to Article 7 (commencing
1335 with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare
1336 and Institutions **Code**, upon request, relevant information concerning
1337 child abuse or neglect reports contained in the index, when making a
1338 placement with a responsible relative pursuant to Sections 281.5,
1339 305, and 361.3 of the Welfare and Institutions **Code**. Upon receipt of
1340 relevant information concerning child abuse or neglect reports

1341 contained in the index from the Department of Justice pursuant to
1342 this subdivision, the agency shall also notify in writing the person
1343 listed in the Child Abuse Central Index that he or she is in the
1344 index. The notification shall include the location of the original
1345 investigative report and the submitting agency. The notification
1346 shall be submitted to the person listed at the same time that all
1347 other parties are notified of the information, and no later than the
1348 actual judicial proceeding that determines placement.

1349 If Child Abuse Central Index information is requested by an agency
1350 for the placement of a child with a responsible relative in an
1351 emergency situation pursuant to Article 7 (commencing with Section
1352 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and
1353 Institutions **Code**, the department is exempt from the requirements of
1354 Section 1798.18 of the Civil **Code** if compliance would cause a delay in
1355 providing an expedited response to the child protective agency's
1356 inquiry and if further delay in placement may be detrimental to the
1357 child.

1358 (d) The department shall make available any information maintained
1359 pursuant to subdivision (a) to out-of-state law enforcement agencies
1360 conducting investigations of known or suspected child abuse or
1361 neglect only when an agency makes the request for information in
1362 writing and on official letterhead, identifying the suspected abuser
1363 or victim by name. The request shall be signed by the department
1364 supervisor of the requesting law enforcement agency. The written
1365 requests shall cite the out-of-state statute or interstate compact
1366 provision that requires that the information contained within these
1367 reports shall be disclosed only to law enforcement, prosecutorial
1368 entities, or multidisciplinary investigative teams, and shall cite
1369 the criminal penalties for unlawful disclosure of any confidential
1370 information provided by the requesting state or the applicable
1371 interstate compact provision. In the absence of a specified
1372 out-of-state statute or interstate compact provision that requires
1373 that the information contained within these reports shall be disclosed
1374 only to law enforcement, prosecutorial entities, or multidisciplinary
1375 investigative teams, and criminal penalties equivalent to the
1376 penalties in California for unlawful disclosure, access shall be
1377 denied.

1378 (e) (1) Any person may determine if he or she is listed in the
1379 Child Abuse Central Index by making a request in writing to the
1380 Department of Justice. The request shall be notarized and include the
1381 person's name, address, date of birth, and either a social security
1382 number or a California identification number. Upon receipt of a
1383 notarized request, the Department of Justice shall make available to
1384 the requesting person information identifying the date of the report
1385 and the submitting agency. The requesting person is responsible for
1386 obtaining the investigative report from the submitting agency
1387 pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

1388 (2) No person or agency shall require or request another person to
1389 furnish a copy of a record concerning himself or herself, or
1390 notification that a record concerning himself or herself exists or
1391 does not exist, pursuant to paragraph (1) of this subdivision.

1392 (f) If a person is listed in the Child Abuse Central Index only as
1393 a victim of child abuse or neglect, and that person is 18 years of age
1394 or older, that person may have his or her name removed from the index
1395 by making a written request to the Department of Justice. The request
1396 shall be notarized and include the person's name, address, social
1397 security number, and date of birth.

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1400 **11170.5.** (a) Notwithstanding paragraph (4) of subdivision (b) of
1401 Section 11170, the Department of Justice shall make available to a
1402 licensed adoption agency, as defined in Section 8530 of the Family
1403 **Code**, information regarding a known or suspected child abuser
1404 maintained in the Child Abuse Central Index, pursuant to subdivision
1405 (a) of Section 11170, concerning any person who has submitted to the
1406 agency an application for adoption.

1407 (b) A licensed adoption agency, to which disclosure of any
1408 information pursuant to subdivision (a) is authorized, is responsible
1409 for obtaining the original investigative report from the reporting
1410 agency, and for drawing independent conclusions regarding the quality
1411 of the evidence disclosed and the sufficiency of the evidence for
1412 making decisions when evaluating an application for adoption.

1413 (c) Whenever information contained in the Department of Justice
1414 files is furnished as the result of an application for adoption
1415 pursuant to subdivision (a), the Department of Justice may charge the
1416 agency making the request a fee. The fee shall not exceed the
1417 reasonable costs to the department of providing the information. The
1418 only increase shall be at a rate not to exceed the legislatively
1419 approved cost-of-living adjustment for the department. In no case
1420 shall the fee exceed fifteen dollars (\$15).

1421 All moneys received by the department pursuant to this subdivision
1422 shall be deposited in the Department of Justice Sexual Habitual
1423 Offender Fund pursuant to subparagraph (C) of paragraph (9) of
1424 subdivision (b) of Section 11170.

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1427 **11171.** (a) (1) The Legislature hereby finds and declares that
1428 adequate protection of victims of child physical abuse or neglect has
1429 been hampered by the lack of consistent and comprehensive medical
1430 examinations.

1431 (2) Enhancing examination procedures, documentation, and evidence
1432 collection relating to child abuse or neglect will improve the
1433 investigation and prosecution of child abuse or neglect as well as
1434 other child protection efforts.

1435 (b) The agency or agencies designated by the Director of Finance
1436 pursuant to Section 13820 shall, in cooperation with the State
1437 Department of Social Services, the Department of Justice, the
1438 California Association of Crime Lab Directors, the California
1439 District Attorneys Association, the California State Sheriffs
1440 Association, the California Peace Officers Association, the
1441 California Medical Association, the California Police Chiefs'
1442 Association, child advocates, the California Medical Training Center,
1443 child protective services, and other appropriate experts, establish

1444 medical forensic forms, instructions, and examination protocols for
1445 victims of child physical abuse or neglect using as a model the form
1446 and guidelines developed pursuant to Section 13823.5.

1447 (c) The forms shall include, but not be limited to, a place for
1448 notation concerning each of the following:

1449 (1) Any notification of injuries or any report of suspected child
1450 physical abuse or neglect to law enforcement authorities or children's
1451 protective services, in accordance with existing reporting procedures.

1452 (2) Addressing relevant consent issues, if indicated.

1453 (3) The taking of a patient history of child physical abuse or
1454 neglect that includes other relevant medical history.

1455 (4) The performance of a physical examination for evidence of
1456 child physical abuse or neglect.

1457 (5) The collection or documentation of any physical evidence of
1458 child physical abuse or neglect, including any recommended
1459 photographic procedures.

1460 (6) The collection of other medical or forensic specimens,
1461 including drug ingestion or toxication, as indicated.

1462 (7) Procedures for the preservation and disposition of evidence.

1463 (8) Complete documentation of medical forensic exam findings with
1464 recommendations for diagnostic studies, including blood tests and X-
1465 rays.

1466 (9) An assessment as to whether there are findings that indicate
1467 physical abuse or neglect.

1468 (d) The forms shall become part of the patient's medical record
1469 pursuant to guidelines established by the advisory committee of the
1470 agency or agencies designated by the Director of Finance pursuant to
1471 Section 13820 and subject to the confidentiality laws pertaining to
1472 the release of a medical forensic examination records.

1473 (e) The forms shall be made accessible for use on the Internet.

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1476 **11171.2.** (a) A physician and surgeon or dentist or their agents
1477 and by their direction may take skeletal X-rays of the child without
1478 the consent of the child's parent or guardian, but only for purposes
1479 of diagnosing the case as one of possible child abuse or neglect and
1480 determining the extent of the child abuse or neglect.

1481 (b) Neither the physician-patient privilege nor the
1482 psychotherapist-patient privilege applies to information reported
1483 pursuant to this article in any court proceeding or administrative
1484 hearing.

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1487 **11171.5.** (a) If a peace officer, in the course of an investigation of
1488 child abuse or neglect, has reasonable cause to believe that the child
1489 has been the victim of physical abuse, the officer may apply to a
1490 magistrate for an order directing that the victim be X-rayed without
1491 parental consent.

1492 Any X-ray taken pursuant to this subdivision shall be administered
1493 by a physician and surgeon or dentist or their agents.

1494 (b) With respect to the cost of an X-ray taken by the county
1495 coroner or at the request of the county coroner in suspected child

1496 abuse or neglect cases, the county may charge the parent or legal
1497 guardian of the child-victim the costs incurred by the county for the
1498 X-ray.

1499 (c) No person who administers an X-ray pursuant to this section
1500 shall be entitled to reimbursement from the county for any
1501 administrative cost that exceeds 5 percent of the cost of the X-ray.

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1504 **11172.** (a) No mandated reporter shall be civilly or criminally
1505 liable for any report required or authorized by this article, and
1506 this immunity shall apply even if the mandated reporter acquired the
1507 knowledge or reasonable suspicion of child abuse or neglect outside
1508 of his or her professional capacity or outside the scope of his or
1509 her employment. Any other person reporting a known or suspected
1510 instance of child abuse or neglect shall not incur civil or criminal
1511 liability as a result of any report authorized by this article unless
1512 it can be proven that a false report was made and the person knew
1513 that the report was false or was made with reckless disregard of the
1514 truth or falsity of the report, and any person who makes a report of
1515 child abuse or neglect known to be false or with reckless disregard
1516 of the truth or falsity of the report is liable for any damages
1517 caused. No person required to make a report pursuant to this
1518 article, nor any person taking photographs at his or her direction,
1519 shall incur any civil or criminal liability for taking photographs of
1520 a suspected victim of child abuse or neglect, or causing photographs
1521 to be taken of a suspected victim of child abuse or neglect, without
1522 parental consent, or for disseminating the photographs with the
1523 reports required by this article. However, this section shall not be
1524 construed to grant immunity from this liability with respect to any
1525 other use of the photographs.

1526 (b) Any person, who, pursuant to a request from a government
1527 agency investigating a report of suspected child abuse or neglect,
1528 provides the requesting agency with access to the victim of a known
1529 or suspected instance of child abuse or neglect shall not incur civil
1530 or criminal liability as a result of providing that access.

1531 (c) The Legislature finds that even though it has provided
1532 immunity from liability to persons required or authorized to make
1533 reports pursuant to this article, that immunity does not eliminate
1534 the possibility that actions may be brought against those persons
1535 based upon required or authorized reports. In order to further limit
1536 the financial hardship that those persons may incur as a result of
1537 fulfilling their legal responsibilities, it is necessary that they
1538 not be unfairly burdened by legal fees incurred in defending those
1539 actions. Therefore, a mandated reporter may present a claim to the
1540 State Board of Control for reasonable attorney's fees and costs
1541 incurred in any action against that person on the basis of making a
1542 report required or authorized by this article if the court has
1543 dismissed the action upon a demurrer or motion for summary judgment
1544 made by that person, or if he or she prevails in the action. The
1545 State Board of Control shall allow that claim if the requirements of
1546 this subdivision are met, and the claim shall be paid from an
1547 appropriation to be made for that purpose. Attorney's fees awarded

1548 pursuant to this section shall not exceed an hourly rate greater than
1549 the rate charged by the Attorney General of the State of California
1550 at the time the award is made and shall not exceed an aggregate
1551 amount of fifty thousand dollars (\$50,000).

1552 This subdivision shall not apply if a public entity has provided
1553 for the defense of the action pursuant to Section 995 of the
1554 Government **Code**.

1555 (d) A court may award attorney's fees and costs to a commercial
1556 film and photographic print processor when a suit is brought against
1557 the processor because of a disclosure mandated by this article and
1558 the court finds this suit to be frivolous.

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1561 **11174.** The Department of Justice, in cooperation with the State
1562 Department of Social Services, shall prescribe by regulation
1563 guidelines for the investigation of abuse in out-of-home care, as
1564 defined in Section 11165.5, and shall ensure that the investigation
1565 is conducted in accordance with the regulations and guidelines.

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1568 **11174.1.** (a) The Department of Justice, in cooperation with the
1569 State Department of Social Services, shall prescribe by regulation
1570 guidelines for the investigation of child abuse or neglect, as
1571 defined in Section 11165.6, in facilities licensed to care for
1572 children, and shall ensure that the investigation is conducted in
1573 accordance with the regulations and guidelines.

1574 (b) For community treatment facilities, day treatment facilities,
1575 group homes, and foster family agencies, the State Department of
1576 Social Services shall prescribe the following regulations:

1577 (1) Regulations designed to assure that all licensees and
1578 employees of community treatment facilities, day treatment
1579 facilities, group homes, and foster family agencies licensed to care
1580 for children have had appropriate training, as determined by the
1581 State Department of Social Services, in consultation with
1582 representatives of licensees, on the provisions of this article.

1583 (2) Regulations designed to assure the community treatment
1584 facilities, day treatment facilities, group homes, and foster family
1585 agencies licensed to care for children maintain a written protocol
1586 for the investigation and reporting of child abuse or neglect, as
1587 defined in Section 11165.6, alleged to have occurred involving a
1588 child placed in the facility.

1589 (c) The State Department of Social Services shall provide such
1590 orientation and training as it deems necessary to assure that its
1591 officers, employees, or agents who conduct inspections of facilities
1592 licensed to care for children are knowledgeable about the reporting
1593 requirements of this article and have adequate training to identify
1594 conditions leading to, and the signs of, child abuse or neglect, as
1595 defined in Section 11165.6.

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1598 **11174.3.** (a) Whenever a representative of a government agency
1599 investigating suspected child abuse or neglect or the State

1600 Department of Social Services deems it necessary, a suspected victim
1601 of child abuse or neglect may be interviewed during school hours, on
1602 school premises, concerning a report of suspected child abuse or
1603 neglect that occurred within the child's home or out-of-home care
1604 facility. The child shall be afforded the option of being
1605 interviewed in private or selecting any adult who is a member of the
1606 staff of the school, including any certificated or classified
1607 employee or volunteer aide, to be present at the interview. A
1608 representative of the agency investigating suspected child abuse or
1609 neglect or the State Department of Social Services shall inform the
1610 child of that right prior to the interview.

1611 The purpose of the staff person's presence at the interview is to
1612 lend support to the child and enable him or her to be as comfortable
1613 as possible. However, the member of the staff so elected shall not
1614 participate in the interview. The member of the staff so present
1615 shall not discuss the facts or circumstances of the case with the
1616 child. The member of the staff so present, including, but not
1617 limited to, a volunteer aide, is subject to the confidentiality
1618 requirements of this article, a violation of which is punishable as
1619 specified in Section 11167.5. A representative of the school shall
1620 inform a member of the staff so selected by a child of the
1621 requirements of this section prior to the interview. A staff member
1622 selected by a child may decline the request to be present at the
1623 interview. If the staff person selected agrees to be present, the
1624 interview shall be held at a time during school hours when it does
1625 not involve an expense to the school. Failure to comply with the
1626 requirements of this section does not affect the admissibility of
1627 evidence in a criminal or civil proceeding.

1628 (b) The Superintendent of Public Instruction shall notify each
1629 school district and each agency specified in Section 11165.9 to
1630 receive mandated reports, and the State Department of Social Services
1631 shall notify each of its employees who participate in the
1632 investigation of reports of child abuse or neglect, of the
1633 requirements of this section.

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1636 **WELFARE AND INSTITUTIONS CODE SECTIONS 300 & 318**

1637 **300.** Any child who comes within any of the following descriptions
1638 is within the jurisdiction of the juvenile court which may adjudge
1639 that person to be a dependent child of the court:

1640 (a) The child has suffered, or there is a substantial risk that the
1641 child will suffer, serious physical harm inflicted non-accidentally
1642 upon the child by the child's parent or guardian. For the purposes of
1643 this subdivision, a court may find there is a substantial risk of
1644 serious future injury based on the manner in which a less serious
1645 injury was inflicted, a history of repeated inflictions of injuries on
1646 the child or the child's siblings, or a combination of these and other
1647 actions by the parent or guardian which indicate the child is at risk
1648 of serious physical harm. For purposes of this subdivision, "serious
1649 physical harm" does not include reasonable and age-appropriate
1650 spanking to the buttocks where there is no evidence of serious
1651 physical injury.

1652 (b) The child has suffered, or there is a substantial risk that the
1653 child will suffer, serious physical harm or illness, as a result of
1654 the failure or inability of his or her parent or guardian to
1655 adequately supervise or protect the child, or the willful or negligent
1656 failure of the child's parent or guardian to adequately supervise or
1657 protect the child from the conduct of the custodian with whom the
1658 child has been left, or by the willful or negligent failure of the
1659 parent or guardian to provide the child with adequate food, clothing,
1660 shelter, or medical treatment, or by the inability of the parent or
1661 guardian to provide regular care for the child due to the parent's or
1662 guardian's mental illness, developmental disability, or substance
1663 abuse. No child shall be found to be a person described by this
1664 subdivision solely due to the lack of an emergency shelter for the
1665 family. Whenever it is alleged that a child comes within the
1666 jurisdiction of the court on the basis of the parent's or guardian's
1667 willful failure to provide adequate medical treatment or specific
1668 decision to provide spiritual treatment through prayer, the court
1669 shall give deference to the parent's or guardian's medical treatment,
1670 non-treatment, or spiritual treatment through prayer alone in
1671 accordance with the tenets and practices of a recognized church or
1672 religious denomination, by an accredited practitioner thereof, and
1673 shall not assume jurisdiction unless necessary to protect the child
1674 from suffering serious physical harm or illness. In making its
1675 determination, the court shall consider (1) the nature of the
1676 treatment proposed by the parent or guardian, (2) the risks to the
1677 child posed by the course of treatment or non-treatment proposed by
1678 the parent or guardian, (3) the risk, if any, of the course of
1679 treatment being proposed by the petitioning agency, and (4) the likely
1680 success of the courses of treatment or non-treatment proposed by the
1681 parent or guardian and agency. The child shall continue to be a
1682 dependent child pursuant to this subdivision only so long as is
1683 necessary to protect the child from risk of suffering serious physical
1684 harm or illness.

1685 (c) The child is suffering serious emotional damage, or is at
1686 substantial risk of suffering serious emotional damage, evidenced by
1687 severe anxiety, depression, withdrawal, or untoward aggressive
1688 behavior toward self or others, as a result of the conduct of the
1689 parent or guardian or who has no parent or guardian capable of
1690 providing appropriate care. No child shall be found to be a person
1691 described by this subdivision if the willful failure of the parent or
1692 guardian to provide adequate mental health treatment is based on a
1693 sincerely held religious belief and if a less intrusive judicial
1694 intervention is available.

1695 (d) The child has been sexually abused, or there is a substantial
1696 risk that the child will be sexually abused, as defined in Section
1697 11165.1 of the Penal **Code**, by his or her parent or guardian or a
1698 member of his or her household, or the parent or guardian has failed
1699 to adequately protect the child from sexual abuse when the parent or
1700 guardian knew or reasonably should have known that the child was in
1701 danger of sexual abuse.

1702 (e) The child is under the age of five years and has suffered
1703 severe physical abuse by a parent, or by any person known by the

1704 parent, if the parent knew or reasonably should have known that the
1705 person was physically abusing the child. For the purposes of this
1706 subdivision, "severe physical abuse" means any of the following: any
1707 single act of abuse which causes physical trauma of sufficient
1708 severity that, if left untreated, would cause permanent physical
1709 disfigurement, permanent physical disability, or death; any single
1710 act of sexual abuse which causes significant bleeding, deep bruising,
1711 or significant external or internal swelling; or more than one act
1712 of physical abuse, each of which causes bleeding, deep bruising,
1713 significant external or internal swelling, bone fracture, or
1714 unconsciousness; or the willful, prolonged failure to provide
1715 adequate food. A child may not be removed from the physical custody
1716 of his or her parent or guardian on the basis of a finding of severe
1717 physical abuse unless the social worker has made an allegation of
1718 severe physical abuse pursuant to Section 332.

1719 (f) The child's parent or guardian caused the death of another
1720 child through abuse or neglect.

1721 (g) The child has been left without any provision for support;
1722 physical custody of the child has been voluntarily surrendered
1723 pursuant to Section 1255.7 of the Health and Safety **Code** and the
1724 child has not been reclaimed within the 14-day period specified in
1725 subdivision (e) of that section; the child's parent has been
1726 incarcerated or institutionalized and cannot arrange for the care of
1727 the child; or a relative or other adult custodian with whom the child
1728 resides or has been left is unwilling or unable to provide care or
1729 support for the child, the whereabouts of the parent are unknown, and
1730 reasonable efforts to locate the parent have been unsuccessful.

1731 (h) The child has been freed for adoption by one or both parents
1732 for 12 months by either relinquishment or termination of parental
1733 rights or an adoption petition has not been granted.

1734 (i) The child has been subjected to an act or acts of cruelty by
1735 the parent or guardian or a member of his or her household, or the
1736 parent or guardian has failed to adequately protect the child from an
1737 act or acts of cruelty when the parent or guardian knew or
1738 reasonably should have known that the child was in danger of being
1739 subjected to an act or acts of cruelty.

1740 (j) The child's sibling has been abused or neglected, as defined
1741 in subdivision (a), (b), (d), (e), or (i), and there is a substantial
1742 risk that the child will be abused or neglected, as defined in those
1743 subdivisions. The court shall consider the circumstances surrounding
1744 the abuse or neglect of the sibling, the age and gender of each
1745 child, the nature of the abuse or neglect of the sibling, the mental
1746 condition of the parent or guardian, and any other factors the court
1747 considers probative in determining whether there is a substantial
1748 risk to the child.

1749 It is the intent of the Legislature that nothing in this section
1750 disrupt the family unnecessarily or intrude inappropriately into
1751 family life, prohibit the use of reasonable methods of parental
1752 discipline, or prescribe a particular method of parenting. Further,
1753 nothing in this section is intended to limit the offering of
1754 voluntary services to those families in need of assistance but who do
1755 not come within the descriptions of this section. To the extent that

1756 savings accrue to the state from child welfare services funding
1757 obtained as a result of the enactment of the act that enacted this
1758 section, those savings shall be used to promote services which
1759 support family maintenance and family reunification plans, such as
1760 client transportation, out-of-home respite care, parenting training,
1761 and the provision of temporary or emergency in-home caretakers and
1762 persons teaching and demonstrating homemaking skills. The Legislature
1763 further declares that a physical disability, such as blindness or
1764 deafness, is no bar to the raising of happy and well-adjusted children
1765 and that a court's determination pursuant to this section shall center
1766 upon whether a parent's disability prevents him or her from exercising
1767 care and control. The Legislature further declares that a child whose
1768 parent has been adjudged a dependent child of the court pursuant to
1769 this section shall not be considered to be at risk of abuse or neglect
1770 solely because of the age, dependent status, or foster care status of
1771 the parent.

1772 As used in this section, "guardian" means the legal guardian of
1773 the child.
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1776 **318.** If a district attorney has represented a minor in a dependency
1777 proceeding, that district attorney shall not appear, on behalf of
1778 the people of the State of California, in any juvenile court hearing
1779 which is based upon a petition that alleges that the same minor is a
1780 person within the description of Section 602.

1781 Records kept by the district attorney in the course of
1782 representation of a minor described in Section 300 are confidential
1783 and shall be held separately, and shall not be inspected by members of
1784 the district attorney's office not directly involved in the
1785 representation of that minor. A district attorney who represents or
1786 who has represented a minor in a proceeding brought pursuant to
1787 Section 300 shall not discuss the substance of that case with a
1788 district attorney representing the people pursuant to Section 681 in a
1789 proceeding brought pursuant to Section 602 in which that same minor is
1790 the subject of the petition.

1791
1792 **WELFARE AND INSTITUTIONS CODE SECTION 601**

1793 **601.** (a) Any person under the age of 18 years who persistently or
1794 habitually refuses to obey the reasonable and proper orders or
1795 directions of his or her parents, guardian, or custodian, or who is
1796 beyond the control of that person, or who is under the age of 18 years
1797 when he or she violated any ordinance of any city or county of this
1798 state establishing a curfew based solely on age is within the
1799 jurisdiction of the juvenile court which may adjudge the minor to be a
1800 ward of the court.

1801 (b) If a minor has four or more trancies within one school year
1802 as defined in Section 48260 of the Education **Code** or a school
1803 attendance review board or probation officer determines that the
1804 available public and private services are insufficient or
1805 inappropriate to correct the habitual truancy of the minor, or to
1806 correct the minor's persistent or habitual refusal to obey the

1807 reasonable and proper orders or directions of school authorities, or
1808 if the minor fails to respond to directives of a school attendance
1809 review board or probation officer or to services provided, the minor
1810 is then within the jurisdiction of the juvenile court which may
1811 adjudge the minor to be a ward of the court. However, it is the
1812 intent of the Legislature that no minor who is adjudged a ward of the
1813 court pursuant solely to this subdivision shall be removed from the
1814 custody of the parent or guardian except during school hours.

1815 (c) To the extent practically feasible, a minor who is adjudged a
1816 ward of the court pursuant to this section shall not be permitted to
1817 come into or remain in contact with any minor ordered to participate
1818 in a truancy program, or the equivalent thereof, pursuant to Section
1819 602.

1820 (d) Any peace officer or school administrator may issue a notice to
1821 appear to a minor who is within the jurisdiction of the juvenile court
1822 pursuant to this section.

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1825 **FAMILY CODE SECTIONS 7802, 7807, 7808, 7820-7829, 7892**

1826 **7802.** A proceeding may be brought under this part for the purpose
1827 of having a minor child declared free from the custody and control of
1828 either or both parents.

1829

1830 **7807.** (a) Sections 3020, 3022, 3040 to 3043, inclusive, and 3409 do
1831 not apply in a proceeding under this part.

1832 (b) All proceedings affecting a child under Divisions 8
1833 (commencing with Section 3000) to 11 (commencing with Section 6500),
1834 inclusive, and Parts 1 (commencing with Section 7500) to 3
1835 (commencing with Section 7600), inclusive, of this division shall be
1836 stayed pending final determination of proceedings to declare the
1837 minor free from parental custody and control under this part.

1838 (c) Nothing in this section may limit the jurisdiction of the court
1839 pursuant to Part 3 (commencing with Section 6240) and Part 4
1840 (commencing with Section 6300) of Division 10 with respect to domestic
1841 violence orders.

1842

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1844 **7808.** This part does not apply to a minor adjudged a dependent child
1845 of the juvenile court pursuant to subdivision (c) of Section 360 of
1846 the Welfare and Institutions **Code** on and after January 1, 1989, during
1847 the period in which the minor is a dependent child of the court. For
1848 those minors, the exclusive means for the termination of parental
1849 rights are provided in the following statutes:

1850 (a) Section 366.26 of the Welfare and Institutions **Code**.

1851 (b) Sections 8604 to 8606, inclusive, and 8700 of this **code**.

1852 (c) Chapter 5 (commencing with Section 7660) of Part 3 of this
1853 division of this **code**.

1854

1855 **7820.** A proceeding may be brought under this part for the purpose of
1856 having a child under the age of 18 years declared free from the

1857 custody and control of either or both parents if the child comes
1858 within any of the descriptions set out in this chapter.

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1861 **7821.** A finding pursuant to this chapter shall be supported by clear
1862 and convincing evidence.

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1865 **7822.** (a) A proceeding under this part may be brought where the child
1866 has been left without provision for the child's identification by the
1867 child's parent or parents or by others or has been left by both
1868 parents or the sole parent in the care and custody of another for a
1869 period of six months or by one parent in the care and custody of the
1870 other parent for a period of one year without any provision for the
1871 child's support, or without communication from the parent or parents,
1872 with the intent on the part of the parent or parents to abandon the
1873 child.

1874 (b) The failure to provide identification, failure to provide
1875 support, or failure to communicate is presumptive evidence of the
1876 intent to abandon. If the parent or parents have made only token
1877 efforts to support or communicate with the child, the court may
1878 declare the child abandoned by the parent or parents.

1879 (c) If the child has been left without provision for the child's
1880 identification and the whereabouts of the parents are unknown, a
1881 petition may be filed after the 120th day following the discovery of
1882 the child and citation by publication may be commenced. The petition
1883 may not be heard until after the 180th day following the discovery of
1884 the child.

1885 (d) If the parent has placed the child for adoption and has not
1886 refused to give the required consent to adoption, evidence of the
1887 adoptive placement shall not in itself preclude the court from finding
1888 an intent on the part of that parent to abandon the child. If the
1889 parent has placed the child for adoption and has refused to give the
1890 required consent to adoption but has not taken reasonable action to
1891 obtain custody of the child, evidence of the adoptive placement shall
1892 not in itself preclude the court from finding an intent on the part of
1893 that parent to abandon the child.

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1896 **7823.** (a) A proceeding under this part may be brought where all of
1897 the following requirements are satisfied:

1898 (1) The child has been neglected or cruelly treated by either or
1899 both parents.

1900 (2) The child has been a dependent child of the juvenile court
1901 under any subdivision of Section 300 of the Welfare and Institutions
1902 **Code** and the parent or parents have been deprived of the child's
1903 custody for one year before the filing of a petition pursuant to this
1904 part.

1905 (b) Physical custody by the parent or parents for insubstantial
1906 periods of time does not interrupt the running of the one-year period.

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1909 **7824.** (a) "Disability" as used in this section means any physical
1910 or mental incapacity which renders the parent or parents unable to
1911 care for and control the child adequately.

1912 (b) A proceeding under this part may be brought where all of the
1913 following requirements are satisfied:

1914 (1) The child is one whose parent or parents (A) suffer a
1915 disability because of the habitual use of alcohol, or any of the
1916 controlled substances specified in Schedules I to V, inclusive, of
1917 Division 10 (commencing with Section 11000) of the Health and Safety
1918 **Code**, except when these controlled substances are used as part of a
1919 medically prescribed plan, or (B) are morally depraved.

1920 (2) The child has been a dependent child of the juvenile court, and
1921 the parent or parents have been deprived of the child's custody
1922 continuously for one year immediately before the filing of a petition
1923 pursuant to this part.

1924 (c) Physical custody by the parent or parents for insubstantial
1925 periods of time does not interrupt the running of the one-year period.
1926

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1928 **7825.** (a) A proceeding under this part may be brought where both of
1929 the following requirements are satisfied:

1930 (1) The child is one whose parent or parents are convicted of a
1931 felony.

1932 (2) The facts of the crime of which the parent or parents were
1933 convicted are of such a nature so as to prove the unfitness of the
1934 parent or parents to have the future custody and control of the child.

1935 (b) The mother of a child may bring a proceeding under this part
1936 against the father of the child, where the child was conceived as a
1937 result of an act in violation of Section 261 of the Penal **Code**, and
1938 where the father was convicted of that violation. For purposes of
1939 this subdivision, there is a conclusive presumption that the father is
1940 unfit to have custody or control of the child.

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1943 **7826.** A proceeding under this part may be brought where both of the
1944 following requirements are satisfied:

1945 (a) The child is one whose parent or parents have been declared by
1946 a court of competent jurisdiction, wherever situated, to be
1947 developmentally disabled or mentally ill.

1948 (b) In the state or country in which the parent or parents reside
1949 or are hospitalized, the Director of Mental Health or the Director of
1950 Developmental Services, or their equivalent, if any, and the
1951 superintendent of the hospital, if any, of which the parent or parents
1952 are inmates or patients, certify that the parent or parents so
1953 declared to be developmentally disabled or mentally ill will not be
1954 capable of supporting or controlling the child in a proper manner.

1955

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1957 **7827.** (a) "Mentally disabled" as used in this section means that a
1958 parent or parents suffer a mental incapacity or disorder that renders
1959 the parent or parents unable to care for and control the child
1960 adequately.

1961 (b) A proceeding under this part may be brought where the child is
1962 one whose parent or parents are mentally disabled and are likely to
1963 remain so in the foreseeable future.

1964 (c) Except as provided in subdivision (d), the evidence of any two
1965 experts, each of whom shall be a physician and surgeon, certified
1966 either by the American Board of Psychiatry and Neurology or under
1967 Section 6750 of the Welfare and Institutions **Code**, a licensed
1968 psychologist who has a doctoral degree in psychology and at least
1969 five years of postgraduate experience in the diagnosis and treatment
1970 of emotional and mental disorders, is required to support a finding
1971 under this section. In addition to this requirement, the court shall
1972 have the discretion to call a licensed marriage and **family**
1973 therapist, or a licensed clinical social worker, either of whom shall
1974 have at least five years of relevant postlicensure experience, in
1975 circumstances where the court determines that this testimony is in
1976 the best interest of the child and is warranted by the circumstances
1977 of the particular **family** or parenting issues involved. However, the
1978 court may not call a licensed marriage and **family** therapist or
1979 licensed clinical social worker pursuant to this section who is the
1980 adoption service provider, as defined in Section 8502, of the child
1981 who is the subject of the petition to terminate parental rights.

1982 (d) If the parent or parents reside in another state or in a
1983 foreign country, the evidence required by this section may be supplied
1984 by the affidavits of two experts, each of whom shall be either of the
1985 following:

1986 (1) A physician and surgeon who is a resident of that state or
1987 foreign country, and who has been certified by a medical organization
1988 or society of that state or foreign country to practice psychiatric or
1989 neurological medicine.

1990 (2) A licensed psychologist who has a doctoral degree in
1991 psychology and at least five years of postgraduate experience in the
1992 diagnosis and treatment of emotional and mental disorders and who is
1993 licensed in that state or authorized to practice in that country.

1994 (e) If the rights of a parent are sought to be terminated pursuant
1995 to this section, and the parent has no attorney, the court shall
1996 appoint an attorney for the parent pursuant to Article 4 (commencing
1997 with Section 7860) of Chapter 3, whether or not a request for the
1998 appointment is made by the parent.

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2000
2001 **7828.** (a) A proceeding under this part may be brought where all of
2002 the following requirements are satisfied:

2003 (1) The child is one who has been in out-of-home placement under
2004 the supervision of the juvenile court, the county welfare department,
2005 or other public or private licensed child-placing agency for a one-
2006 year period.

2007 (2) The court finds that return of the child to the child's parent
2008 or parents would be detrimental to the child and that the parent or
2009 parents have failed during the one-year period, and are likely to fail
2010 in the future, to maintain an adequate parental relationship with the
2011 child, which includes providing both a home and care and control for
2012 the child.

2013 (b) If the child has been adjudged a dependent child of the
2014 juvenile court and placed in out-of-home placement pursuant to
2015 Section 361 of the Welfare and Institutions **Code**, the one-year period
2016 is calculated from the date of the dispositional hearing at which the
2017 child was placed in out-of-home placement pursuant to that section.

2018 (c) If the child is in placement under the supervision of a county
2019 welfare department or other public or private licensed child-placing
2020 agency, pursuant to a voluntary placement, as described in Section
2021 16507.4 of the Welfare and Institutions **Code**, the one-year period is
2022 calculated from the date the child entered out-of-home placement.

2023 (d) Trial placement of the child in the physical custody of the
2024 parent or visitation of the child with the parent during the one-year
2025 period, when the trial placement or visitation does not result in
2026 permanent placement of the child with the parent, does not interrupt
2027 the running of the one-year period.

2028 (e) The court shall make a determination that reasonable services
2029 have been provided or offered to the parents which were designed to
2030 aid the parents to overcome the problems which led to the deprivation
2031 or continued loss of custody and that despite the availability of
2032 these services, return of the child to the parents would be
2033 detrimental to the child. The probation officer or social worker
2034 currently assigned to the case of the child shall appear at the
2035 termination proceedings. If the child has been adjudged to be a
2036 dependent child of the court pursuant to Section 300 of the Welfare
2037 and Institutions **Code**, the court shall review and consider the
2038 contents of the juvenile court file in determining if the services
2039 offered were reasonable under the circumstances.

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2042 **7829.** A proceeding under this part may be brought where both of the
2043 following requirements are satisfied:

2044 (a) The child has been found to be a dependent child of the
2045 juvenile court.

2046 (b) The juvenile court has determined, pursuant to paragraph (3),
2047 (4), or (5) of subdivision (b) of Section 361.5 of the Welfare and
2048 Institutions **Code**, that reunification services shall not be provided
2049 to the child's parent or guardian.

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2052 **7890.** In a proceeding under this part, the court shall consider the
2053 wishes of the child, bearing in mind the age of the child, and shall
2054 act in the best interest of the child.

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2057 **7892.** (a) The testimony of the child may be taken in chambers and
2058 outside the presence of the child's parent or parents if the child's
2059 parent or parents are represented by counsel, the counsel is present,
2060 and any of the following circumstances exist:

2061 (1) The court determines that testimony in chambers is necessary to
2062 ensure truthful testimony.

2063 (2) The child is likely to be intimidated by a formal courtroom
2064 setting.

2065 (3) The child is afraid to testify in front of the child's parent
2066 or parents.

2067 (b) The testimony of a child also may be taken in chambers and
2068 outside the presence of the guardian or guardians of a child under the
2069 circumstances specified in subdivision (a).

2070 (c) A finding pursuant to this section shall be supported by clear
2071 and convincing evidence.

2072 (d) After testimony in chambers, the parent or parents of the child
2073 may elect to have the court reporter read back the testimony or have
2074 the testimony summarized by counsel for the parent or parents.