

AMENDED IN SENATE JULY 1, 2008  
AMENDED IN ASSEMBLY MARCH 24, 2008  
CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2618**

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**Introduced by Assembly Member Solorio**

February 22, 2008

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An act to amend Section 11170 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 2618, as amended, Solorio. Child abuse reporting: Department of Justice: index.

Existing law requires the Department of Justice to maintain an index of all reports of child abuse and severe neglect submitted by agencies mandated to make those reports. Existing law requires the Department of Justice to make relevant information contained in the index available to specified law enforcement agencies, county welfare departments, and other specified agencies that are conducting a child abuse investigation or an employee or volunteer background investigation.

This bill would require the Department of Justice to make available to a county child welfare agency or delegated county adoption agency that is conducting a background investigation of an applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, information ~~contained~~ *regarding a known or suspected child abuser maintained* in the index ~~regarding~~ *concerning* the applicant.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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

1 SECTION 1. Section 11170 of the Penal Code is amended to  
2 read:

3 11170. (a) (1) The Department of Justice shall maintain an  
4 index of all reports of child abuse and severe neglect submitted  
5 pursuant to Section 11169. The index shall be continually updated  
6 by the department and shall not contain any reports that are  
7 determined to be unfounded. The department may adopt rules  
8 governing recordkeeping and reporting pursuant to this article.

9 (2) The department shall act only as a repository of reports of  
10 suspected child abuse and severe neglect to be maintained in the  
11 Child Abuse Central Index pursuant to paragraph (1). The  
12 submitting agencies are responsible for the accuracy, completeness,  
13 and retention of the reports described in this section. The  
14 department shall be responsible for ensuring that the Child Abuse  
15 Central Index accurately reflects the report it receives from the  
16 submitting agency.

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

26 (b) (1) The Department of Justice shall immediately notify an  
27 agency that submits a report pursuant to Section 11169, or a  
28 prosecutor who requests notification, of any information maintained  
29 pursuant to subdivision (a) that is relevant to the known or  
30 suspected instance of child abuse or severe neglect reported by the  
31 agency. The agency shall make that information available to the  
32 reporting medical practitioner, child custodian, guardian ad litem  
33 appointed under Section 326, or counsel appointed under Section  
34 317 or 318 of the Welfare and Institutions Code, or the appropriate

1 licensing agency, if he or she is treating or investigating a case of  
2 known or suspected child abuse or severe neglect.

3 (2) When a report is made pursuant to subdivision (a) of Section  
4 11166, or Section 11166.05, the investigating agency, upon  
5 completion of the investigation or after there has been a final  
6 disposition in the matter, shall inform the person required or  
7 authorized to report, of the results of the investigation and of any  
8 action the agency is taking with regard to the child or family.

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

13 (4) The department shall make available to the State Department  
14 of Social Services, or to any county licensing agency that has  
15 contracted with the state for the performance of licensing duties,  
16 or to a tribal court or tribal child welfare agency of a tribe or  
17 consortium of tribes that has entered into an agreement with the  
18 state pursuant to Section 10553.1 of the Welfare and Institutions  
19 Code, information regarding a known or suspected child abuser  
20 maintained pursuant to this section and subdivision (a) of Section  
21 11169 concerning any person who is an applicant for licensure or  
22 any adult who resides or is employed in the home of an applicant  
23 for licensure or who is an applicant for employment in a position  
24 having supervisory or disciplinary power over a child or children,  
25 or who will provide 24-hour care for a child or children in a  
26 residential home or facility, pursuant to Section 1522.1 or 1596.877  
27 of the Health and Safety Code, or Section 8714, 8802, 8912, or  
28 9000 of the Family Code.

29 (5) The Department of Justice shall make available to a Court  
30 Appointed Special Advocate program that is conducting a  
31 background investigation of an applicant seeking employment  
32 with the program or a volunteer position as a Court Appointed  
33 Special Advocate, as defined in Section 101 of the Welfare and  
34 Institutions Code, information contained in the index regarding  
35 known or suspected child abuse by the applicant.

36 (6) For purposes of child death review, the Department of Justice  
37 shall make available to the chairperson, or the chairperson's  
38 designee, for each county child death review team, or the State  
39 Child Death Review Council, information maintained in the Child  
40 Abuse Central Index pursuant to subdivision (a) of Section 11170

1 relating to the death of one or more children and any prior child  
2 abuse or neglect investigation reports maintained involving the  
3 same victims, siblings, or suspects. Local child death review teams  
4 may share any relevant information regarding case reviews  
5 involving child death with other child death review teams.

6 (7) The department shall make available to investigative  
7 agencies or probation officers, or court investigators acting  
8 pursuant to Section 1513 of the Probate Code, responsible for  
9 placing children or assessing the possible placement of children  
10 pursuant to Article 6 (commencing with Section 300), Article 7  
11 (commencing with Section 305), Article 10 (commencing with  
12 Section 360), or Article 14 (commencing with Section 601) of  
13 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
14 Code, Article 2 (commencing with Section 1510) or Article 3  
15 (commencing with Section 1540) of Chapter 1 of Part 2 of Division  
16 4 of the Probate Code, information regarding a known or suspected  
17 child abuser contained in the index concerning any adult residing  
18 in the home where the child may be placed, when this information  
19 is requested for purposes of ensuring that the placement is in the  
20 best interests of the child. Upon receipt of relevant information  
21 concerning child abuse or neglect investigation reports contained  
22 in the index from the Department of Justice pursuant to this  
23 subdivision, the agency or court investigator shall notify, in writing,  
24 the person listed in the Child Abuse Central Index that he or she  
25 is in the index. The notification shall include the name of the  
26 reporting agency and the date of the report.

27 (8) The Department of Justice shall make available to a  
28 government agency conducting a background investigation  
29 pursuant to Section 1031 of the Government Code of an applicant  
30 seeking employment as a peace officer, as defined in Section 830,  
31 information regarding a known or suspected child abuser  
32 maintained pursuant to this section concerning the applicant.

33 (9) The Department of Justice shall make available to a county  
34 child welfare agency or delegated county adoption agency, as  
35 defined in Section 8515 of the Family Code, conducting a  
36 background investigation, or a government agency conducting a  
37 background investigation on behalf of one of those agencies, ~~of~~  
38 *an information regarding a known or suspected child abuser*  
39 *maintained pursuant to this section and subdivision (a) of Section*  
40 *11169 concerning any applicant seeking employment or volunteer*

1 status with the agency who, in the course of his or her employment  
2 or volunteer work will have direct contact with children who are  
3 alleged to have been, are at risk of, or have suffered, abuse or  
4 neglect, ~~information contained in the index regarding the applicant.~~

5 (10) (A) Persons or agencies, as specified in subdivision (b),  
6 if investigating a case of known or suspected child abuse or neglect,  
7 or the State Department of Social Services or any county licensing  
8 agency pursuant to paragraph (4), or a Court Appointed Special  
9 Advocate program conducting a background investigation for  
10 employment or volunteer candidates pursuant to paragraph (5), or  
11 an investigative agency, probation officer, or court investigator  
12 responsible for placing children or assessing the possible placement  
13 of children pursuant to paragraph (7), or a government agency  
14 conducting a background investigation of an applicant seeking  
15 employment as a peace officer pursuant to paragraph (8), or a  
16 county child welfare agency or delegated county adoption agency  
17 conducting a background investigation of an applicant seeking  
18 employment or volunteer status who, in the course of his or her  
19 employment or volunteer work will have direct contact with  
20 children who are alleged to have been, are at risk of, or have  
21 suffered, abuse or neglect, pursuant to paragraph (9), to whom  
22 disclosure of any information maintained pursuant to subdivision  
23 (a) is authorized, are responsible for obtaining the original  
24 investigative report from the reporting agency, and for drawing  
25 independent conclusions regarding the quality of the evidence  
26 disclosed, and its sufficiency for making decisions regarding  
27 investigation, prosecution, licensing, placement of a child,  
28 employment or volunteer positions with a CASA program, or  
29 employment as a peace officer.

30 (B) If Child Abuse Central Index information is requested by  
31 an agency for the temporary placement of a child in an emergency  
32 situation pursuant to Article 7 (commencing with Section 305) of  
33 Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions  
34 Code, the department is exempt from the requirements of Section  
35 1798.18 of the Civil Code if compliance would cause a delay in  
36 providing an expedited response to the agency's inquiry and if  
37 further delay in placement may be detrimental to the child.

38 (11) (A) Whenever information contained in the Department  
39 of Justice files is furnished as the result of an application for  
40 employment or licensing or volunteer status pursuant to paragraph

1 (4), (5), (8), or (9), the Department of Justice may charge the person  
2 or entity making the request a fee. The fee shall not exceed the  
3 reasonable costs to the department of providing the information.  
4 The only increase shall be at a rate not to exceed the legislatively  
5 approved cost-of-living adjustment for the department. In no case  
6 shall the fee exceed fifteen dollars (\$15).

7 (B) All moneys received by the department pursuant to this  
8 section to process trustline applications for purposes of Chapter  
9 3.35 (commencing with Section 1596.60) of Division 2 of the  
10 Health and Safety Code shall be deposited in a special account in  
11 the General Fund that is hereby established and named the  
12 Department of Justice Child Abuse Fund. Moneys in the fund shall  
13 be available, upon appropriation by the Legislature, for expenditure  
14 by the department to offset the costs incurred to process trustline  
15 automated child abuse or neglect system checks pursuant to this  
16 section.

17 (C) All moneys, other than that described in subparagraph (B),  
18 received by the department pursuant to this paragraph shall be  
19 deposited in a special account in the General Fund which is hereby  
20 created and named the Department of Justice Sexual Habitual  
21 Offender Fund. The funds shall be available, upon appropriation  
22 by the Legislature, for expenditure by the department to offset the  
23 costs incurred pursuant to Chapter 9.5 (commencing with Section  
24 13885) and Chapter 10 (commencing with Section 13890) of Title  
25 6 of Part 4, and the DNA and Forensic Identification Data Base  
26 and Data Bank Act of 1998 (Chapter 6 (commencing with Section  
27 295) of Title 9 of Part 1), and for maintenance and improvements  
28 to the statewide Sexual Habitual Offender Program and the  
29 California DNA offender identification file (CAL-DNA) authorized  
30 by Chapter 9.5 (commencing with Section 13885) of Title 6 of  
31 Part 4 and the DNA and Forensic Identification Data Base and  
32 Data Bank Act of 1998 (Chapter 6 (commencing with Section 295)  
33 of Title 9 of Part 1).

34 (c) The Department of Justice shall make available to any agency  
35 responsible for placing children pursuant to Article 7 (commencing  
36 with Section 305) of Chapter 2 of Part 1 of Division 2 of the  
37 Welfare and Institutions Code, upon request, relevant information  
38 concerning child abuse or neglect reports contained in the index,  
39 when making a placement with a responsible relative pursuant to  
40 Sections 281.5, 305, and 361.3 of the Welfare and Institutions

1 Code. Upon receipt of relevant information concerning child abuse  
2 or neglect reports contained in the index from the Department of  
3 Justice pursuant to this subdivision, the agency shall also notify  
4 in writing the person listed in the Child Abuse Central Index that  
5 he or she is in the index. The notification shall include the location  
6 of the original investigative report and the submitting agency. The  
7 notification shall be submitted to the person listed at the same time  
8 that all other parties are notified of the information, and no later  
9 than the actual judicial proceeding that determines placement.

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

19 (d) The department shall make available any information  
20 maintained pursuant to subdivision (a) to out-of-state law  
21 enforcement agencies conducting investigations of known or  
22 suspected child abuse or neglect only when an agency makes the  
23 request for information in writing and on official letterhead, or as  
24 designated by the department, identifying the suspected abuser or  
25 victim by name and date of birth or approximate age. The request  
26 shall be signed by the department supervisor of the requesting law  
27 enforcement agency. The written requests shall cite the out-of-state  
28 statute or interstate compact provision that requires that the  
29 information contained within these reports shall be disclosed only  
30 to law enforcement, prosecutorial entities, or multidisciplinary  
31 investigative teams, and shall cite the criminal penalties for  
32 unlawful disclosure of any confidential information provided by  
33 the requesting state or the applicable interstate compact provision.  
34 In the absence of a specified out-of-state statute or interstate  
35 compact provision that requires that the information contained  
36 within these reports shall be disclosed only to law enforcement,  
37 prosecutorial entities, or multidisciplinary investigative teams, and  
38 criminal penalties equivalent to the penalties in California for  
39 unlawful disclosure, access shall be denied.

1 (e) (1) The department shall make available to an out-of-state  
2 agency, for purposes of approving a prospective foster or adoptive  
3 parent or relative caregiver for placement of a child, information  
4 regarding a known or suspected child abuser maintained pursuant  
5 to subdivision (a) concerning the prospective foster or adoptive  
6 parent or relative caregiver, and any other adult living in the home  
7 of the prospective foster or adoptive parent or relative caregiver.  
8 The department shall make that information available only when  
9 the out-of-state agency makes the request for information in writing  
10 on official letterhead, transmitted either by mail, ~~fax~~ *facsimile*, or  
11 electronic transmission or as designated by the department. The  
12 request shall identify the prospective foster or adoptive parent or  
13 relative caregiver, and any other adult living in the home, by name  
14 and date of birth or approximate age. The request shall cite the  
15 out-of-state statute or interstate compact provision that requires  
16 that the information received in response to the inquiry shall be  
17 disclosed and used for no purpose other than conducting  
18 background checks in foster or adoptive cases. The request shall  
19 also cite the criminal penalties for unlawful disclosure of any  
20 information provided by the requesting state or the applicable  
21 interstate compact provision. In the absence of an out-of-state  
22 statute or interstate compact provision that requires that the  
23 information shall be used for no purpose other than conducting  
24 background checks in foster or adoptive cases and criminal  
25 penalties equivalent to the penalties in California for unlawful  
26 disclosure, access shall be denied.

27 (2) With respect to any information provided by the department  
28 in response to the out-of-state agency's request, the out-of-state  
29 agency is responsible for obtaining the original investigative report  
30 from the reporting agency, and for drawing independent  
31 conclusions regarding the quality of the evidence disclosed and  
32 its sufficiency for making decisions regarding the approval of  
33 prospective foster or adoptive parents or relative caregivers.

34 (3) (A) Whenever information contained in the index is  
35 furnished pursuant to this subdivision, the department shall charge  
36 the out-of-state agency making the request a fee. The fee shall not  
37 exceed the reasonable costs to the department of providing the  
38 information. The only increase shall be at a rate not to exceed the  
39 legislatively approved cost-of-living adjustment for the department.  
40 In no case shall the fee exceed fifteen dollars (\$15).

1 (B) All moneys received by the department pursuant to this  
2 subdivision shall be deposited in the Department of Justice Child  
3 Abuse Fund, established under subparagraph (B) of paragraph (11)  
4 of subdivision (b). Moneys in the fund shall be available, upon  
5 appropriation by the Legislature, for expenditure by the department  
6 to offset the costs incurred to process requests for information  
7 pursuant to this subdivision.

8 (f) (1) Any person may determine if he or she is listed in the  
9 Child Abuse Central Index by making a request in writing to the  
10 Department of Justice. The request shall be notarized and include  
11 the person's name, address, date of birth, and either a social  
12 security number or a California identification number. Upon receipt  
13 of a notarized request, the Department of Justice shall make  
14 available to the requesting person information identifying the date  
15 of the report and the submitting agency. The requesting person is  
16 responsible for obtaining the investigative report from the  
17 submitting agency pursuant to paragraph (11) of subdivision (b)  
18 of Section 11167.5.

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

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