

Assembly Bill No. 2229

Passed the Assembly August 23, 2010

Chief Clerk of the Assembly

Passed the Senate August 20, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 18961.5 of, and to add and repeal Section 18961.7 of, the Welfare and Institutions Code, relating to child abuse reporting.

LEGISLATIVE COUNSEL’S DIGEST

AB 2229, Brownley. Mandated child abuse reporting.

Existing law authorizes members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be a part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or treatment of child abuse. Under existing law, all discussions relative to the disclosure or exchange of this information during team meetings are confidential and testimony concerning those discussions is not admissible in any criminal, civil, or juvenile court proceeding. A multidisciplinary personnel team is defined for purposes of this provision to mean any team of 3 or more persons who are trained in the prevention, identification, and treatment of child abuse, as specified.

This bill would, until January 1, 2014, additionally authorize the disclosure and exchange of information to occur telephonically and electronically, for 30 days, or longer if documented good cause exists, following a report of suspected child abuse or neglect, if there is adequate verification of the identity of the multidisciplinary personnel who are involved in that disclosure or exchange of information. The bill would revise the definition of a multidisciplinary personnel team for purposes of this provision to mean any team of 2 or more persons created to investigate a report of suspected child abuse, as specified, who are trained in the prevention, identification, and treatment of child abuse, as specified. The bill would require that the sharing of information permitted in the period following a report of suspected child abuse or neglect be governed by protocols developed in each county

describing how and what information may be shared to ensure that confidential information is not disclosed in violation of state or federal law.

Existing law provides that a county may establish a computerized database system within that county to allow provider agencies to share identifying information regarding families at risk for child abuse or neglect, for the purpose of forming multidisciplinary personnel teams for the prevention, identification, management, or treatment of child abuse. A multidisciplinary personnel team is defined for purposes of this provision to mean any team of 3 or more persons who are trained in the prevention, identification, and treatment of child abuse, as specified.

This bill would revise the definition of multidisciplinary personnel teams for purposes of this provision to additionally include any team of 2 or more persons who are trained in the prevention, identification, management, or treatment of child abuse, as specified.

This bill would incorporate additional changes to Section 18961.5 of the Welfare and Institutions Code proposed by this bill and AB 2322, to become operative only if this bill and AB 2322 are enacted and become effective on or before January 1, 2011, and this bill is chaptered last.

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

SECTION 1. Section 18961.5 of the Welfare and Institutions Code is amended to read:

18961.5. (a) Notwithstanding any other provision of law, any county may establish a computerized database system within that county to allow provider agencies, as defined in subdivision (h), to share identifying information, as specified in subdivision (c), regarding families at risk for child abuse or neglect, for the purpose of forming multidisciplinary personnel teams, as defined in either subdivision (d) of Section 18951 or paragraph (2) of subdivision (b) of Section 18961.7, for the prevention, identification, management, or treatment of child abuse.

(b) Each county shall develop its own standards for defining “at risk” before joining this system. Only information about children or the families of children at risk for child abuse or neglect

may be entered into a computerized database system established pursuant to this section.

(c) With regard to a case in which a child or family has been identified as at risk for child abuse or neglect under this section, only the following information shall be entered into the system:

(1) The name, address, telephone number, and date and place of birth of family members.

(2) The number assigned to the case by each provider agency.

(3) The name and telephone number of each employee assigned to the case from each provider agency.

(4) The date or dates of contact between each provider agency and a family member or family members.

(d) The information may only be entered into the system by, or disclosed to, provider agency employees designated by the director of each participating provider agency. Members of the multidisciplinary personnel teams shall be drawn from these designated employees, or other persons, as specified in Section 18961. The heads of provider agencies shall establish a system by which unauthorized personnel cannot access the data contained in the system.

(e) The information obtained pursuant to this section shall be kept confidential and shall be used solely for the prevention, identification, management, or treatment of child abuse, child neglect, or both.

(f) This section shall not supplant any duties required by the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 3 of the Penal Code).

(g) No employee of a provider agency which serves children and their families shall be civilly or criminally liable for furnishing or sharing information as authorized by this section.

(h) For the purposes of this section, “provider agency” means any governmental or other agency which has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families which may share information under this section shall include, but not be limited to, the following entities or service agencies:

(1) Social services.

(2) Children’s services.

- (3) Health services.
- (4) Mental health services.
- (5) Probation.
- (6) Law enforcement.
- (7) Schools.

SEC. 1.5. Section 18961.5 of the Welfare and Institutions Code is amended to read:

18961.5. (a) Notwithstanding any other provision of law, any county may establish a computerized database system within that county to allow provider agencies, as defined in subdivision (h), to share identifying information, as specified in subdivision (c), regarding families at risk for child abuse or neglect for the purposes of forming a multidisciplinary personnel team, as defined in either subdivision (d) of Section 18951 or paragraph (2) of subdivision (b) of Section 18961.7, for the prevention, identification, management, or treatment of child abuse or neglect, or for the provision of child welfare services to a child or child's family.

(b) Each county shall develop its own standards for defining "at risk" before establishing this system. Only information about children, the families of children, and persons living in the child's home, at risk for child abuse or neglect may be entered into a computerized database system established pursuant to this section.

(c) With regard to a case in which a child or family has been identified as at risk for child abuse or neglect under this section, only the following information shall be entered into the system:

(1) The name, address, telephone number, and date and place of birth of family members and persons living in the child's home.

(2) The number assigned to the case by each provider agency.

(3) The name and telephone number of each employee assigned to the case, or a contact person, from each provider agency.

(4) The date or dates of contact between each provider agency and a family member or a person living in the child's home.

(d) The information may only be entered into the system by, or disclosed to, provider agency employees designated by the director of each participating provider agency. Members of the multidisciplinary personnel teams shall be drawn from these designated employees, or other persons, as specified in Section 18961. The heads of provider agencies shall establish a system by which unauthorized personnel cannot access the data contained in the system.

(e) The information obtained pursuant to this section shall be kept confidential and shall be used solely for the prevention, identification, management, or treatment of child abuse, child neglect, or both, or for the provision of child welfare services. Any person knowingly and intentionally violating this subdivision shall be subject to any administrative or civil penalties set forth in the respective statutes governing the confidentiality of the records maintained by the provider agencies.

(f) This section shall not supplant any duties required by the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 3 of the Penal Code).

(g) No employee of a provider agency which serves children and their families shall be civilly or criminally liable for furnishing or sharing information as authorized by this section.

(h) For the purposes of this section, “provider agency” means any governmental or other agency which has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families which may share information under this section shall include, but not be limited to, the following entities or service agencies:

- (1) Social services.
- (2) Children’s services.
- (3) Health services.
- (4) Mental health services.
- (5) Probation.
- (6) Law enforcement.
- (7) Schools.

(i) A county that establishes a computerized database system pursuant to this section shall install system controls to monitor system use and to detect any violations of the system controls.

SEC. 2. Section 18961.7 is added to the Welfare and Institutions Code, to read:

18961.7. (a) Notwithstanding any other provision of law, a county may establish a child abuse multidisciplinary personnel team within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect made pursuant to Section 11160, 11166, or 11166.05 of the Penal Code,

or for the purpose of child welfare agencies making a detention determination.

(b) For the purposes of this section, the following terms shall have the following meanings:

(1) “Child abuse multidisciplinary personnel team” means any team of two or more persons who are trained in the prevention, identification, or treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include, but shall not be limited to:

(A) Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel.

(B) Police officers or other law enforcement agents.

(C) Medical personnel with sufficient training to provide health services.

(D) Social services workers with experience or training in child abuse prevention.

(E) Any public or private school teacher, administrative officer, supervisor of child welfare attendance, or certified pupil personnel employee.

(2) “Provider agency” means any governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families that may share information under this section shall include, but not be limited to, the following entities or service agencies:

(A) Social services.

(B) Children’s services.

(C) Health services.

(D) Mental health services.

(E) Probation.

(F) Law enforcement.

(G) Schools.

(c) (1) Notwithstanding Section 827 of the Welfare and Institutions Code or any other provision of law, during a 30-day period, or longer if documented good cause exists, following a report of suspected child abuse or neglect, members of a child abuse multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse may disclose to and exchange with one another information and writings that relate to any incident of child abuse that may also be designated as

confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, or treatment of child abuse. Any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential and, notwithstanding any other provision of law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(2) Disclosure and exchange of information pursuant to this section may occur telephonically and electronically if there is adequate verification of the identity of the child abuse multidisciplinary personnel who are involved in that disclosure or exchange of information.

(3) Disclosure and exchange of information pursuant to this section shall not be made to anyone other than members of the child abuse multidisciplinary personnel team, and those qualified to receive information as set forth in subdivision (d).

(d) The child abuse multidisciplinary personnel team may designate persons qualified pursuant to paragraph (1) of subdivision (b) to be a member of the team for a particular case. A person designated as a team member pursuant to this subdivision may receive and disclose relevant information and records, subject to the confidentiality provisions of subdivision (f).

(e) The sharing of information permitted under subdivision (c) shall be governed by protocols developed in each county describing how and what information may be shared by the child abuse multidisciplinary team to ensure that confidential information gathered by the team is not disclosed in violation of state or federal law. A copy of the protocols shall be distributed to each participating agency and to persons in those agencies who participate in the child abuse multidisciplinary team.

(f) Every member of the child abuse multidisciplinary personnel team who receives information or records regarding children and families in his or her capacity as a member of the team shall be under the same privacy and confidentiality obligations and subject to the same confidentiality penalties as the person disclosing or providing the information or records. The information or records obtained shall be maintained in a manner that ensures the maximum protection of privacy and confidentiality rights.

(g) This section shall not be construed to restrict guarantees of confidentiality provided under state or federal law.

(h) Information and records communicated or provided to the team members by all providers and agencies, as well as information and records created in the course of a child abuse or neglect investigation, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by the team members.

(i) This section shall remain in effect only until January 1, 2014, and as of that date is repealed.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 18961.5 of the Welfare and Institutions Code proposed by this bill and AB 2322. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2011, (2) each bill amends Section 18961.5 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2322, in which case Section 18961.5 of the Welfare and Institutions Code, as amended by AB 2322, shall remain operative only until the operative date of this bill, at which time Section 1.5 of this bill shall become operative, and Section 1 of this bill shall not become operative.

Approved _____, 2010

Governor