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AB-1207 Mandated child abuse reporting: child day care personnel: training. (2015-2016)

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Assembly Bill No. 1207

CHAPTER 414

An act to amend Section 1596.866 of, and to add Section 1596.8662 to, the Health and Safety Code, and to amend Section 11165.7 of the Penal Code, relating to child abuse reporting.

[Approved by Governor October 01, 2015. Filed with Secretary of State October 01, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1207, Lopez. Mandated child abuse reporting: child day care personnel: training.

Under existing law, the California Child Day Care Facilities Act, the State Department of Social Services licenses and regulates child day care facilities, as defined. The act requires that, as a condition of licensure and in addition to any other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, have at least 15 hours of health and safety training, covering specified components, including preventative health practices courses, that may include identification and reporting of signs and symptoms of child abuse. A willful or repeated violation of the act is a misdemeanor punishable by a fine not to exceed \$1,000 or by imprisonment in county jail for a period not to exceed 180 days, or by both the fine and imprisonment, and a serious violation of the act is subject to daily civil penalties, as specified.

The Child Abuse and Neglect Reporting Act requires a mandated reporter, including a licensee, an administrator, or an employee of a licensed child day care facility, to report whenever he or she, in his or her professional capacity, has knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.

This bill would, beginning January 1, 2018, require the department to develop and disseminate information to providers, administrators, and employees of licensed child day care facilities regarding detecting and reporting child abuse, and to provide training including statewide guidance on the responsibilities of those persons as mandated reporters, as provided. Beginning January 1, 2018, the bill would require those persons, as a condition of licensure, to complete that training provided by the department, as specified. Under the bill, a violation of its provisions would not be a misdemeanor or subject to civil fines as a serious violation under the California Child Day Care Facilities Act. Instead, the bill would authorize the department to revoke a facility's license if the facility fails to correct a violation of the bill's provisions within 90 days of receipt of a notice of deficiency from the department, as provided. The bill would make conforming changes.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1596.866 of the Health and Safety Code is amended to read:

1596.866. (a) (1) In addition to other required training, at least one director or teacher at each day care center, and each family day care home licensee who provides care, shall have at least 15 hours of health and safety training, and if applicable, at least one additional hour of training pursuant to clause (ii) of subparagraph (C) of paragraph (2).

(2) The training shall include the following components:

(A) Pediatric first aid.

(B) Pediatric cardiopulmonary resuscitation (CPR).

(C) (i) A preventive health practices course or courses that include instruction in the recognition, management, and prevention of infectious diseases, including immunizations, and prevention of childhood injuries.

(ii) For licenses issued on or after January 1, 2016, at least one director or teacher at each day care center, and each family day care home licensee who provides care, shall have at least one hour of childhood nutrition training as part of the preventive health practices course or courses.

(3) The training may include instruction in sanitary food handling, emergency preparedness and evacuation, and caring for children with special needs.

(b) Day care center directors and licensees of family day care homes shall ensure that at least one staff member who has a current course completion card in pediatric first aid and pediatric CPR issued by the American Red Cross, the American Heart Association, or by a training program that has been approved by the Emergency Medical Services Authority pursuant to this section and Section 1797.191 shall be onsite at all times when children are present at the facility, and shall be present with the children when children are offsite from the facility for facility activities. Nothing in this subdivision shall be construed to require, in the event of an emergency, additional staff members, who are onsite when children are present at the facility, to have a current course completion card in pediatric first aid and pediatric CPR.

(c) (1) The completion of health and safety training by all personnel and licensees described in subdivision (a) shall be a condition of licensure.

(2) Training in pediatric first aid and pediatric CPR by persons described in subdivisions (a) and (b) shall be current at all times. Training in preventive health practices as described in subparagraph (C) of paragraph (2) of subdivision (a) is a one-time only requirement for persons described in subdivision (a).

(3) The department shall issue a provisional license for otherwise qualified applicants who are not in compliance with this section. This provisional license shall expire 90 days after the date of issuance and shall not be extended.

(4) A notice of deficiency shall be issued by the department at the time of a site visit to any licensee who is not in compliance with this section. The licensee shall, at the time the notice is issued, develop a plan of correction to correct the deficiency within 90 days of receiving the notice. The facility's license may be revoked if it fails to correct the deficiency within the 90-day period. Section 1596.890 shall not apply to this paragraph.

(d) Completion of the training required pursuant to subdivisions (a) and (b) shall be demonstrated, upon request of the licensing agency, by the following:

(1) Current pediatric first aid and pediatric CPR course completion cards issued by the American Red Cross, the American Heart Association, or by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(2) (A) A course completion card for a preventive health practices course or courses as described in subparagraph (C) of paragraph (2) of subdivision (a) issued by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191.

(B) Persons who, prior to the date on which the amendments to this section enacted in 1998 become operative, have completed a course or courses in preventive health practices as described in clause (i) of subparagraph (C) of paragraph (2) of subdivision (a), and have a certificate of completion of a course or courses in preventive health practices, or certified copies of transcripts that identify the number of hours and the specific course or courses taken for training in preventive health practices, shall be deemed to have met the training in preventive health practices.

(3) In addition to training programs specified in paragraphs (1) and (2), training programs or courses in pediatric first aid, pediatric CPR, and preventive health practices offered or approved by an accredited college or university are considered to be approved sources of training that may be used to satisfy the training requirements of paragraph (2) of subdivision (a). Completion of this training shall be demonstrated to the licensing agency by a certificate of course completion, course

completion cards, or certified copies of transcripts that identify the number of hours and the specified course or courses taken for the training as defined in paragraph (2) of subdivision (a).

(e) The training required under subdivision (a) shall not be provided by a home study course. This training may be provided through in-service training, workshops, or classes.

(f) All personnel and licensees described in subdivisions (a) and (b) shall maintain current course completion cards for pediatric first aid and pediatric CPR issued by the American Red Cross, the American Heart Association, or by a training program approved by the Emergency Medical Services Authority pursuant to Section 1797.191, or shall have current certification in pediatric first aid and pediatric CPR from an accredited college or university in accordance with paragraph (3) of subdivision (d).

(g) The department shall have the authority to grant exceptions to the requirements imposed by this section in order to meet the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.).

(h) The department shall adopt regulations to implement this section.

SEC. 2. Section 1596.8662 is added to the Health and Safety Code, to read:

1596.8662. (a) The department shall do all of the following:

(1) Make information available to all licensed child day care providers, administrators, and employees of licensed child day care facilities regarding detecting and reporting child abuse and neglect.

(2) Provide training including statewide guidance on the responsibilities of a mandated reporter who is a licensed day care provider or an applicant for that license, administrator, or employee of a licensed child day care facility in accordance with the Child Abuse and Neglect Reporting Act (Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code). The department shall provide the guidance using its free module or modules provided on the State Department of Social Services Internet Web site or as otherwise specified by the department. This guidance content shall include, but is not necessarily limited to, all of the following:

(A) Information on the identification of child abuse and neglect, including behavioral signs of abuse and neglect.

(B) Reporting requirements for child abuse and neglect, including guidelines on how to make a suspected child abuse report when suspected abuse or neglect takes place outside a child day care facility, or within a child day care facility, and to which enforcement agency or agencies a report is required to be made.

(C) Information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(D) Information that mandated reporting duties are individual and no supervisor or administrator may impede or inhibit reporting duties, and no person making a report shall be subject to any sanction for making the report, pursuant to paragraph (1) of subdivision (i) of Section 11166 of the Penal Code. A supervisor or administrator who impedes or inhibits the duties of a mandated reporter shall be subject to punishment pursuant to Section 11166.01 of the Penal Code.

(E) Information on childhood stages of development in order to help distinguish whether a child's behavior or physical symptoms are within range for his or her age and ability, or are signs of abuse or neglect.

(3) The department shall provide training, including information about child safety and maltreatment prevention using its free training module or modules specified in paragraph (2), or as otherwise specified by the department. This information shall include, but is not necessarily limited to, all of the following:

(A) Information on protective factors that may help prevent abuse, including dangers of shaking a child, safe sleep practices, psychological effects of repeated exposure to domestic violence, safe and age-appropriate forms of discipline, how to promote a child's social and emotional health, and how to support positive parent-child relationships.

(B) Information on recognizing risk factors that may lead to abuse, such as stress and social isolation, and available resources to which a family may be referred to help prevent child abuse and neglect.

(C) When to call for emergency medical attention to prevent further injury or death.

(D) Information on how a licensed child care provider, administrator, or employee of a licensed child day care facility might communicate with a family before and after making a suspected child abuse report.

(4) The department shall comply with the Dymally-Alatorre Bilingual Services Act of 1973 (Chapter 17.5 (commencing with Section 7290) of the Government Code), which includes, among alternative communication options, providing the same type of

training materials in any non-English language spoken by a substantial number of members of the public whom the department serves.

(b) (1) On or before March 30, 2018, a person who, on January 1, 2018, is a licensed child care provider, administrator, or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a), and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(2) On and after January 1, 2018, a person who applies for a license to be a provider of a child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a) as a precondition to licensure and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(3) On and after January 1, 2018, a person who becomes an administrator or employee of a licensed child day care facility shall complete the mandated reporter training provided pursuant to paragraphs (2) and (3) of subdivision (a) within the first 90 days that he or she is employed at the facility and shall complete renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training.

(4) The licensee of a licensed child day care facility shall obtain proof from an administrator or employee of the facility that the person has completed mandated reporter training in compliance with this subdivision.

(5) A licensed child day care provider, administrator, or employee of a licensed child day care facility who does not use the online training module provided by the department shall report to, and obtain approval from, the department regarding the training that person shall use in lieu of the online training module.

(c) Current proof of completion for each licensed child care provider or applicant for that license, administrator, and employee of a licensed child day care facility shall be submitted to the department upon inspection of the child day care or upon request by the department.

(d) (1) The department shall issue a notice of deficiency at the time of a site visit to the licensee of a licensed child day care facility who is not in compliance with this section. The licensee shall, at the time the department issues the notice of deficiency, develop a plan to correct the deficiency within 45 days.

(2) A deficiency under this subdivision is not subject to Section 1596.890.

(e) A licensed child care provider or applicant for that license, an administrator, or employee of a licensed child care facility is exempt from the detecting and reporting child abuse training if he or she has limited English proficiency and training is not made available in his or her primary language.

(f) This section shall become operative on January 1, 2018.

SEC. 3. Section 11165.7 of the Penal Code is amended to read:

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

(1) A teacher.

(2) An instructional aide.

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

(4) A classified employee of a public school.

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

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

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

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

(9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.

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

(11) A Head Start program teacher.

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

(13) A public assistance worker.

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

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

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

(17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.

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

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

(20) A firefighter, except for volunteer firefighters.

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

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

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

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

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

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

(27) A coroner.

(28) A medical examiner or other person who performs autopsies.

(29) A commercial film and photographic print or image processor as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print or image processor" means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

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

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

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

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

(32) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

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

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

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

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

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

(38) An alcohol and drug counselor. As used in this article, an "alcohol and drug counselor" is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(39) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary educational institution, whose duties bring the administrator or employee into contact with children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, "commercial computer technician" means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

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

(c) Except as provided in subdivision (d), employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in

child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a child care licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a child care administrator or an employee of a licensed child day care facility shall take training in the duties of mandated reporters during the first 90 days when he or she is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child day care facility shall take renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

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

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