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AB-391 Child abuse and neglect: nonmandated reporters. (2023-2024)

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Assembly Bill No. 391

CHAPTER 434

An act to amend Section 11167 of the Penal Code, relating to crimes.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 391, Jones-Sawyer. Child abuse and neglect: nonmandated reporters.

Existing law, the Child Abuse and Neglect Reporting Act, establishes procedures for the reporting and investigation of suspected child abuse or neglect. The act requires certain professionals, including specified health practitioners and social workers, known as mandated reporters, to report known or reasonably suspected child abuse or neglect to a local law enforcement agency or a county welfare or probation department, as specified. The act authorizes any other person, known as a nonmandated reporter, to report a known or suspected instance of child abuse or neglect to a local law enforcement agency or a county welfare or probation department, as specified. Existing law authorizes a nonmandated reporter to make a report anonymously.

This bill would require an agency receiving a report from a nonmandated reporter to ask the reporter to provide specified information, including their name, telephone number, and the information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect. If the reporter refuses to provide their name or telephone number, the bill would require the agency receiving the report to make an effort to determine the basis for the refusal and advise the reporter that the identifying information would remain confidential. By requiring local agencies to gather additional information from nonmandated reporters, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

SECTION 1. Section 11167 of the Penal Code is amended to read:

11167. (a) Reports of known or reasonably suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report:

the child's name, address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who the mandated reporter knows or reasonably suspects to have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to them.

(b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

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

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

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of reasonably suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against them, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) (1) An agency specified in Section 11165.9 receiving a report of known or reasonably suspected child abuse or neglect pursuant to subdivision (g) of Section 11166 shall ask the reporter to provide all of the following information in the report:

(A) Their name.

(B) Their telephone number.

(C) The information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect.

(D) The source or sources of the information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect.

(2) If the reporter refuses to provide their name or telephone number, the agency shall make efforts to determine the basis for that refusal and advise the reporter that the identifying information will remain confidential.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.