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**SB-603 Children's advocacy centers: recordings.** (2023-2024)

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**Senate Bill No. 603**

**CHAPTER 717**

An act to amend Section 11166.4 of the Penal Code, relating to child abuse.

[ Approved by Governor October 10, 2023. Filed with Secretary of State October 10, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 603, Rubio. Children's advocacy centers: recordings.

Existing law authorizes a county to use a children's advocacy center to implement a coordinated multidisciplinary response, as specified, to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment. Existing law requires a county that utilizes a child advocacy center for these purposes to meet specified standards, including, among other things, that the children's advocacy center must verify that interviews conducted in the course of investigations are conducted in a forensically sound manner and occur in a child-focused setting designed to provide a safe, comfortable, and dedicated place for children and families.

This bill would require the children's advocacy center or other identified multidisciplinary team member custodian to ensure that all recordings of child forensic interviews be released only in response to a court order. The bill would require the court to issue a protective order as part of the release, unless the court finds good cause that disclosure of the interview should not be subject to such an order. Notwithstanding that provision, the bill would require the children's advocacy center or other identified multidisciplinary team member custodian to release a recording, upon request, to specified parties, including, among others, law enforcement agencies authorized to investigate child abuse. The bill would authorize the child advocacy center to use the recording for training, among other things. The bill would also prohibit the recording from becoming a public record in any legal proceeding, and would require the court to order the recording be sealed and preserved at the conclusion of a criminal proceeding.

Existing law requires a multidisciplinary team associated with the children's advocacy center to consist of a representative of the children's advocacy center and at least one representative from specified disciplines, including, among others, child protective services.

This bill would include, in the case of an Indian child, a representative from the child's tribe, including, but not limited to, a tribal social worker, tribal social services director, or tribal mental health professional, as part of the multidisciplinary team.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

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

**SECTION 1.** Section 11166.4 of the Penal Code is amended to read:

**11166.4.** (a) Each county may use a children's advocacy center to implement a coordinated multidisciplinary response pursuant to Section 18961.7 of the Welfare and Institutions Code, to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment.

(b) A county that utilizes a child advocacy center to coordinate its multidisciplinary response pursuant to subdivision (a) shall require the children's advocacy center to meet the following standards:

(1) The multidisciplinary team associated with the children's advocacy center shall consist of a representative of the children's advocacy center and at least one representative from each of the following disciplines: law enforcement, child protective services, district attorney's offices, medical providers, mental health providers, victim advocates, and in the case of an Indian child, a representative from the child's tribe, including, but not limited to, a tribal social worker, tribal social services director, or tribal mental health professional. Members of the multidisciplinary team may fill more than one role, within the scope of their practice, as needed.

(2) The multidisciplinary team associated with the children's advocacy center shall have cultural competency and diversity training to meet the needs of the community it serves.

(3) The children's advocacy center shall have a designated legal entity responsible for the governance of its operations. This entity shall oversee ongoing business practices of the children's advocacy center, including setting and implementing administrative policies, hiring and managing personnel, obtaining funding, supervising program and fiscal operations, and conducting long-term planning.

(4) The children's advocacy center shall provide a dedicated child-focused setting designed to provide a safe, comfortable, and neutral place where forensic interviews and other children's advocacy center services may be appropriately provided for children and families.

(5) The children's advocacy center shall use written protocols for case review and case review procedures, and shall use a case tracking system to provide information on essential demographics and case information.

(6) The children's advocacy center shall verify that members of the multidisciplinary team responsible for medical evaluations have specific training in child abuse or child sexual abuse examinations.

(7) The children's advocacy center shall verify that members of the multidisciplinary team responsible for mental health services are trained in and deliver trauma-focused, evidence-supported mental health treatments.

(8) The children's advocacy center shall verify that interviews conducted in the course of investigations are conducted in a forensically sound manner and occur in a child-focused setting designed to provide a safe, comfortable, and dedicated place for children and families. These interviews are confidential and are not public records.

(9) (A) The children's advocacy center or other identified multidisciplinary team member custodian shall ensure that all recordings of child forensic interviews be released only in response to a court order. The court shall issue a protective order as part of the release, unless the court finds good cause that disclosure of the interview should not be subject to such an order. The protective order shall include all of the following language:

(i) That the recording be used only for the purposes of conducting the party's side of the case, unless ordered by the court.

(ii) That the recording not be copied, photographed, duplicated, or otherwise reproduced except as a written transcript that does not reveal the identity of the child, unless ordered by the court.

(iii) That the recording not be given, displayed, or in any way provided to a third party, except as permitted in clause (iv) or (v) of this subparagraph or as necessary in preparation for or during trial.

(iv) That the recording remain in the exclusive custody of the attorneys, or in the case of an Indian child, the tribal representative of a tribe unrepresented by an attorney, their employees, or agents, including expert witnesses retained by any party, who shall be provided a copy of and instructed to abide by the protective order.

(v) That, except as permitted in clause (iv), if the party is not represented by an attorney, the party, the party's employees and agents, including expert witnesses, shall not be given a copy of the recording but shall be given reasonable access to view or listen to the recording by the custodian of the recording. In a criminal case involving an in pro per defendant, if

the court has appointed an investigator, the court may order a copy of the recording be provided to the investigator with a protective order consistent with this section and further order the investigator to return the recording to the court upon conclusion of the criminal case.

(vi) That upon termination of representation or upon disposition of the matter, after all appeals and writs of habeas corpus have been exhausted, attorneys promptly return all copies of the recording.

(B) Notwithstanding subparagraph (A), the children's advocacy center or other identified multidisciplinary team member custodian shall release or consent to the release or use of any recording, upon request, to both of the following:

(i) Law enforcement agencies authorized to investigate child abuse, or agencies authorized to prosecute juvenile or criminal conduct described in the forensic interview.

(ii) County counsel evaluating an allegation of child abuse.

(C) In any court proceeding, release of any recording pursuant to the civil, dependency, or criminal discovery process shall be accompanied by a protective order, unless the court finds good cause that disclosure of the recording should not be subject to such an order.

(D) The child advocacy center where a forensic interview is conducted may use the recording for purposes of supervision and peer review as required to meet national accreditation standards. Recordings that anonymize the child's face or likeness may be used for training.

(E) (i) Recognizing the inherent privacy interest that a child has with respect to the child's recorded voice and image when describing highly sensitive details of abuse or neglect, any and all recordings of child forensic interviews shall not be the subject to a Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) request and are exempt from any such request.

(ii) The recording shall not become a public record in any legal proceeding.

(iii) The court shall order the recording be sealed and preserved at the conclusion of the criminal proceeding.

(c) This section does not preclude a county from utilizing more than one children's advocacy center.

(d) The files, reports, records, communications, and working papers used or developed in providing services through a children's advocacy center are confidential and are not public records.

(e) Notwithstanding any other law providing for the confidentiality of information or records relating to the investigation of suspected child abuse or neglect, the members of a multidisciplinary team associated with a children's advocacy center, including agency representatives, child forensic interviewers, and other providers at the children's advocacy center, are authorized to share with other multidisciplinary team members any information or records concerning the child and family and the person who is the subject of the investigation of suspected child abuse or neglect for the sole purpose of facilitating a forensic interview or case discussion or providing services to the child or family, provided, however, that the shared information or records shall be treated as confidential to the extent required by law by the receiving multidisciplinary team members.

(f) An employee or designated agent of a child and family advocacy center that meets the requirements of subdivision (b) is immune from any civil liability that arises from the employee's or designated agent's participation in the investigation process and services provided by the child and family advocacy center, unless the employee or designated agent acted with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided. This subdivision does not supersede or limit any other immunity provided by law.

(g) As used in this section "recording" includes audio, video, digital, or any other manner in which the child's voice or likeness is memorialized.

**SEC. 2.** The Legislature finds and declares that Section 1 of this act, which amends Section 11166.4 of the Penal Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

Recognizing the inherent privacy interest that a child has with respect to the child's recorded voice and image when describing highly sensitive details of abuse or neglect, it is necessary to keep this information private.