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An act to amend Section 10850.4 of the Welfare and Institutions Code,  
relating to child abuse and neglect.



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

SECTION 1. Section 10850.4 of the Welfare and Institutions Code is amended to read:

10850.4. (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

- (1) The age and gender of the child.
- (2) The date of death.
- (3) Whether the child ~~was~~ resided in foster care or in the home of his or her parent or guardian at the time of death.
- (4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or ~~neglect~~ neglect, as defined by paragraph (1) of subdivision (k), leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

- (1) A county child protective services agency determines that the abuse or neglect was substantiated.
- (2) A law enforcement investigation concludes that abuse or neglect occurred.
- (3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.



(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(F) A description of child protective or other services provided and actions taken by the child welfare agency, and juvenile court if applicable, relating to the deceased child, addressing any services and actions that are not otherwise disclosed within other



documents required for release pursuant to this section, including the date and a written description of any such service or action.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster ~~parents'~~ placement's initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within ~~10 business~~ 30 calendar days of the request or the disposition of the investigation, whichever is later.

(e) ~~(1)~~ Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

~~(A)~~

(1) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

~~(B)~~



(2) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

~~(C)~~

(3) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(4) Any information for any adult whose activities are not related to the abuse or neglect that led to the child fatality, including reports, investigations, and services provided or actions taken by the child welfare agency.

~~(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.~~

~~(B) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007-08 Regular Session of the Legislature through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those changes, no later than January 1, 2009.~~

~~(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations~~



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~~authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.~~

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) ~~Documents from the juvenile case file, other than those listed in paragraphs (2) and (3) of subdivision (c),~~ Juvenile case file records that are not subject to disclosure pursuant to this section shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release. If the county welfare department or agency comments publicly about the case within the scope of the release pursuant to this subdivision, the social worker on the case may also comment publicly about the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.



(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an all-county letter regarding the procedure for notification.

(k) For purposes of this section, the following definitions apply:

(1) “Child-(A) Except as provided in subparagraph (B), “child abuse or neglect” has the same meaning as defined in Section 11165.6 of the Penal Code.

(B) “Child abuse or neglect” does not include homicides committed by the following persons, unless neglect by a parent, guardian, or foster care provider contributed to the circumstances that led to the child fatality:

(i) An alleged perpetrator who was unknown to the child or family prior to the abuse that caused the child fatality.

(ii) A minor, unless acting in the role of a caretaker, who is alleged to have caused the child fatality.

(2) “Custodian of records,” for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) “Juvenile case files” or “case files” include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department



or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as defined in Section 11165.12 of the Penal Code.

(l) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

(p) Nothing in this section authorizes the disclosure of information that reveals the identity of a person or persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(q) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until regulations are filed with the Secretary of State, the State Department of Social Services may implement this section through all county letters or similar instructions.

SEC. 2. To the extent that this act has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation within the meaning of Section 36 of Article XIII of the



California Constitution, it shall apply to local agencies only to the extent that the state provides annual funding for the cost increase. Any new program or higher level of service provided by a local agency pursuant to this act above the level for which funding has been provided shall not require a subvention of funds by the state nor otherwise be subject to Section 6 of Article XIII B of the California Constitution.

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## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Child fatalities: reports.

Existing law requires certain documents from the juvenile case file for a child who died as a result of abuse or neglect, as specified, to be released by the custodian of records upon request and subject to redaction of certain identifying personal information upon completion of the child abuse or neglect investigation into the child's death.

This bill would add a description of child protective or other services provided and actions taken by the child welfare agency, and juvenile court if applicable, to the list of documents that are required to be released. The bill would also require, among other things, the custodian of records to redact any information for any adult whose activities are not related to the abuse or neglect that led to the child fatality, as specified. The bill would authorize the State Department of Social Services to implement these provisions by means of all-county letters or similar instructions until regulations are



adopted. By creating new duties for local officials, the 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 no reimbursement is required by this act for a specified reason.

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

