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An act to add Section 10850.45 to the Welfare and Institutions Code,
relating to child abuse.



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

SECTION 1. Section 10850.45 is added to the Welfare and Institutions Code, to read:

10850.45. (a) All cases in which abuse or neglect results in a child's near fatality shall be subject to the disclosures required in subdivisions (b) and (c).

(b) Findings or information disclosed under this subdivision, upon request, shall consist of a written report that includes all of the following information:

- (1) The age and gender of the child.
- (2) The date the abuse or neglect occurred that resulted in the near fatality, if known, and the date that a licensed physician determined the child victim to be in serious or critical medical condition, if known.
- (3) Whether the child resided in foster care or in the home of his or her parent or guardian at the time of the near fatality.
- (4) The cause of, and circumstances regarding, the near fatality.
- (5) A description of reports received, child protective or other services provided, and actions taken by the county child welfare services agency, and juvenile court if applicable, regarding both of the following:
 - (A) Suspected or substantiated abuse or neglect of the child near fatality victim.
 - (B) Suspected or substantiated abuse or neglect of other children that is related to the abuse or neglect described in subparagraph (A).
- (6) The description required by paragraph (5) shall provide a written narrative that includes, but is not limited to, the following information:
 - (A) The dates of reports, investigations, services provided, and actions taken.



(B) The investigative disposition for each report.

(c) Subject to subdivision (e), a custodian of records shall disclose to the public, upon request, all risk and safety assessments completed by the county child welfare services agency relating to the child near fatality victim.

(d) (1) When disclosure is requested pursuant to subdivisions (b) and (c), all required findings and information shall be released to the public by the custodian of records within 30 calendar days of either the request or the disposition of the investigation, whichever is later.

(2) A county, at its sole discretion, may choose to establish as its policy that compliance with paragraph (5) of subdivision (b) is achieved through the disclosure of 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 near fatality, subject to subdivision (e). A county that implements that policy would disclose these redacted case file documents in place of a detailed written description.

(e) The information and records subject to disclosure pursuant to subdivisions (b) and (c) shall not include, and the custodian of records shall not disclose, any of the following information:

(1) The name, address, telephone number, 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 referenced in subdivision (b) or (c).

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



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

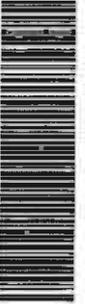
(4) The records or content of any psychiatric, psychological, or therapeutic evaluation; clinical or medical reports; clinical or medical evaluation; or similar materials or information related to the child or the child's family.

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

(f) Upon receiving a request for the information described in subdivisions (b) and (c), the custodian of records shall notify and provide a copy of the request to the counsel for any child who is directly or indirectly connected to the juvenile case file. If the counsel for a child, including the child near fatality victim or any sibling of the child victim, objects to the release of any part of the information listed in subdivisions (b) and (c), counsel 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) 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 have been released by the custodian of records, pursuant to this section, 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 child welfare services agency shall notify the State Department of Social Services of every child near fatality that occurred within its jurisdiction that was the result of child abuse or neglect.

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

(1) "Abuse or neglect" has the same meaning as that term is defined in Section 11165.6 of the Penal Code. "Abuse or neglect" shall not include near fatalities caused by the following persons, unless neglect by a parent, guardian, or foster care provider contributed to the circumstances of the near fatality:

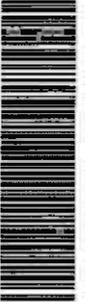
(A) An alleged perpetrator who was unknown to the child or family prior to the abuse that caused the near fatality.

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

(2) "Custodian of records" means the county welfare department or agency.

(3) "Juvenile case files" or "case files" includes 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) (A) "Near fatality" has the same meaning as defined in Section 5106a of Title 42 of the United States Code under the federal Child Abuse Prevention and



Treatment Act. A case comes within the definition of a “near fatality” when both of the following conditions are met:

(i) A licensed physician determines that the child had an overall condition of serious or critical, regardless of an individual injury or symptom.

(ii) The overall condition of the child is the result of abuse or neglect. Abuse or neglect is deemed to have resulted in a child’s near fatality if either of the following conditions is met:

(I) A law enforcement investigation concludes that child abuse or neglect occurred.

(II) A county child welfare services agency determines that the child abuse or neglect was substantiated.

(B) “Near fatality” does not include a child who has injuries or symptoms, however severe, that do not result in the child’s overall condition of serious or critical.

(5) “Substantiated” has the same meaning as that term is used with respect to a substantiated report 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 near fatalities that occur on or after January 1, 2017.

(n) This section does not require a custodian of records to retain documents beyond any date otherwise required by law.



(o) This section does not require a custodian of records to obtain documents not in the case file.

(p) This section does not authorize the disclosure of information that reveals the identity of a person or persons who provided information related to suspected abuse, neglect, or maltreatment of a 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. 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.



LEGISLATIVE COUNSEL’S DIGEST

Bill No.

as introduced, _____.

General Subject: Child near fatality: reports.

Existing law generally provides that juvenile case records are confidential. Existing law requires, however, the custodian of records to release certain documents from the juvenile case file for a child who died as a result of abuse or neglect, as specified, 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 require the custodian of records for a county child welfare agency to disclose to the public, upon request and subject to certain redactions, for all cases on or after January 1, 2017, in which abuse or neglect leads to a child’s near fatality, as defined, a written report containing specified findings and information and risk and safety assessments completed by the county child welfare services agency relating to the near fatality victim. The bill would require the custodian of records to notify and



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provide a copy of the request to the counsel for any child who is directly or indirectly connected to the juvenile case file. The bill would also require each county child welfare services agency to notify the State Department of Social Services of every child near fatality that occurred within its jurisdiction that was the result of child abuse or neglect. By imposing additional duties on county employees, the bill would impose a state-mandated local program.

The bill would also authorize the State Department of Social Services to implement these provisions through all-county letters or similar instructions from the director and requires the department to adopt regulations to implement the provisions of the bill.

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 these statutory provisions.

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

