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| **California Department of Justice**<br>**DIVISION OF CRIMINAL JUSTICE**<br>**INFORMATION SERVICES**<br>**Nick L. Dedier, Director** | | *INFORMATION*<br>*BULLETIN* |
| *Subject:*<br><br>**Changes to the Child Abuse and Neglect Reporting Act** | *No.*<br><br>**04-22-BCIA**<br>*Date:*<br><br>**12/21/04** | *Contact for information:*<br><br>**Olivia Carrera**<br>**Child Protection Program**<br>**(916) 227-5178** |

**TO:  ALL CALIFORNIA CHILD PROTECTION AGENCIES**

Several amendments to the Child Abuse and Neglect Report Act (CANRA), Penal Code sections 11164 - 11174.4 of the Penal Code (PC), will become effective on January 1, 2005.  These amendments are a result of the chaptering of Senate Bill 1313 and Assembly Bills 20, 2531, and 2749.  These amendments affect the reporting of suspected child abuse by mandated reporters, the subsequent investigation of reports and the transmittal of substantiated and inconclusive reports to the Department of Justice's Child Abuse Central Index (CACI).  Noted below is an overview of these changes.

**11165.3 PC -** Changes the existing term "willful cruelty or unjustifiable punishment of a child" to "willful harming or injuring of a child or the endangering of the person or health of a child."

**11165.5 PC -** Adds the language described in 11165.3 PC (above) to the definition of "abuse or neglect in out-of-home care."

**11165.6 PC -** Amends the definition of "child abuse or neglect" to include the language "willful harming or injuring of a child or the endangering of the person or health of a child" as described in 11165.3 PC.

**11165.7 PC -** Specifies that, with the exception of Court Appointed Special Advocate (CASA) volunteers, volunteers of public or private organizations are <u>not</u> mandated reporters but are encouraged to obtain training in child abuse identification and reporting and are further encouraged to report known or suspected abuse or neglect.  It further specifies that employers are "strongly encouraged" to provide training to their mandated reporters, while public and private organizations are "encouraged" to provide their volunteers with training.  It also adds persons providing services to minor children under Welfare and Institutions Code (WIC) 12300 or 12300.1.

**11165.12 PC -** Amends the definition of a "substantiated report" from "based on some credible evidence, to constitute child abuse or neglect" to "based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred."

**11166 PC -** Relocates from WIC 16513 the existing requirement that a mandated reporter, who knows or suspects that the home or institution in which a child resides is unsuitable, make that fact known at the same time he or she makes a report or abuse or neglect.  It further specifies that it is a continuing offense for a mandated reporter to intentionally conceal his/her failure to make a report of known abuse or severe neglect.

**11166.01 PC -** Amends existing cross-reference.

**11166.05 PC -** Clarifies that mandated reporters have discretion to make a report where a child is "suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage," evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others.

**11166.5 PC -** Specifies that prior to commencing employment, mandated reporters shall receive and sign a statement of confidentiality rights under PC 11167(d) (in addition to reporting obligations under PC 11166).  It further specifies that persons providing services to minor children under WIC 12300 or 12300.1 are not mandated reporters unless they have received training on their duties under CANRA.

**11166.7, 11166.8, 11166.9 and 11166.95 PC -** All of these affect Child Death Review Teams and are renumbered to 11174.32, 11174.33, 11174.34, and 11174.35 PC, respectively.

**11167 PC -** Provides that when child protective services (CPS) performs an investigation after receiving a report from a mandated reporter, it must, at the time of initial contact, advises the individual who is the subject of the investigation of the allegations made against him/her.

**11167.5 PC -** Specifies that reports by mandated reporters <u>and</u> the resulting investigative reports are confidential and may only be disclosed as specified in PC 11167.5(b).  It further specifies that disclosure of reports to persons who are listed in CACI is not subject to the provisions of the Public Records Act but that reports may be redacted as necessary to maintain confidentiality.

**11169 PC -** Clarifies that the original investigative report must be maintained by the originating agency for the same period of time the information is required to be maintained on CACI pursuant to this section <u>and</u> 11170(a) PC.

**11170 PC -** Specifically authorizes DOJ to release CACI information to law enforcement, child protection, and county probation agencies when needed for child abuse investigations.  It further authorizes law enforcement agencies to access CACI for the purpose of pre-employment checks for the position of peace officer.  It also prohibits a person or agency from requiring or requesting another person to furnish a copy of a record concerning him/herself or notification that a record exists or does not exist under 11170(e) PC.

**11170.5 PC -** Requires a licensed adoption agency, after obtaining information from CACI, to obtain the original investigative report and draw independent conclusions on the quality of the evidence when making decisions affecting adoption.

**11170.6 PC -** Eliminates the San Diego County  "6 to 6" program as having access to CACI.

**11172 PC -** Expands the immunity protections of mandated reporters to include when they make a report based on information obtained outside their professional capacity.

**11174.4 PC -** Renumbers the CANRA Task Force statute to 11174.31 PC.

Questions regarding the impact of this legislation on the reporting of child abuse to DOJ may be referred to Olivia Carrera of the Child Protection Program at (916) 227-5178 or e-mail Olivia.Carrera@doj.ca.gov.

Sincerely,

DOUG SMITH, Deputy Director
Division of California Justice Information Services

For    BILL LOCKYER
Attorney General