

Attorney General
John K. Van de Kamp's

Commission on the Enforcement of Child Abuse Laws



One Year Later

April 1986

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ATTORNEY GENERAL JOHN K. VAN DE KAMP'S
COMMISSION ON
THE ENFORCEMENT OF CHILD ABUSE LAWS

ONE YEAR LATER

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I. STATEMENT BY ATTORNEY GENERAL JOHN K. VAN DE KAMP

STATEMENT

BY

ATTORNEY GENERAL JOHN K. VAN DE KAMP

It Shouldn't Hurt to Be a Kid!

With that most basic of propositions in mind, in October 1984 I appointed a multidisciplinary Commission on the Enforcement of Child Abuse Laws. Under the chairmanship of Alameda County Chief Deputy District Attorney Richard Iglehart, this 20-member Commission was charged with recommending significant improvements to our systems for the reporting, investigation, prosecution, and prevention of child abuse and for the protection of children in licensed day care facilities.

One year ago, April 2, 1985, after extensive hearings and careful deliberations, the Commission presented me with its final report containing 85 recommendations to improve the manner in which we deal with child abuse. The recommendations were sweeping in scope and went to the heart of the child abuse problem in California.

I felt a responsibility to ensure that the recommendations of the Commission did not sit on a shelf somewhere, so I directed my staff to develop an action plan for each of the 85 recommendations. I can report to you that we have followed through with this plan and made a difference in helping to prevent child abuse.

During the past year we have implemented specific recommendations to improve various aspects of our child abuse prevention and intervention systems. In doing so, we realized that there is a need to streamline and coordinate the legal and judicial proceedings involving child victims and witnesses.

This year, I am proposing a major new state legislative initiative - the California Child Victim Witness Protection Act - authored by Senator Nicholas Petris.

The California Child Victim Witness Protection Act, SB 2530, would:

- . Establish a Child Victim Witness Judicial Advisory Committee to study legal and judicial practices and procedures as they pertain to child victims and witnesses, with particular attention given to victims of intrafamilial child abuse and the coordination of related criminal and civil proceedings.
- . Require the advisory committee to report its findings and recommendations to the Judicial Council, the Legislature, the Governor and the Attorney General no later than October 1, 1988. The report would include, but not be limited to, the following:
 - (a) Recommendations for minimizing or reducing unnecessary repetitive interviews and court appearances.

(b) Recommendations for improving legal and judicial practices and procedures including, but not limited to, the following:

- (1) The management of child victims and witnesses in all criminal and civil judicial proceedings.
- (2) Coordination of related criminal and civil proceedings, in particular dependency proceedings, and custody, termination of parental rights, guardianship and adoption proceedings.
- (3) Coordination of judicial and investigative processes, including law enforcement and child welfare services investigations.

(c) Recommendations for the design and operation of a Child Victim Witness Court Pilot Project, to be established in later enacted legislation, to determine the most effective methods for implementing the advisory committee's findings.

In addition to this new initiative, the following highlights some of the more significant actions we have taken at the federal and state level during the past year to address the Commission's recommendations:

LEGISLATION

At the federal level:

At our request Senator Alan Cranston introduced S. 1320, which contained provisions addressing 14 Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at our request, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston, introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. H. R. 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Require that information on child abuse incidents, including child sexual abuse, be included in the FBI Uniform Crime Reports (UCR) Program;
- . Amend federal drug and alcohol abuse treatment confidentiality statutes to make clear that these provisions do not override state reporting laws; and
- . Direct the National Center on Child Abuse and Neglect in the Department of Health and Human Services to take an active role in:
 - compiling, analyzing, publishing, and disseminating to each state approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim;

- developing and disseminating model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and
- supporting research projects to assist in identifying effective approaches to improve the investigation and prosecution of child sexual abuse cases.

At the state level:

In the 1985 legislative session, we sponsored four bills incorporating eight of the Commission's recommendations in the areas of prosecution, investigation, prevention, day care licensing and reporting. All of these bills have been enacted into law.

. AB 1502 (Molina) - Chapter 884, Statutes of 1985 (a prosecution bill):

- (1) clarifies that every person, irrespective of age, is qualified to be a witness (Evid. Code, § 700);
- (2) provides that in proceedings held outside the presence of the jury (e.g., preliminary examinations), the trial court may, in its discretion, allow a witness to complete his or her direct examination before being subjected to questioning on grounds of competency (Evid. Code, § 701, subd. (b)); and
- (3) expressly directs the court to take "special care" to protect witnesses under the age of 14 from undue harassment and unnecessarily repetitive questions - especially in multiple-defendant cases (Evid. Code, § 765, subd. (b)).

. AB 1980 (N. Waters) - Chapter 1417, Statutes of 1985 (an investigation and prevention bill):

Funds child abuse prevention coordinating councils in each county to:

- (1) provide interagency coordination;
- (2) facilitate professional training;
- (3) develop improved services;
- (4) promote public awareness; and
- (5) encourage community support. (Welf. & Inst. Code, §§ 18980-18984.)

. SB 1306 (Watson) - Chapter 1528, Statutes of 1985 (a day care licensing bill):

- (1) requires the development of regulatory investigative guidelines for the investigation of child abuse in child day care and community care facilities (Pen. Code, § 11174); and

(2) codifies the "preponderance of the evidence" standard in child day care facility license revocation actions (Health & Saf. Code, § 1596.889).

. AB 505 (Leonard) - Chapter 1598, Statutes of 1985 (a reporting and day care licensing bill):

- (1) requires the State Department of Social Services to check with the Department of Justice Child Abuse Central Registry and to investigate reports of child abuse prior to granting a license to any individual to care for children (Health & Saf. Code, §§ 1522.1 and 1596.887);
- (2) clarifies that administrative or supervisory interference with reports by mandated reporters is a misdemeanor - the same penalty that attaches to failure to report (Pen. Code, § 11166.1);
- (3) clarifies that the definition of child care custodian includes licensees, administrators and employees of licensed child day care facilities (Pen. Code, § 11165.6, subd. (b));
- (4) extends to commercial film and photographic print processors the same level of protection from liability and ability to recover attorney's fees as is provided to other mandated reporters (Pen. Code, § 11172, subds. (a) and (c)); and
- (5) amends the definitions in Penal Code section 11166.5 to make them consistent with the definitions in Penal Code section 11165.

Other Child Abuse Bills

In addition, the following will highlight briefly other child abuse bills which effectively address the Commission's recommendations supported by the Attorney General's Office during the 1985 session of the California Legislature:

Judicial Proceedings:

. SB 46 (Torres) - Chapter 43, Statutes of 1985

Allows the court in any criminal proceeding, upon motion, to order testimony of a minor 10 years of age or younger involving alleged sexual offenses to be taken by contemporaneous examination and cross-examination in another place and communicated to the courtroom by means of two-way, closed-circuit television under specific conditions. (Pen. Code, § 1347.) (The Attorney General's Office played a major role in negotiating the final compromise version of this bill.)

. AB 30 (Filante) - Chapter 467, Statutes of 1985

Provides that a child may be attended by up to two family members of his or her own choosing when the child is a witness for certain sexually related cases, or cases involving willful cruelty or unjustifiable punishment of a child. (Pen. Code, § 868.5.)

. AB 31 (Mojonnier) - Chapter 308, Statutes of 1985

Specifically authorizes a magistrate to postpone (i.e., extend) a preliminary examination in order to accommodate the special physical, mental and emotional needs of a child witness who is 10 years of age or younger. (Pen. Code, § 861.5.)

. AB 32 (Mojonnier) - Chapter 1174, Statutes of 1985

Requires the court to take special precautions to lessen the trauma of the trial process for child witnesses who are under 11 years of age, including but not limited to, that of foregoing the wearing of judicial robes. (Pen. Code, § 868.8.)

. AB 33 (Mojonnier) - Chapter 1097, Statutes of 1985

Establishes a child sexual assault vertical prosecution financial and technical assistance program for district attorneys' offices - designated the Child Abuser Prosecution Program - in the Office of Criminal Justice Planning (OCJP), and requires OCJP to establish guidelines for the provision of grant awards to proposed and existing programs. (Pen. Code, §§ 999q-999y.)

Law Enforcement Investigations:

. SB 391 (Presley) - Chapter 1111, Statutes of 1985

Requires that the local police or sheriff's department accept missing person reports without delay and transmit missing person reports for persons under 12 years of age to the National Crime Information Center Missing Person System within four hours after accepting the report. (Pen. Code, § 11114.)

. SB 888 (Seymour) - Chapter 1474, Statutes of 1985

Provides that the sex offender registration requirement in Penal Code section 290 is also applicable to a person discharged or paroled from the Youth Authority on or after January 1, 1986, who was adjudged a ward of the juvenile court on the basis of the commission of any of certain sexually related offenses. (Pen. Code, § 290, subd. (d).)

. AB 606 (Davis) - Before Conference Committee

Would enact the Missing Children's Act of 1986 which would establish a Missing Children's Registry in the Department of Justice.

Child Day Care:

. AB 55 (Brown) - Chapter 1364, Statutes of 1985

Appropriated \$30 million from the General Fund to the Superintendent of Public Instruction for the purposes of child care and development services for specially designated programs. (Stats. 1985, ch. 1364, § 6.)

NOTE: The Governor reduced the appropriation from \$30 million to \$2,475,000, approving \$2,400,000 for the alternative payment programs

and \$75,000 for the child development division study to determine the need for, and the availability of, appropriate child care for severely handicapped children.

. AB 466 (Agnos) - Chapter 707, Statutes of 1985

Expressly provides that any parent or guardian of a child receiving services in a child day care facility has the right, with certain exceptions, to enter and inspect the facility without advance notice during normal operating hours or when the child is receiving services in the facility. (Health & Saf. Code, § 1596.857.)

. AB 2337 (Agnos) - Chapter 1593, Statutes of 1985

Requires the Department of Social Services to notify the local resource and referral agency, funded under section 8210 of the Education Code for that jurisdiction, upon denial, revocation, or temporary suspension of a license or within 24 hours of finding that physical or sexual abuse has occurred, and of the final resolution of the matter. (Health & Saf. Code, § 1596.853, subd. (d).)

NONLEGISLATIVE ACTIVITIES

In addition to the legislative activities, I directed approximately 540 letters to state and county officials and agencies, and professional organizations, encouraging them to take appropriate action to implement the Commission's recommendations relevant to them.

The following will highlight and summarize action either taken or planned in significant responses:

- . GEORGE DEUKMEJIAN, GOVERNOR, STATE OF CALIFORNIA, responded to my request that he join with me to support the Commission's recommendations for continued public funding of effective child abuse treatment programs.

The Governor stated in his letter, "You may be assured, John, that I will continue to support the funding of effective child abuse treatment programs, and my administration is actively involved in continuing to improve child abuse services."

- . ROBERT L. VERNON, CHAIRMAN, COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST) responded to my request that POST take appropriate action to implement the Commission's recommendations to update and expand child abuse training in the basic academy course for new officers, to periodically update its child abuse training materials, and to develop standardized protocols for child abuse investigations.

Chairman Vernon stated in his letter that work would commence in the near future to address the Commission's recommendations.

In December 1985, POST appointed a Child Abuse Advisory Committee - and hired a full-time consultant - to review and update all basic academy and

advanced officer training, and investigative guidelines and curriculum performance objectives, for the investigation of child physical abuse and neglect and child sexual abuse and exploitation.

The committee is expected to complete its work in May 1986.

- LINDA S. McMAHON, DIRECTOR, DEPARTMENT OF SOCIAL SERVICES, responded to my request that, as Director of the Department of Social Services, she take appropriate action to implement the 11 Commission recommendations relating to day care licensing and to child welfare services investigations.

Ms. McMahon stated in her letter that she was "pleased to report that the majority of the recommendations made by the Commission are issues currently under consideration by the Department of Social Services (DSS) and several have either been resolved or [are] in the final planning stages."

- KENNETH W. KIZER, M.D., M.P.H., DIRECTOR, DEPARTMENT OF HEALTH SERVICES (DHS), responded to my request that the Department of Health Services take the appropriate action to implement the Commission's recommendation to improve the systems for the reporting and management of child abuse cases in licensed acute care hospitals and clinics.

Dr. Kizer agreed with the Commission's conclusion "that child abuse services are a necessary component of any medical service with a child population," however, he stated that "neither the general acute care hospital licensing regulations or the primary care licensing regulations address the management of child abuse in health facilities other than the reporting of such cases." Dr. Kizer added, "I believe there is a need for further clarification to address this issue in the regulations."

On January 14, 1986, DHS held an interdepartmental meeting to address this issue and to clearly define each department's role, responsibilities and common areas of overlap prior to amending the licensing regulations.

- LINDA A. MCCREADY, PROGRAM MANAGER, DIVISION OF ALLIED HEALTH PROFESSIONS, BOARD OF MEDICAL QUALITY ASSURANCE, STATE DEPARTMENT OF CONSUMER AFFAIRS, responded with a comprehensive solution to my request to all appropriate state examining committees that they develop and implement disciplinary procedures for mandated reporters who fail to comply with their legal duty to report suspected child abuse.

Ms. McCready stated in her letter that "since this recommendation pertains to a number of health professions regulated by the Department of Consumer Affairs, we are seeking an omnibus amendment of the Business and Professions Code."

The omnibus amendment would establish that failure to report child abuse be regarded as unprofessional conduct subject to disciplinary action.

- JAMES D. BEISNER, PRESIDENT, STATE CORONERS' ASSOCIATION, responded to my request to the State Coroners' Association encouraging them to consider action to implement the Commission's recommendation to develop uniform standards for the review of all child death cases.

Mr. Beisner informed me that on March 17, 1985, the State Coroners' Association met with the Los Angeles County Inter-Agency Council on Child Abuse and Neglect (ICAN) Child Death Case Review Committee to discuss the development of a statewide protocol for the review of all child death cases.

- CLARENCE S. AVERY, M.D., PRESIDENT, CALIFORNIA MEDICAL ASSOCIATION (CMA), responded to my request that the CMA join with me in actively pursuing means to standardize and fund medical evidentiary examinations in child abuse cases.

Currently, the CMA is working with my office and with the Office of Criminal Justice Planning (OCJP) to address this issue. OCJP is planning to schedule a meeting in the spring of 1986 which will include representatives from the Attorney General's Office, California Medical Association, California Peace Officers' Association, League of Cities, County Supervisors Association of California, Department of Health Services, and other appropriate agencies and associations, to discuss the issue of medical reimbursement for sexual assault medical and evidence collection examinations.

- ROBERT W. LAWRENCE, DEPUTY SUPERINTENDENT FOR FIELD SERVICES, STATE DEPARTMENT OF EDUCATION, responded to my request to Bill Honig, State Superintendent of Public Instruction, to take appropriate action to implement the Commission's recommendation to mandate parenting education in all public schools.

Mr. Lawrence stated in his letter that "We concur with the Commission's finding that parenting education is essential to healthy families and children and to the long-term prevention of child abuse. We have recently established an Advisory Committee on Family Relationships and Parenting Education. This committee will assist the Department in developing a kindergarten through grade twelve curriculum in parenting education and to select recipients of grants for program implementation."

- DONALD E. CURRY, PRESIDENT, COUNTY WELFARE DIRECTORS ASSOCIATION, responded to my request that, as President of the County Welfare Directors Association, he take appropriate action to implement the Commission's recommendations to develop caseload standards and guidelines, to establish case management systems in which families receiving child welfare services are assigned, at most, one investigator and one child welfare services worker, to develop joint child welfare services and law enforcement teams in child abuse investigations, and to develop training for all child welfare services workers in the legal aspects of processing child abuse cases.

Mr. Curry stated in his letter that the Association is supportive of the Commission's recommendations and that the Association is working with county welfare directors to implement the recommendations. He also stated that in many counties the recommendations have already been implemented.

- LAW ENFORCEMENT. In September 1985, I sent a letter to all sheriffs and police chiefs in California encouraging them to take the necessary steps to implement the Commission's recommendations to establish special child abuse investigation units, or assign specially trained officers to child abuse

investigations, to coordinate child abuse investigations, and to develop joint law enforcement and child welfare services teams for child abuse investigations.

Approximately 30 letters of response were received from sheriffs and police chiefs. Most of the responses support the Commission's recommendations and indicate that sheriffs' and police departments throughout California have already implemented many of the recommendations.

There were, however, a few letters from small sheriffs' and police departments expressing their support for the recommendations, but citing lack of resources required to implement the recommendations.

- **COLLEGES AND UNIVERSITIES.** I also sent a letter to all presidents and chancellors of California's state colleges and universities, and selected private colleges and universities, requesting them to include child abuse education and prevention training for appropriate professionals during their formal education, and to encourage the appropriate departments of their institutions to consider the Commission's research and data collection recommendations.

Fifteen letters of response were received from presidents and chancellors of California state universities and colleges and private universities. The letters are supportive and agree that many of the Commission's recommendations demand the attention of higher education.

Finally, the Crime Prevention Center of the Attorney General's Office has produced publications and multimedia presentations aimed at prevention and identification of child abuse.

Multimedia:

- A public service announcement (PSA) campaign was targeted to children. The PSA entitled "Tell Someone" stars Ricky Schroder of the "Silver Spoons" television series. This PSA has received extensive free play on radio and television and in movie theatres, and has resulted in children coming forward in self-identification. This PSA won the Sacramento Advertising Club Public Service Advertising Campaign's Silver Award for excellence in creative, effective advertising and is the most widely played public service announcement in the history of California state government.
- A training film for mandated reporters entitled "It Shouldn't Hurt to Be a Kid!" The film also stars Ricky Schroder as well as John Houseman of "Silver Spoons." This film received the second place award at the Industrial Photography National Film Contest sponsored by Eastman Kodak and Industrial Photography Magazine.

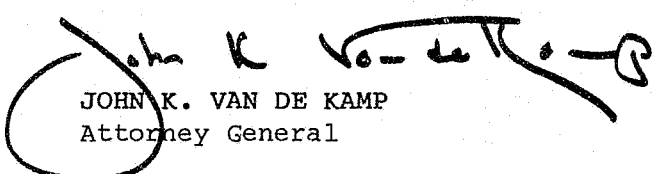
Publications:

- *Child Abuse Prevention Handbook* (August 1985) which is available for mandated reporters and community groups.

. *Child Abuse: The Educator's Responsibilities*, (January 1986) which is available for school personnel.

I am quite pleased with the response we have received from California's Congressional Delegation, the Governor, the Legislature, state departments, professional organizations and community groups to our call for action on this critical issue. But these are only the first steps, and I intend to continue my efforts to prevent child abuse.

Our children are too important to be anything less than our first priority.



JOHN K. VAN DE KAMP
Attorney General

II. DETAILED IMPLEMENTATION STATUS REPORT - ONE YEAR LATER

DETAILED IMPLEMENTATION STATUS REPORT

ONE YEAR LATER

This section of Attorney General John K. Van de Kamp's Commission on the Enforcement of Child Abuse Laws - One Year Later Status Report contains a detailed report for each of the 85 Commission recommendations on the activities taken or planned to implement the recommendations and the status of those activities.

The recommendations are presented using the same categories and numbering system contained in the Commission's Final Report, which divides the recommendations into six categories:

- A. Reporting
- B. Investigation
- C. Prosecution
- D. Day Care Licensing
- E. Prevention
- F. Data Collection and Research

A. REPORTING RECOMMENDATIONS

II.A.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL PROPOSE FEDERAL LEGISLATION TO CHANGE FEDERAL DRUG ABUSE CONFIDENTIALITY STATUTES TO ALLOW THE REPORTING OF CHILD ABUSE AS REQUIRED BY STATE LAW.

Implementation Status

At the request of Attorney General John Van de Kamp, Senator Alan Cranston introduced S. 1320, which contained provisions addressing this and other Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at the request of the Attorney General, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston, introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. HR 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Amend Section 523 of the Public Health Service Act to clarify that the provisions requiring confidentiality of patient records for participants in federally assisted alcohol and drug abuse treatment programs do not supersede state reporting requirements that require reporting of all incidences of child abuse, neglect and molestation.

The Children's Justice Act passed out of the Senate. On December 11, 1985, interim hearings were held before the Select Subcommittee on Education of the House Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Action on the Children's Justice Act is expected by the Education and Labor Committee with the concurrence of the Judiciary Committee early this year.

(See Appendix A for a copy of S. 140.)

II.A.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ALLOWING THE STATE DEPARTMENT OF SOCIAL SERVICES ACCESS TO THE DEPARTMENT OF JUSTICE CHILD ABUSE CENTRAL REGISTRY.

Implementation Status

The Department of Justice sponsored AB 2013 by Assemblymember Lloyd Connelly. AB 2013 contained provisions to allow the State Department of Social Services (DSS) access to the Department of Justice (DOJ) Child Abuse Central Registry. Assemblymember Connelly incorporated the provisions of his bill into and became principal coauthor of AB 505, a bill authored by Assemblymember Bill Leonard, which also provides DSS access to the DOJ Child Abuse Central Registry.

Reporting Recommendations

Specifically, AB 505 in part:

- . Requires the State Department of Social Services, prior to granting a license to any individual to care for children, to check with the Department of Justice Child Abuse Central Registry and to investigate reports of child abuse received from the Department of Justice. Denial of a license on the basis of those reports would not be authorized unless child abuse is substantiated. (Health & Saf. Code, §§ 1522.1 and 1596.887.)

AB 505 was enacted into law as Chapter 1598, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 505.)

II.A.3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO CHANGE THE CHILD ABUSE REPORTING LAW TO REQUIRE MANDATED REPORTERS TO DISCUSS THEIR REPORTS WITH CHILD PROTECTIVE AGENCY INVESTIGATORS.

Implementation Status

The Department of Justice Legislative Committee decided against sponsoring this legislation at this time. It was noted that legislation to this effect, which would also have required sharing information obtained subsequent to the initial report, sponsored by the Department of Justice in the 1983 legislative session, was unsuccessful after encountering strong opposition from professional organizations which were concerned about expanding exceptions to the physician-patient and psychotherapist-patient privilege beyond the basic requirement to report suspected child abuse.

II.B.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO SPECIFY THAT WILLFUL INTERFERENCE BY SUPERVISORS OR ADMINISTRATORS WITH REPORTS BY MANDATED REPORTERS IS A MISDEMEANOR.

Implementation Status

The Department of Justice sponsored AB 2013 by Assemblymember Lloyd Connelly. AB 2013 contained provisions to specify that willful interference by supervisors or administrators with reports by mandated reporters is a misdemeanor. Assemblymember Connelly incorporated the provisions of his bill into and became principal coauthor of AB 505, a bill authored by Assemblymember Bill Leonard.

Specifically, AB 505 in part:

- . Makes it a misdemeanor to violate the provisions of the Child Abuse Reporting Law, which prohibit a supervisor or administrator from impeding or inhibiting reporting by a mandated reporter, or from taking any actions against the reporter for making a report. (Pen. Code, § 11166.1.)

AB 505 was enacted into law as Chapter 1598, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 505.)

II.B.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT ALL APPROPRIATE STATE PROFESSIONAL LICENSING BOARDS DEVELOP DISCIPLINARY PROCEDURES FOR MANDATED REPORTERS WHO FAIL TO COMPLY WITH THE CHILD ABUSE REPORTING LAW.

Implementation Status

Attorney General Van de Kamp sent a letter to the following state professional licensing boards and committees encouraging them to develop disciplinary procedures for mandated reporters who fail to comply with the Child Abuse Reporting Law:

- . Board of Medical Quality Assurance
- . Board of Registered Nursing
- . State Board of Examiners of Nursing Home Administrators
- . Board of Optometry
- . Board of Dental Examiners of California
- . Board of Vocational Nurse and Psychiatric Technician Examiners
- . Board of Osteopathic Examiners of the State of California
- . State Board of Chiropractic Examiners
- . California State Board of Pharmacy
- . Board of Behavioral Science Examiners
- . Psychology Examining Committee
- . Physicians Assistant Examining Committee
- . Registered Dispensing Opticians Program
- . Podiatry Examining Committee
- . Speech Pathology and Audiology Examining Committee
- . Hearing Aid Dispensers Examining Committee
- . Physical Therapy Examining Committee
- . Acupuncture Examining Committee

On January 2, 1986, Attorney General Van de Kamp received a letter of response from Linda A. McCready, Program Manager, Division of Allied Health Professions, Board of Medical Quality Assurance, State Department of Consumer Affairs, proposing a comprehensive solution to my request. Ms. McCready stated in her letter that "since this recommendation pertains to a number of health professions regulated by the Department of Consumer Affairs, we are seeking an omnibus amendment of the Business and Professions Code." This omnibus amendment would establish that failure to report abuse be regarded as unprofessional conduct subject to disciplinary action.

The Department of Consumer Affairs expects to incorporate this omnibus amendment into clean-up legislation this year.

- II.C.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL TAKE APPROPRIATE ACTIONS TO ENSURE THAT MANDATED REPORTERS ARE TRAINED IN THEIR RESPONSIBILITIES, INCLUDING FORMAL REQUESTS TO APPROPRIATE STATE AGENCIES AND ORGANIZATIONS TO PROVIDE ADEQUATE TRAINING.*

Implementation Status

The Attorney General's Office produced a film directed toward mandated reporters which explains their obligations under the current Child Abuse Reporting Law. The film, "It Shouldn't Hurt To Be A Kid!," stars Ricky Schroder and John Houseman ("Silver Spoons").

This film is being loaned statewide for mandated reporter training sessions by the Attorney General's Office, the California Consortium of Child Abuse Councils, the Los Angeles Inter-Agency Council on Child Abuse and Neglect and the Bay Area Coalition of Child Abuse Councils. It is also being distributed nationwide by AIMS Media, Inc., of Van Nuys, California.

The Department of Justice is planning statewide training sessions on the child abuse reporting law for child protective agencies and mandated reporters in the fall of 1986.

The Department of Justice Crime Prevention Center, Criminal Division, and Child Abuse Central Registry unit have provided continuous statewide training and technical assistance on child abuse reporting.

- II.D.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR CLARIFYING LEGISLATION FOR THE CALIFORNIA CHILD ABUSE REPORTING LAW NECESSITATED BY RECENT STATUTORY CHANGES.*

Implementation Status

The Department of Justice sponsored AB 2013 by Assemblymember Lloyd Connelly. AB 2013 contained clarifying provisions for the Child Abuse Reporting Law necessitated by recent statutory changes. Assemblymember Connelly incorporated the provisions of his bill into and became principal coauthor of AB 505, a bill authored by Assemblymember Bill Leonard.

Specifically, AB 505 in part:

- . Clarifies that the definition of child care custodian in the Child Abuse Reporting Law includes licensees, administrators and employees of licensed child day care facilities. (Pen. Code, § 11165.6, subd. (b).)
- . Extends to commercial film and photographic print processors the same level of protection from liability and ability to recover attorney's fees as is provided to other mandated reporters. (Pen. Code, § 11172, subds. (a) and (c).)

Reporting Recommendations

- . Amends the definitions in Penal Code section 11166.5 to make them consistent with Penal Code section 11165.

AB 505 was enacted into law as Chapter 1598, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 505.)

B. INVESTIGATION RECOMMENDATIONS

- II.A.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SEEK CHANGES TO FEDERAL AND STATE LAWS TO REMOVE WELFARE/SOCIAL SERVICES CONFIDENTIALITY PROVISIONS WHICH INAPPROPRIATELY IMPEDE TIMELY AND EFFECTIVE CHILD ABUSE INVESTIGATIONS BY LAW ENFORCEMENT AND PROSECUTION AGENCIES.*

Implementation Status

Research into state and federal statutes indicates that California law enforcement and prosecution agencies can secure welfare/social service records with a search warrant or through a subpoena duces tecum. The Department of Justice decided against legislation eliminating the requirement for a search warrant or subpoena duces tecum.

- II.B.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ESTABLISH A MISSING AND EXPLOITED CHILDREN'S UNIT WITHIN THE DEPARTMENT OF JUSTICE TO COORDINATE MULTIJURISDICTIONAL INVESTIGATIONS AND TO PROVIDE TRAINING AND INVESTIGATIVE ASSISTANCE AND CONSULTATION TO LOCAL JURISDICTIONS.*

Implementation Status

In April 1985, the Attorney General directed Glenn Craig, Director of the Division of Law Enforcement, to develop a process for providing information and appropriate law enforcement assistance concerning missing and exploited children to local law enforcement agencies, especially on multijurisdictional cases. The Department of Justice Division of Law Enforcement has formed a committee, led by the Bureau of Investigation and consisting of personnel from the Bureau of Organized Crime and Criminal Intelligence and Bureau of Criminal Statistics and Special Services, to develop a plan for the establishment of a unit that will provide a coordinated and rapid response to local agency requests for assistance that involve two or more bureaus.

The Department of Justice also supported AB 606 by Assemblymember Gray Davis.

AB 606 would enact the Missing Children's Act of 1986 to:

- . Require the Department of Justice to compile a missing children's registry and to distribute a missing children's bulletin on a monthly basis to local law enforcement agencies throughout the state.
- . Create and appropriate the Missing Children's Reward Fund to make awards.
- . Require the State Board of Control to establish a claim and reward procedure for persons providing information leading to the location of missing children listed in the registry. The Department of

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Justice would be required to make recommendations for awards not exceeding \$500 per person if nonstate funds have also been offered as a reward.

- . Require the Department of Justice to operate a statewide toll-free hotline to give and relay information on missing children and produce posters with photographs of missing children and make these available.
- . Require the posting of information regarding missing children in public primary and secondary schools.
- . Require the posting of information regarding missing children in public areas of state-owned or leased buildings.
- . Require that when a pupil transfers from one school to another, a school official shall check to see if that pupil resembles one listed as missing by certain bulletins.
- . Increase criminal penalties for individuals who kidnap persons under 14 years of age.

AB 606 is currently in Conference Committee.

II.B.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH RESPONSE CRITERIA FOR REPORTS OF MISSING CHILDREN. THE CRITERIA SHOULD INCLUDE: (A) IMMEDIATE AND APPROPRIATE RESPONSE; (B) IMMEDIATE ENTRY OF THE REPORT IN THE NATIONAL CRIME INFORMATION CENTER (NCIC) MISSING PERSONS FILE; AND (C) A REQUIREMENT TO SUBMIT A COPY OF THE REPORT TO THE JURISDICTION IN WHICH THE CHILD RESIDES.*

Implementation Status

The Department of Justice supported SB 391 by Senator Robert Presley.

SB 391:

- . Requires that missing person reports, including reports of runaways:
 - be accepted by local police and sheriffs' departments without delay;
 - be transmitted to other departments having jurisdiction over the residence of the missing person and the place where the person was last seen; and
 - be transmitted to other governmental authorities. (Pen. Code, § 11114.)

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- . Requires that the local police or sheriff's department transmit missing person reports for persons under 12 years of age to the National Crime Information Center Missing Person System within four hours after accepting the report. (Pen. Code, § 11114.)
- . Authorizes the police or sheriff's department having jurisdiction of the place in which the person reported missing was last seen to initiate the investigation into the location of the missing person. (Pen. Code, § 11114.)
- . Requires the Department of Justice to conduct a study to determine if the establishment of time limitations for forwarding reports of missing minors by local agencies to state and federal authorities would expedite the location of or enhance the probability of locating those minors, and to report its finding to the Legislature no later than July 1, 1987. (Pen. Code, § 11114.)

SB 391 was enacted into law as Chapter 1111, Statutes of 1985, effective January 1, 1986.

- II.B.3. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING (POST) DEVELOP STANDARDIZED PROTOCOLS FOR LOCAL LAW ENFORCEMENT AGENCIES ON THE INVESTIGATION OF CHILD PHYSICAL ABUSE, SEXUAL ABUSE, AND NEGLECT.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to POST Chairman Robert L. Vernon, with a copy to all POST commissioners, requesting that POST take appropriate actions to develop standardized protocols for local law enforcement agencies on the investigation of child physical abuse, sexual abuse and neglect.

In December 1985, POST appointed a Child Abuse Advisory Committee - and hired a full-time consultant - to review and update all basic academy and advanced officer training, and investigative guidelines and curriculum performance objectives, for the investigation of child physical abuse and neglect and child sexual abuse and exploitation.

The committee is expected to complete its work in May 1986.

- II.B.4. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LOCAL LAW ENFORCEMENT AGENCIES TO ESTABLISH SPECIALIZED UNITS OR ASSIGN SPECIALLY TRAINED OFFICERS TO THE INVESTIGATION OF CHILD ABUSE.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to each sheriff and chief of police encouraging them to establish specialized units or designate specially trained officers or deputies to investigate suspected cases of child abuse.

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The Attorney General received approximately 30 letters of response from sheriffs and police chiefs in California. Most of the responses support this recommendation and indicate that sheriffs' and police departments throughout California have already established specialized units to investigate cases of child abuse.

There were, however, a few letters from small sheriffs' and police departments expressing their support of the recommendation, but citing lack of resources required to implement the recommendation.

- II.B.5. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LOCAL LAW ENFORCEMENT AGENCIES TO BOTH COORDINATE CHILD ABUSE INVESTIGATIONS AND PARTICIPATE ON INTERAGENCY COORDINATION COUNCILS.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to each sheriff and chief of police encouraging them to coordinate child abuse investigations and to participate on interagency coordination councils.

The Attorney General received approximately 30 letters of response from sheriffs and police chiefs in California. Most of the letters support this recommendation and indicate that sheriffs' and police departments throughout California are cooperating with other agencies and child abuse councils for the prevention, identification and treatment of child abuse.

- II.C.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING UPDATE AND EXPAND THE CHILD ABUSE TRAINING UNIT IN THE BASIC ACADEMY COURSE FOR NEW OFFICERS. THE BASIC TRAINING SHOULD BE DIRECTED TOWARD DETECTION, INVESTIGATION, AND REPORTING. BASIC TRAINING SHOULD BE SUPPLEMENTED BY ADVANCED OFFICER TRAINING AND SPECIAL COURSES.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to POST Chairman Robert L. Vernon, with a copy to all POST Commissioners, requesting that POST update and expand the child abuse training unit in the basic academy course for new officers.

In December 1985, POST appointed a Child Abuse Advisory Committee - and hired a full-time consultant - to review and update all basic academy and advanced officer training, and investigative guidelines and curriculum performance objectives, for the investigation of child physical abuse and neglect and child sexual abuse and exploitation.

The committee is expected to complete its work in May 1986.

- II.C.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING PERIODICALLY UPDATE ITS CHILD ABUSE TRAINING MATERIALS, INCLUDING "INVESTIGATION OF CHILD ABUSE AND NEGLECT" AND "GUIDELINES FOR THE INVESTIGATION OF SEXUAL EXPLOITATION AND SEXUAL ABUSE OF CHILDREN."*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to POST Chairman Robert L. Vernon, with a copy to all POST commissioners, requesting that POST periodically update its child abuse training materials, including "Investigation of Child Abuse and Neglect" and "Guidelines for the Investigation of Sexual Exploitation and Sexual Abuse of Children."

In December 1985, POST appointed a Child Abuse Advisory Committee - and hired a full-time consultant - to review and update all basic academy and advanced officer training, and investigative guidelines and curriculum performance objectives, for the investigation of child physical abuse and neglect and child sexual abuse and exploitation.

The committee is expected to complete its work in May 1986.

- II.C.3. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO MAKE THE TRAINING REQUIREMENTS IN PENAL CODE SECTION 13517 MANDATORY FOR OFFICERS ASSIGNED AS INVESTIGATIVE SPECIALISTS IN CHILD ABUSE AND NEGLECT CASES.*

Implementation Status

The Department of Justice Legislative Committee decided against sponsoring this legislation at this time based upon concerns that this would be a major cost item which would shift costs to the state and that such a mandate might discourage local law enforcement agencies from designating investigators as specialists to avoid the requirement for training.

- II.C.4. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING ENSURE COMPLIANCE WITH MANDATORY TRAINING REQUIREMENTS IN PENAL CODE SECTION 13516 FOR OFFICERS ASSIGNED AS INVESTIGATIVE SPECIALISTS IN SEXUAL ASSAULT AND EXPLOITATION CASES.*

Implementation Status

At the request of the Attorney General, the Commission on Peace Officer Standards and Training (POST) has agreed to send a letter to all law enforcement agencies in California reminding them of Penal Code section 13516 training requirements for officers assigned as investigative specialists in sexual assault and exploitation cases. The letter, which will be sent out in September 1986, will accompany

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the revised investigative guidelines for the investigation of child physical abuse and neglect and child sexual abuse and exploitation, which will be sent by POST to all state law enforcement agencies.

- II.D.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT APPROPRIATE STATE AGENCIES AND PROFESSIONAL MEDICAL ORGANIZATIONS WORK WITH THE OFFICE OF CRIMINAL JUSTICE PLANNING IN THE PLANNING, DEVELOPMENT AND IMPLEMENTATION OF A STATEWIDE STANDARDIZED PROCEDURE FOR USE BY HEALTH PROVIDERS IN CASES OF SUSPECTED CHILD ABUSE.*

Implementation Status

The Office of Criminal Justice Planning (OCJP) was directed by legislation (AB 3172, Chapter 1115, Statutes of 1982; SB 892, Chapter 812, Statutes of 1985) to develop a statewide medical protocol to standardize the examination, collection, and preservation of evidence from sexual assault victims, including victims of child molestation.

The protocol contains step-by-step procedures on how to conduct a forensic medical examination for sexual assault victims, information on psychological reactions, and appropriate ways of approaching and reassuring patients. The protocol corresponds to the new standardized form for recording examination results and takes the medical practitioner through each step of the examination.

Implementation of the protocol will facilitate standard evidence collection and preservation and increase effectiveness of the prosecution of sexual assault cases.

The protocol will be available from OCJP no later than July 1986.

- II.D.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE STATE DEPARTMENT OF HEALTH SERVICES DEVELOP A STANDARD MINIMUM REQUIREMENT FOR CHILD ABUSE SERVICES FOR ALL LICENSED HOSPITALS AND CLINICS WITH ACTIVE PEDIATRIC SERVICES, WHICH SHOULD INCLUDE A DESIGNATED TEAM, STANDARDIZED PROTOCOLS, AND AN INTERNAL AND EXTERNAL AUDIT OF THE RESPONSE OF THAT TEAM.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Dr. Kenneth W. Kizer, Director of the State Department of Health Services (DHS), requesting that DHS develop a standard minimum requirement for child abuse services for all licensed hospitals and clinics with active pediatric services.

In his response, Dr. Kizer agreed with the Commission's conclusion "that child abuse services are a necessary component of any medical service with a child population," however, he stated that "neither the general acute care hospital licensing regulations or the primary care licensing regulations address the management of child abuse in

health facilities other than the reporting of such cases." Dr. Kizer added, "I believe there is a need for further clarification to address this issue in the regulations."

On January 14, 1986, the Department of Health Services, Licensing and Certification Division, invited representatives from the Attorney General's Office; the Department of Health Services, Maternal and Child Health Branch; the Department of Social Services, Community Care Licensing Division; and the Department of Developmental Services, to meet and discuss the Commission's recommendations as they pertain to the Department of Health Services. The purpose of the meeting was to clearly define each department's role, responsibilities and common areas of overlap prior to amending the licensing regulations.

II.D.3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL EXPLORE MEANS TO STANDARDIZE AND FUND MEDICAL EVIDENTIARY EXAMINATIONS IN CHILD ABUSE CASES.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Clarence S. Avery, M.D., President of the California Medical Association (CMA), encouraging CMA to join with him in actively pursuing means to standardize and fund medical evidentiary examinations in child abuse cases.

In response, CMA is working with the Attorney General's Office and with the Office of Criminal Justice Planning (OCJP) to address this issue. OCJP is planning to schedule a meeting in the spring of 1986 which will include representatives from the Attorney General's Office, California Medical Association, California Peace Officers' Association, League of Cities, County Supervisors Association of California, Department of Health Services, and other appropriate agencies and associations, to discuss the issue of medical reimbursement for sexual assault medical and evidence collection examinations.

II.D.4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE STATE CORONERS' ASSOCIATION DEVELOP UNIFORM STANDARDS FOR THE REVIEW OF ALL CHILD DEATH CASES.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the State Coroners' Association, encouraging the Association to consider action to implement the Commission's recommendation to develop uniform standards for the review of all child death cases.

Mr. James D. Beisner, President of the State Coroners' Association, informed the Attorney General's Office that on March 17, 1985, the State Coroners' Association had met with the Los Angeles County

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Inter-Agency Council on Child Abuse and Neglect (ICAN) Child Death Case Review Committee to discuss the development of a statewide protocol for the review of all child death cases.

- II.E.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO SPECIFY THAT PROTECTION OF THE CHILD IS THE FIRST PRIORITY OF WELFARE & INSTITUTIONS CODE SECTION 315 DETENTION HEARINGS, AND THAT A CHILD SHOULD NOT BE IMMEDIATELY RETURNED TO HIS OR HER CUSTODIAL PARENT OR GUARDIAN WHEN THE EVIDENCE SHOWS SEXUAL ABUSE OR SEVERE PHYSICAL ABUSE BY THAT PARENT OR GUARDIAN.*

Implementation Status

Senator Robert Presley introduced SB 1195 in the 1985 legislative session and amended the bill to incorporate this recommendation.

SB 1195 would make various changes in SB 14 (Presley, Chapter 978, Statutes of 1982) which provides guidelines for services to abused and neglected children and their families. The changes would ensure additional protection for abused or neglected children without changing the basic intent of SB 14, which is to maintain the family unit when it is safe to do so. It would tighten restrictions on continuances of court hearings in child abuse and neglect cases, thereby meeting the child's need to have his or her situation resolved as quickly as possible. The bill would also provide new grounds for terminating parental rights, and would consolidate duplicative juvenile and civil court proceedings.

The Department of Justice is supporting SB 1195 by Senator Presley.

SB 1195 is currently in the Assembly.

- II.E.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT STATE DEPARTMENT OF SOCIAL SERVICES AND COUNTY WELFARE DIRECTOR ASSOCIATION EFFORTS TO DEVELOP CASELOAD STANDARDS AND GUIDELINES FOR THE INVESTIGATION AND MANAGEMENT OF CHILD ABUSE CASES.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent letters to Ms. Linda McMahon, Director of the State Department of Social Services, Mr. Donald E. Curry, President of the County Welfare Directors Association, and to each county welfare department director, in support of their efforts to develop caseload standards and guidelines for the investigation and management of child abuse cases.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"The Department's regulations, Manual of Policy and Procedures Divisions 30 and 10, contain practice guidelines for assessing and

managing Child Welfare Services (CWS) cases; however, the Department has established no mandatory caseload standards. The Department, for estimating and budgeting purposes, uses caseload standards based on actual staffing and workload data to determine the statewide CWS budget for each fiscal year. The CWS funds are then allocated to counties based on actual staffing and workload data to determine the statewide CWS budget for each fiscal year. The CWS funds are then allocated to counties based on each county's percent to total of actual caseload and population counts with consideration given to average social worker salary in each county. The local county welfare department then has discretion to establish caseload standards utilizing funds in their allocation or choose to supplement these funds with additional county dollars."

On November 15, 1985, the Attorney General received a letter of response from Mr. Curry, who responded to this recommendation by stating in his letter:

"[T]he Association was pleased to learn of the Commission's support for our efforts to develop caseload standards and a caseload driven allocation methodology for Child Welfare Services funds (Recommendation II.E.2). The Association's SB 14 Task Force will continue to monitor child protection activities required under California's reporting and services laws and regulations so that caseload standards reflect law and regulation changes which occur over time."

II.E.3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL TAKE NECESSARY STEPS FOR THE DEVELOPMENT OF APPROPRIATE TRAINING IN THE LEGAL ASPECTS OF PROCESSING CHILD ABUSE CASES IN BOTH THE DEPENDENCY AND CRIMINAL SYSTEMS FOR ALL CHILD WELFARE SERVICES WORKERS IN THE PUBLIC SOCIAL SERVICES SYSTEMS.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the State Department of Social Services, Mr. Donald E. Curry, President of the County Welfare Directors Association, and to each county welfare department director, encouraging them to provide training in the legal aspects of processing child abuse cases in both the dependency and criminal systems for all child welfare services workers in the public social services systems.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"The role and authority of DSS is restricted to delivery of social services. Training in the legal aspects of processing child abuse cases should more appropriately be done by the Attorney General with assistance from local public defenders or District Attorneys."

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On November 15, 1985, the Attorney General received a letter of response from Mr. Curry, who responded to this recommendation by stating in his letter:

"[T]he Association supports the Commission's recommendation that appropriate training should be developed for child welfare service workers regarding the legal aspects of the juvenile court system (Recommendation II.E.3). You will be pleased to know that much of that training is in process and many counties are involving the entire county counsel/juvenile court/children's advocate spectrum in the training sessions. However, we have not yet reached the level of sophistication to impose training requirements as a prerequisite to assignment in child welfare services. A number of counties have experienced recruitment problems for the filling of new child welfare services positions and have been forced to bring in less trained workers and provide employee training over time. We would appreciate your assistance to develop improved training resources for the child welfare services program and would be pleased to work jointly to achieve this goal."

- II.E.4. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL RECOMMEND THAT THE STATE DEPARTMENT OF SOCIAL SERVICES WORK WITH THE COUNTY WELFARE DIRECTORS TO MAKE EVERY EFFORT TO ESTABLISH CASE MANAGEMENT SYSTEMS IN WHICH FAMILIES RECEIVING CHILD WELFARE SERVICES ARE ASSIGNED, AT MOST, ONE INVESTIGATOR AND ONE CHILD WELFARE SERVICES WORKER.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent letters to Ms. Linda McMahon, Director of the State Department of Social Services, Mr. Donald E. Curry, President of the County Welfare Directors Association, and to each county welfare department director, encouraging them to make every effort to establish case management systems in which families receiving child welfare services are assigned, at most, one investigator and one child welfare services worker.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"We concur with the intent of this recommendation, and agree that the best interest of the child and family would be served if during the early, traumatic period of service intervention the family saw only one or two workers. However, the assignment and management of workload is a local probation or county welfare department prerogative. As a matter of policy, the Department does not prescribe workload management practices to local agencies."

On November 15, 1985, the Attorney General received a letter of response from Mr. Curry, who responded to this recommendation by stating in his letter:

"[W]ork is under way in many counties to minimize the number of social workers assigned to a case from intake to closure (Recommendation II.E.4). Several counties are exploring alternative approaches to limit the number of case workers with whom a child must relate."

II.E.5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEVELOPMENT OF JOINT LAW ENFORCEMENT AND CHILD WELFARE SERVICES TEAMS FOR THE INVESTIGATION OF CHILD ABUSE REPORTS.

Implementation Status

In September 1985, Attorney General Van de Kamp sent letters to each sheriff and chief of police, and to each county welfare department director, encouraging them to develop joint law enforcement and child welfare services teams for the investigation of child abuse reports.

On November 15, 1985, the Attorney General received a letter of response from Donald E. Curry, President of the County Welfare Directors Association. Mr. Curry responded to this recommendation by stating in his letter:

"[T]he Association supports the Commission's recommendation that joint child welfare/law enforcement investigation teams should be formed to enhance the coordinated effort needed to obtain thorough and comprehensive court reports (Recommendation II.E.5). Several counties are currently attempting to develop such a team effort. Unfortunately, funding has become a problem for some counties in this area."

The Attorney General received approximately 30 letters of response from sheriffs and police chiefs in California. Most of the letters support this recommendation and indicate that sheriffs' and police departments throughout California are, when practical, utilizing a team approach to child abuse intervention and assuring that emotional and other "support" needs are attended to in addition to investigating the allegation of child abuse.

C. PROSECUTION RECOMMENDATIONS

II.A.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO PROVIDE FOR THE MODIFICATION OF COURTROOMS TO ACCOMMODATE CHILD VICTIMS.

Implementation Status

The Department of Justice supported SB 301 by Senator Bill Lockyer. Earlier versions of SB 301 would have required the Office of Criminal Justice Planning to administer a matching fund grant program for assistance to certain counties in the renovation of existing courtrooms to accommodate alleged child abuse or molestation victims. These provisions were amended out of SB 301.

SB 301 was enacted into law as Chapter 1172, Statutes of 1985, effective January 1, 1986.

In the 1986 legislative session, the Department of Justice is sponsoring SB 2530 by Senator Nicholas Petris.

SB 2530 would enact the California Child Victim Witness Protection Act, which:

- . Would establish a Child Victim Witness Judicial Advisory Committee to study legal and judicial practices and procedures as they pertain to child victims and witnesses, with particular attention given to victims of intrafamilial child abuse and the coordination of related criminal and civil proceedings.
- . Would require the advisory committee to report its findings and recommendations to the Judicial Council, the Legislature, the Governor and the Attorney General no later than October 1, 1988. The report would include, but not be limited to, the following:
 - (a) Recommendations for minimizing or reducing unnecessary repetitive interviews and court appearances.
 - (b) Recommendations for improving legal and judicial practices and procedures including, but not limited to, the following:
 - (1) The management of child victims and witnesses in all criminal and civil judicial proceedings.
 - (2) Coordination of related criminal and civil proceedings, in particular dependency proceedings, and custody, termination of parental rights, guardianship and adoption proceedings.
 - (3) Coordination of judicial and investigative processes, including law enforcement and child welfare services investigations.
 - (c) Recommendations for the design and operation of the Child Victim Witness Court Pilot Project, to be established in later

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enacted legislation, to determine the most effective methods for implementing the advisory committee's findings.

SB 2530 also requires the advisory committee to examine appropriate modification of court facilities in making its recommendations.

(See Appendix B for copy of SB 2530.)

II.B.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ENCOURAGING AND PROVIDING FUNDING FOR VERTICAL PROSECUTION UNITS IN DISTRICT ATTORNEYS' OFFICES FOR CHILD ABUSE CASES.

Implementation Status

The Department of Justice supported AB 33 by Assemblymember Sunny Mojonnier.

AB 33:

- . Establishes in the Office of Criminal Justice Planning (OCJP) a child sexual assault vertical prosecution financial and technical assistance program, designated the Child Abuser Prosecution Program, for district attorneys' offices, and requires OCJP to establish guidelines for the provision of grant awards to proposed and existing programs. The Governor included \$1,472,000 in the fiscal year 1985-1986 budget for this program. (Pen. Code, §§ 999q-999y.)

AB 33 was enacted into law as Chapter 1097, Statutes of 1985, effective January 1, 1986.

II.B.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH THAT THE DOCTRINES OF COLLATERAL ESTOPPEL AND RES JUDICATA SHALL NOT APPLY IN A CRIMINAL PROCEEDING IN THE EVENT OF AN ADVERSE RULING IN A JUVENILE COURT DEPENDENCY PROCEEDING.

Implementation Status

The Department of Justice sponsored AB 1502 by Assemblymember Gloria Molina. AB 1502 incorporated the collateral estoppel provisions. The collateral estoppel provisions were amended out in the Assembly Judiciary Subcommittee on the Administration of Justice.

AB 1502 was enacted into law as Chapter 884, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 1502.)

- II.B.3. **THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO REQUIRE THE COURTS TO REFER ANY ALLEGATION OF CHILD ABUSE ARISING IN A FAMILY LAW PROCEEDING TO THE COUNTY WELFARE DEPARTMENT FOR AN ASSESSMENT AND A REPORT BACK TO THE COURT.**

Implementation Status

The Department of Justice Legislative Committee decided against sponsoring legislation mandating the courts to refer all allegations of child abuse arising in a family law proceeding to the county welfare department for an assessment. The Committee concluded that judges should retain their discretionary powers to rule on the merits of the allegations and to determine whether further action is warranted.

- II.B.4. **THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO AMEND EVIDENCE CODE SECTION 765, TO ADD SUBSECTIONS WHICH (A) PLACE REASONABLE LIMITATIONS WITHIN CONSTITUTIONAL LIMITS ON REPETITIVE QUESTIONS ASKED OF CHILD WITNESSES IN CASES INVOLVING MULTIPLE DEFENDANTS, AND (B) PROVIDE EXPLICIT JUDICIAL AUTHORITY TO CONTROL THE METHOD OF EXAMINATION OF CHILD WITNESSES.**

Implementation Status

The Department of Justice sponsored AB 1502 by Assemblymember Gloria Molina.

AB 1502 in part:

- . Requires a court to take special care with a witness under the age of 14 in order to protect him or her from undue harassment or embarrassment, and to restrict the unnecessary repetition of questions. (Evid. Code, § 765.)

AB 1502 was enacted into law as Chapter 884, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 1502.)

The Department of Justice also supported AB 32 by Assemblymember Sunny Mojonnier.

AB 32:

- . Requires the court to take special precautions to lessen the trauma of the trial process for child witnesses who are under 11 years of age, including but not limited to, that of foregoing the wearing of judicial robes. (Pen. Code, § 868.8.)

AB 32 was enacted into law as Chapter 1174, Statutes of 1985, effective January 1, 1986.

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- II.B.5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH SPECIAL RULES FOR DETERMINING THE COMPETENCY OF CHILD WITNESSES.**

Implementation Status

The Department of Justice sponsored AB 1502 by Assemblymember Gloria Molina.

AB 1502 in part:

- . Clarifies that the presumption of competency is "irrespective of age." (Evid. Code, § 700.)
- . Provides that the court may reserve challenges to the competency of a witness until the conclusion of direct examination of the witness. (Evid. Code, § 701, subd. (b).)

AB 1502 was enacted into law as Chapter 884, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 1502.)

- II.B.6. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ALLOW A PRELIMINARY HEARING TO BE POSTPONED, FOR A REASONABLE TIME WHERE NECESSARY, WHEN A YOUNG CHILD VICTIM OR WITNESS IS TESTIFYING.**

Implementation Status

The Department of Justice supported AB 31 by Assemblymember Sunny Mojonnier.

AB 31:

- . Authorizes a magistrate to postpone (i.e., extend) a preliminary examination to accommodate the special physical, mental, or emotional needs of a child witness who is 10 years of age or younger. (Pen. Code, § 861.5.)

AB 31 was enacted into law as Chapter 308, Statutes of 1985, effective January 1, 1986.

- II.B.7. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO EXPAND HEARSAY EXCEPTIONS, WITH APPROPRIATE SAFEGUARDS, AND PERMIT THE ADMISSIBILITY OF OUT-OF-COURT STATEMENTS OF YOUNG CHILD ABUSE VICTIMS.**

Implementation Status

In the 1985 legislative session, the Department of Justice Legislative Committee decided to oppose AB 34 by Assemblymember Sunny Mojonnier. AB 34 would have expanded hearsay exceptions to permit

the admissibility of out-of-court statements of child abuse victims under specified conditions. The Committee concluded that AB 34, as drafted, would permit the introduction of unreliable evidence.

AB 34 died in the Assembly Committee on Public Safety.

- II.B.8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION PERMITTING THE USE OF CONTEMPORANEOUS CLOSED-CIRCUIT TELEVISION, UNDER CERTAIN CIRCUMSTANCES, FOR TESTIMONY PROVIDED BY YOUNG CHILD ABUSE VICTIMS IN COURT.**

Implementation Status

The Department of Justice Criminal Division actively supported and assisted in negotiations that helped secure the passage of SB 46 (Chapter 43, Statutes of 1985) by Senator Art Torres.

SB 46:

- . Allows the court in any criminal proceeding, upon motion, to order the testimony of a minor 10 years of age or younger involving an alleged sexual offense to be taken by contemporaneous examination and cross-examination in another place and communicated to the courtroom by means of two-way, closed-circuit television under certain conditions. (Pen. Code, § 1347.)

SB 46 was enacted into law as Chapter 43, Statutes of 1985, effective May 20, 1985.

- II.B.9. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION WHICH WOULD PERMIT A CHILD VICTIM TO SELECT ANY SUPPORT PERSON OF HIS OR HER CHOICE TO BE PRESENT AT ALL TIMES DURING ANY COURT PROCEEDINGS.**

Implementation Status

The Department of Justice supported AB 30 by Assemblymember William Filante. The original version of AB 30 would have provided that a prosecution witness 16 years of age or under, in certain sexually related cases or a case involving cruelty to children or molesting or annoying children, would be entitled to the attendance of a person or persons of his or her own choosing.

AB 30, as amended in the Assembly:

- . Allows the witness to choose up to two family members for support and to have one of those support persons accompany him or her to the witness stand. (Pen. Code, § 868.5.)

AB 30 was enacted into law as Chapter 467, Statutes of 1985, effective January 1, 1986.

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Due to the restrictive aspects of the AB 30 amendment, Assemblymember Sunny Mojonner introduced AB 2978 during the 1986 legislative session.

AB 2978 would eliminate the requirement that these support persons be family members.

The Department of Justice is supporting AB 2978 by Assemblymember Mojonner.

- II.C.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN CONJUNCTION WITH THE CALIFORNIA DISTRICT ATTORNEYS ASSOCIATION, SPONSOR LEGISLATION REQUIRING THE DEVELOPMENT OF CURRICULA AND THE PROVISION OF ONGOING TRAINING FOR DISTRICT ATTORNEYS ON THE SUBJECT OF INTERVIEWING CHILD VICTIMS AND PROSECUTING CHILD ABUSE CASES.*

Implementation Status

Existing law provides for the ongoing training of district attorneys in the investigation and prosecution of child sexual abuse and sexual exploitation cases. (Pen. Code, § 13836.)

SB 757 by Senator Newton Russell:

- . Requires the Office of Criminal Justice Planning (OCJP) to reimburse each county for the costs of salaries and transportation to the extent necessary to permit up to 10 percent of the staff of the district attorney's office to complete the course of training in the investigation and prosecution of child sexual abuse and sexual exploitation cases. (Pen. Code, § 13836.2, subd. (a).)
- . Requires that the training be offered at least twice a year in both Northern and Southern California. (Pen. Code, § 13836.2, subd. (a).)
- . Requires OCJP to seek State Bar certification of the course as a course which may be taken to complete the Criminal Law Specialist Certificate. (Pen. Code, § 13836.2, subd. (b).)

SB 757 was enacted into law as Chapter 1262, Statutes of 1985, effective January 1, 1986.

- II.C.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN CONJUNCTION WITH THE CALIFORNIA JUDGES' COLLEGE AND THE JUDICIAL COUNCIL, SPONSOR LEGISLATION TO DEVELOP CURRICULA AND PROVIDE ONGOING TRAINING FOR JUDGES IN THE COURT ADMINISTRATION AND MANAGEMENT OF CHILD ABUSE CASES.

Implementation Status

The Department of Justice supported SB 301 by Senator Bill Lockyer.

SB 301 in part:

- . Appropriated \$160,000 to the Judicial Council for the necessary expenses involved in the implementation, no later than June 30, 1987, of the inclusion within the judicial education program of a course of instruction regarding the appropriate handling of alleged child abuse victims and in providing continuing educational resources for judges with respect to alleged child abuse victims by tape or live programs, particularly for those judges who will be dealing with alleged child abuse victims. (Stats. 1985, ch. 1172, § 4.)

Governor Deukmejian deleted the appropriation stating:

"I have deleted the appropriation because the Center for Judicial Education and Research already offers training in handling child witnesses. Any additional training in handling of child abuse victims can be achieved within the framework of the existing budget. I fully support the remaining provisions of the bill."

SB 301, with the appropriation deleted, was enacted into law as Chapter 1172, Statutes of 1985, effective January 1, 1986.

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Rose Bird, Chief Justice of the California Supreme Court, and Chair of the Judicial Council, encouraging the Judicial Council to take appropriate action to provide for ongoing training of judges in the court administration and management of child abuse cases.

On October 18, 1985, the Attorney General received a letter of response from Chief Justice Bird, who stated in her letter:

"I appreciate your apprising me of those recommendations that relate specifically to the Judicial Council. It was kind of you to have done so. I have asked Ralph Gampell to bring your letter to the attention of the appropriate committees of the Council so that they may consider the Commission's proposals."

Prosecution Recommendations

On February 28, 1986, the Attorney General received a letter from Mr. Paul M. Li, Director of the Judicial Council's California Center for Judicial Education and Research (CJER). Mr. Li stated in his letter:

"SB 301 requires the Judicial Council: (a) to include in the judicial education program a course of instructions regarding the appropriate handling of alleged child abuse victims, to be implemented by June 30, 1987, and (b) to provide continuing educational resources for judges with respect to alleged child abuse victims by taped or live programs, particularly for judges who will be dealing with alleged child abuse victims. The Judicial Council has requested funding in its fiscal year 1986-87 budget to implement the provisions of SB 301.

"CJER's proposal to implement SB 301 would include the following components:

- "(a) Comprehensive presentations on handling child abuse cases at several CJER programs, particularly the annual Municipal and Justice Courts Institutes, Superior Court--Criminal Law and Procedure Institutes, and Superior Court--Juvenile Law and Procedure Institutes;
- "(b) Videotaped programs with accompanying written materials for the continuing education of judges who will be handling child abuse cases;
- "(c) Organization of local court educational programs, which would use the videotapes on handling child abuse cases and accompanying materials; and
- "(d) One or more 'how to' practice articles for judges on handling child abuse cases.

"These components should provide California trial judges with comprehensive instructions and information on handling all aspects of child abuse cases."

In addition, Assemblymember Norman Waters amended AB 1985 in the 1986 legislative session to:

- . Require the Judicial Council, from funds appropriated for that purpose, to establish and maintain a continual program to provide training for the judicial branch of government on the handling of child sexual abuse cases. The Legislature states its intent that funding for the training program shall be included in the Budget Act.

AB 1985 requires a report to the Legislature on or before January 1, 1988, on the program.

AB 1985 is currently in the Senate.

The Department of Justice is supporting AB 1985.

II.C.3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL PUBLISH A "KNOW YOUR CHILD ABUSE LAWS" PAMPHLET OR PUBLICATION FOR CRIMINAL JUSTICE PROFESSIONALS.

Implementation Status

The Department of Justice plans to:

- . Update the background sections of the *Final Report of Attorney General John K. Van de Kamp's Commission on the Enforcement of Child Abuse Laws*.
- . Include relevant information in the *California Peace Officers Legal Sourcebook*.

II.D.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION ESTABLISHING A STATUTORY SECOND-DEGREE MURDER RULE APPLICABLE TO CHILD ABUSE DEATHS.

Implementation Status

The Department of Justice sponsored SB 1101 by Senator Kenneth Maddy in the 1985 legislative session. SB 1101 would have established a second-degree felony murder rule for specific crimes, including felony child abuse. SB 1101 died in the Senate Judiciary Committee.

II.D.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION REQUIRING THE REGISTRATION OF CONVICTED ADOLESCENT SEX OFFENDERS.

Implementation Status

The Department of Justice supported SB 888 by Senator John Seymour.

SB 888:

- . Provides that the sex offender registration requirement in Penal Code section 290 is also applicable to a person discharged or paroled from the Youth Authority on or after January 1, 1986, who was adjudged a ward of the juvenile court on the basis of the commission of any of certain sexually related offenses. (Pen. Code, § 290, subd. (d).)
- . Provides that the registration requirement terminate upon the person's attainment of the age of 25, and for the destruction of the registration information as specified. (Pen. Code, § 290, subd. (d).)

SB 888 was enacted into law as Chapter 1474, Statutes of 1985, effective January 1, 1986.

Prosecution Recommendations

- II.E.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE JUDICIAL COUNCIL TO CONDUCT A SURVEY TO COLLECT INFORMATION FROM COURTS REGARDING EXISTING PRACTICES IN CHILD DEPENDENCY HEARINGS, INCLUDING: THE RESPONSIBLE AGENCY, LEVEL OF TRAINING OF ATTORNEYS, EXISTING PROTOCOLS FOR COORDINATION WITH THE PROSECUTORS OF CRIMINAL ACTIONS, USE OF REFEREES, COMMISSIONERS AND JUDGES, LEVEL OF TRAINING OF JUDICIAL PERSONNEL, ADEQUACY OF COURT FACILITIES, AND STANDARDS USED TO DETERMINE WHETHER OR NOT TO RETURN THE CHILD TO THE HOME.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Rose Bird, Chief Justice of the California Supreme Court, and Chair of the Judicial Council, encouraging the Judicial Council to conduct a survey to collect information from courts regarding existing practices in child dependency hearings.

On October 18, 1985, the Attorney General received a letter of response from Chief Justice Bird, who stated in her letter:

"I appreciate your apprising me of those recommendations that relate specifically to the Judicial Council. It was kind of you to have done so. I have asked Ralph Gampell to bring your letter to the attention of the appropriate committees of the Council so that they may consider the Commission's proposals."

D. DAY CARE LICENSING RECOMMENDATIONS

II.A.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CREATE A FORUM FOR REVIEWING THE CURRENT STATE OF CHILD CARE PRACTICES. ISSUES TO BE ADDRESSED INCLUDE:

- . CURRENT DATA ON CHILD CARE AVAILABILITY TO DETERMINE WHAT RESOURCES ARE NEEDED TO IMPROVE THE QUALITY OF CHILD CARE
- . CURRENT EFFORTS TO EXPAND THE AVAILABILITY OF CHILD CARE SERVICES TO MEET THE DEMAND
- . DETERMINATION OF THE NEED FOR AN OFFICE OF CHILD CARE AT THE STATE LEVEL TO SERVE AS A FOCAL POINT FOR ALL CHILD DAY CARE PROGRAM AND LICENSING ACTIVITIES
- . UPGRADING OF CHILD CARE TEACHER REQUIREMENTS AND COMPENSATION
- . THE VALUE OF DIVERSIFIED CHILD CARE SERVICES, INCLUDING CHILD CARE CENTERS AND PUBLIC SCHOOL PROGRAMS
- . THE COST AND FUNDING SOURCES FOR PROPOSALS ARISING FROM THE FORUM

Implementation Status

The Attorney General, in response to a written offer by the Child Development Programs Advisory Committee, the state level forum for child care issues, has agreed to work with the Committee and has designated the Crime Prevention Center as his liaison to the Committee.

The Attorney General's Crime Prevention Center and the Child Development Programs Advisory Committee are continuing to work together to review the current state of child care practices in California. The Advisory Committee has recently produced a publication entitled *The Role of Child Care in Child Abuse Prevention*.

II.B.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL DEVELOP STRATEGIES TO INCREASE PARENTAL AWARENESS OF AVAILABLE CHILD DAY CARE CHOICES AND LICENSING REQUIREMENTS IN COOPERATION WITH THE STATE DEPARTMENT OF EDUCATION, STATE DEPARTMENT OF SOCIAL SERVICES AND THE CALIFORNIA RESOURCE AND REFERRAL NETWORK.

Implementation Status

In September 1985, Attorney General Van de Kamp sent letters to the Honorable Bill Honig, State Superintendent of Public Instruction, Ms. Linda McMahon, Director of the State Department of Social Services, and Ms. Patty Siegel, Executive Director of the California Childcare Resource and Referral Network, encouraging them to join together to develop new strategies to increase parental awareness of available child care choices and licensing requirements.

Day Care Licensing Recommendations

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"In 1985, the Department of Social Services (DSS) in cooperation with the California Childcare Resource and Referral Network (R&R Network) conducted a series of parent awareness meetings. A video entitled, 'Child Care Choices,' was produced by the Governor's Advisory Committee in conjunction with DSS and the R&R Network in order to educate parents and enhance their awareness of available child care choices and licensing requirements. Three television Public Service Announcements (PSA's) were produced by DSS in 1985 and we are exploring production of others as part of a statewide public awareness campaign. Other parent awareness projects are underway and will distribute information about choosing day care."

On November 6, 1985, the Attorney General received a letter of response from Robert W. Lawrence, Deputy Superintendent for Field Services, State Department of Education. Mr. Lawrence stated in his letter:

"In respect to the Commission's recommendation for developing new strategies for parental awareness, we are in accord with your suggestion that the Child Development Programs Advisory Committee become the forum for planning new approaches for alerting parents to the range of child care options available and the protection assured by licensed facilities. The Child Development Division will be pleased to participate in this task."

- II.C.1. **THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL: (A) PROVIDE FOR THE UPDATING AND PUBLISHING OF THE PAMPHLET, "REPORTING CHILD ABUSE: RIGHTS AND RESPONSIBILITIES FOR CHILD CARE PROVIDERS," FOR DISSEMINATION TO EVERY CHILD DAY CARE FACILITY; (B) REQUEST THAT THE STATE DEPARTMENT OF SOCIAL SERVICES INCLUDE INFORMATION ON CHILD ABUSE REPORTING MANDATES IN ALL ORIENTATION SESSIONS FOR POTENTIAL CHILD DAY CARE LICENSEES; AND (C) REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES USE SOME OF THE INCREASED TITLE XX MONIES EARMARKED FOR CHILD DAY CARE TRAINING ON CHILD ABUSE PREVENTION AND INTERVENTION TRAINING FOR ALL CHILD DAY CARE PROVIDERS.**

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the Department of Social Services (DSS), requesting that DSS: (a) update the pamphlet, "Reporting Child Abuse: Rights and Responsibilities for Child Care Providers," for dissemination to every child care facility; (b) include information on child abuse reporting mandates in all orientation sessions for potential child day care licensees; and (c) use some of the increased Title XX monies earmarked for child day care training on child abuse prevention and intervention training for all child day care providers.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon.

Regarding part (a) of this recommendation, Ms. McMahon stated:

"The above mentioned pamphlet will be updated and incorporated into a child abuse prevention booklet for child care providers entitled, 'Partners in Prevention Handbook.' The handbook, which will be mailed to each licensed provider in the State, is just one segment of the Child Abuse Prevention Provider Training Project developed by the R&R Network and sponsored by DSS."

With regard to part (b) of the recommendation, Ms. McMahon stated:

"The Community Care Licensing Division (CCLD) is in the process of standardizing the orientation sessions for all new applicants by producing video tapes to be used statewide. Since the production of the orientation tapes is in the developmental stages, CCLD will consider including a segment on child abuse reporting mandates. In addition, CCLD just completed a mass mailing to all existing licensees regarding their responsibilities as mandated child abuse reporters under the Penal Code."

With regard to part (c) of the recommendation, Ms. McMahon stated:

"DSS is in the process of finalizing a contract with the R&R Network to provide child abuse prevention and intervention training to all child care providers. The project entitled, 'Partners in Prevention' will emphasize the positive role child care providers can play in child abuse prevention and will help providers recognize and work effectively with children who have been abused or neglected."

II.D.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO GUARANTEE PARENTS THE RIGHT TO INSPECT CHILD DAY CARE FACILITIES WHILE THEIR CHILDREN ARE IN CARE AT THE FACILITY.

Implementation Status

The Department of Justice supported AB 466 by Assemblymember Art Agnos.

AB 466:

- . Expressly provides that any parent or guardian of a child receiving services in a child day care facility has the right, with certain exceptions, to enter and inspect the facility without advance notice during normal operating hours or when the child is receiving services in the facility. (Health & Saf. Code, § 1596.857.)

AB 466 was enacted into law as Chapter 707, Statutes of 1985, effective September 18, 1985.

Day Care Licensing Recommendations

- II.D.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION THAT THE OMBUDSMEN OF THE DEPARTMENT OF SOCIAL SERVICES COMMUNITY CARE LICENSING DIVISION DISTRICT OFFICES NOTIFY THE APPROPRIATE LOCAL RESOURCE AND REFERRAL AGENCY, FUNDED PURSUANT TO EDUCATION CODE SECTIONS 8210 THROUGH 8214, WHEN A FACILITY IS UNDER INVESTIGATION AND IT APPEARS THAT A SUSPENSION OR REVOCATION ACTION IS LIKELY.*

Implementation Status

The Department of Justice supported AB 2337 by Assemblymember Art Agnos.

AB 2337 in part:

- . Requires the Department of Social Services to notify the local resource and referral agency funded, under section 8210 of the Education Code for that jurisdiction, upon denial, revocation, or temporary suspension of a license or within 24 hours of finding that physical or sexual abuse has occurred, and of the final resolution of the matter. (Health & Saf. Code, § 1596.853, subd. (d).)

AB 2337 was enacted into law as Chapter 1593, Statutes of 1985, effective October 2, 1985.

- II.D.3. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEPARTMENT OF SOCIAL SERVICES TO CONTINUE ITS EFFORTS TO ENSURE TIMELY NOTIFICATION TO PARENTS AND RESOURCE AND REFERRAL AGENCIES WHEN AN ADMINISTRATIVE ACTION IS INSTITUTED AGAINST A LICENSEE. FURTHER, PARENTS AND RESOURCE AND REFERRAL AGENCIES SHOULD BE NOTIFIED WHENEVER AN ACTION TO REVOKE A LICENSE HAS BEEN FILED.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the Department of Social Services, encouraging her to continue the department's efforts to ensure timely notification of parents and resource and referral agencies when an administrative action is instituted against a licensee and to begin notifying parents and resource and referral agencies whenever an action to revoke a license has been filed.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"Recent legislation AB 2337, Chapter 1593, requires DSS to notify the appropriate resource and referral agency upon denial, revocation, or temporary suspension of a license and within twenty-four hours of a finding that physical abuse or sexual abuse has occurred. However, prior to this legislation the Department's

policy has always been timely notification to appropriate agencies and responsible relatives when an administrative action has been served on a licensee."

The Department of Justice supported AB 2337 (Chapter 1593, Statutes of 1985) by Assemblymember Art Agnos. (See "Implementation Status" under Day Care Licensing Recommendation II.D.2.)

- II.D.4. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEPARTMENT OF SOCIAL SERVICES TO CONTINUE ITS RECENTLY INSTITUTED PRACTICE OF PUBLICIZING REVOCATIONS AND SUSPENSIONS.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the Department of Social Services (DSS), encouraging her to continue the department's recently instituted practice of publicizing revocations and suspensions.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"DSS plans to continue the practice of publicizing revocations and suspensions on a monthly basis through our Public Information Office."

- II.E.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES INSTALL TOLL FREE NUMBERS OR SPECIAL COMPLAINT LINES AT EACH CHILD DAY CARE LICENSING DISTRICT OFFICE TO FACILITATE THE COMPLAINT PROCESS.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the Department of Social Services, requesting that the department install toll free numbers or special complaint lines at each child day care licensing district office to facilitate the complaint process.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"DSS is currently in the process of determining the feasibility of installing regional toll free numbers in each licensing district office to facilitate the complaint process."

- II.E.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE DEPARTMENT OF SOCIAL SERVICES REQUIRE EXPEDITIOUS RESOLUTION OF A COMPLAINT AGAINST A CHILD DAY CARE FACILITY.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Ms. Linda McMahon, Director of the Department of Social Services (DSS), requesting that the department require expeditious resolution of a complaint against a child day care facility.

On October 21, 1985, the Attorney General received a letter of response from Ms. McMahon, who stated in her letter:

"In 1985, DSS sponsored two training workshops for all child day care licensing workers throughout the State. The second day of each workshop was devoted to handling complaints against child day care facilities. Licensing workers were trained in special investigative techniques and advised that complaints are top priority and should be handled and resolved as quickly as possible."

- II.F.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION REQUIRING THAT THE DEPARTMENT OF JUSTICE, IN COOPERATION WITH THE STATE DEPARTMENT OF SOCIAL SERVICES, DEVELOP REGULATIONS FOR THE INVESTIGATION OF REPORTS OF CHILD ABUSE OCCURRING IN CHILD DAY CARE FACILITIES.

THE REGULATIONS SHOULD INCLUDE:

- . PROVISIONS FOR IMMEDIATE CROSS-REPORTING BETWEEN LAW ENFORCEMENT AND THE LICENSING AGENCY
- . INVOLVEMENT BY THE COUNTY WELFARE DEPARTMENT CHILD WELFARE STAFF AS APPROPRIATE
- . INFORMATION SHARING BETWEEN THE INVESTIGATING AGENCIES

THE LEGISLATION SHOULD ALSO REQUIRE THAT REGULATIONS BE DEVELOPED FOR RESPONDING TO REPORTS OF ABUSE IN ALL OUT-OF-HOME CHILD CARE SITUATIONS.

Implementation Status

The Department of Justice sponsored SB 1306 by Senator Diane Watson.

SB 1306 in part:

- . Requires the Department of Justice, in cooperation with the Department of Social Services, to develop regulations for the investigation of child abuse in all out-of-home care situations, including child day care. (Pen. Code, § 11174.)

SB 1306 was enacted into law as Chapter 1528, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of SB 1306.)

- II.F.2. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE COMMISSION ON PEACE OFFICER STANDARDS AND TRAINING DEVELOP A PROTOCOL FOR INVESTIGATING ABUSE IN A CHILD DAY CARE FACILITY.*

Implementation Plan

The Department of Justice sponsored SB 1306 by Senator Diane Watson, and plans to incorporate a protocol for investigating abuse in child care facilities in the regulations required by SB 1306.

SB 1306 in part:

- . Requires the Department of Justice, in cooperation with the Department of Social Services, to develop regulations for the investigation of child abuse in all out-of-home care situations, including child day care. (Pen. Code, § 11174.)

SB 1306 was enacted into law as Chapter 1528, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of SB 1306.)

- II.G.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR OR SUPPORT LEGISLATION TO CODIFY THE "PREPONDERANCE OF THE EVIDENCE" STANDARD FOR LICENSE REVOCATION PROCEEDINGS.*

Implementation Status

The Department of Justice sponsored SB 1306 by Senator Diane Watson.

SB 1306 in part:

- . Codifies the "preponderance of the evidence" standard in child day care facility license revocation proceedings. (Health & Saf. Code, § 1596.889.)

SB 1306 was enacted into law as Chapter 1528, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of SB 1306.)

II.H.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE THE DEVELOPMENT OF TRAINING PROGRAMS FOR JUDGES AND ADMINISTRATIVE LAW JUDGES REGARDING THE REQUIREMENTS FOR LICENSING CHILD DAY CARE FACILITIES.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Rose Bird, Chief Justice of the California Supreme Court, and Chair of the Judicial Council, encouraging the Judicial Council to develop training programs for judges and administrative law judges regarding the requirements for licensing child day care facilities.

On October 18, 1985, the Attorney General received a letter of response from Chief Justice Bird, who stated in her letter:

"I appreciate your apprising me of those recommendations that relate specifically to the Judicial Council. It was kind of you to have done so. I have asked Ralph Gampell to bring your letter to the attention of the appropriate committees of the Council so that they may consider the Commission's proposals."

On February 28, 1986, the Attorney General received a letter from Mr. Paul M. Li, Director of the Judicial Council's California Center for Judicial Education and Research (CJER). Although Mr. Li's letter did not respond directly to the issue of training judges in the requirements for licensing child day care facilities, CJER's proposal includes the following components:

- "(a) Comprehensive presentations on handling child abuse cases at several CJER programs, particularly the annual Municipal and Justice Courts Institutes, Superior Court--Criminal Law and Procedure Institutes, and Superior Court--Juvenile Law and Procedure Institutes;
- "(b) Videotaped programs with accompanying written materials for the continuing education of judges who will be handling child abuse cases;
- "(c) Organization of local court educational programs, which would use the videotapes on handling child abuse cases and accompanying materials; and
- "(d) One or more 'how to' practice articles for judges on handling child abuse cases.

"These components should provide California trial judges with comprehensive instructions and information on handling all aspects of child abuse cases."

- II.I.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE STATE DEPARTMENT OF SOCIAL SERVICES ADOPT PROCEDURES TO EXPEDITE CRIMINAL RECORD CHECKS ON PROSPECTIVE EMPLOYEES IN CHILD DAY CARE FACILITIES.*

Implementation Status

On December 27, 1985, Attorney General Van de Kamp received a letter from Ms. Linda S. McMahon, Director of the Department of Social Services (DSS). Ms. McMahon stated in her letter:

"Currently, the Department of Social Services (DSS) is in the process of automating its Community Care Licensing (CCL) Management Information System. The first priority in this process is putting the fingerprint information onto the system which will result in a statewide central data base of fingerprint clearance and conviction information. The Department of Justice (DOJ) is participating on a DSS Task Force which will guide this effort."

E. PREVENTION RECOMMENDATIONS

- II.A.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONTINUE TO FOCUS PUBLIC ATTENTION ON THE PROBLEMS OF CHILD ABUSE AND NEGLECT AND PROMOTE THE DEVELOPMENT OF COMMUNITY SERVICES TO PREVENT THE MISTREATMENT OF CHILDREN.

Implementation Status

The Attorney General has continued to focus public attention on the problems of child abuse and neglect and promoted the development of community services to prevent child abuse through:

- . Public statements.
- . Development and extensive distribution of a public service announcement (PSA) campaign on child abuse entitled "Tell Someone," featuring Ricky Schroder.
- . Development and distribution of a mandated reporter training film entitled "It Shouldn't Hurt To Be A Kid!," featuring John Houseman and Ricky Schroder.
- . Sponsoring and supporting legislation to fund child abuse councils and other community services.
- . Distributing the *Child Abuse Prevention Handbook* statewide.
- . Distributing the publication, *Child Abuse: The Educator's Responsibilities*, to all county offices of education and school districts statewide.
- . Providing training and technical assistance to local communities on child abuse prevention.

- II.B.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO DEFINE, RECOGNIZE AND FUND CHILD ABUSE COUNCILS STATEWIDE.

Implementation Status

The Department of Justice sponsored AB 1980 by Assemblymember Norm Waters.

AB 1980 enacts the Child Abuse Prevention Coordinating Council Act (Welf. & Inst. Code, §§ 18980-18984) which:

- . Establishes child abuse prevention coordinating councils in each county to coordinate community efforts to prevent and respond to child abuse.
- . Requires that councils be funded through county children's trust funds.

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- . Defines the purpose, composition, structure and functions of child abuse prevention coordinating councils.
- . Requires funded councils to develop a protocol for interagency coordination and to provide yearly reports to the county board of supervisors.

AB 1980 was enacted into law as Chapter 1417, Statutes of 1985, effective January 1, 1986.

(See Appendix B for copy of AB 1980.)

II.B.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONTINUE TO PROMOTE THE USE OF NEIGHBORHOOD WATCH AND BLOCK PARENT PROGRAMS FOR FAMILY VIOLENCE REDUCTION AND CHILD ABUSE PREVENTION.

Implementation Status

The Crime Prevention Center is developing a Neighborhood Watch/Family Violence Prevention Program to promote family violence prevention (including child abuse prevention) through Neighborhood Watch activities.

II.C.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE CHILD ABUSE TRAINING FOR APPROPRIATE PROFESSIONALS DURING THEIR FORMAL EDUCATION AND AS A CONDITION TO LICENSURE.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the presidents and chancellors of all state universities and colleges, and selected private universities, encouraging child abuse training for appropriate professionals during their formal education.

During the 1985 legislative session, Assemblymember Gloria Molina introduced AB 141.

AB 141:

- . Requires licensed psychologists, clinical social workers, and marriage, family and child counselors to complete coursework or training in child abuse assessment and reporting. (Bus. & Prof. Code, § 28.)

AB 141 was enacted into law as Chapter 844, Statutes of 1985, effective January 1, 1986.

II.C.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT LEGISLATION TO MANDATE PARENTING EDUCATION IN ALL PUBLIC SCHOOLS FROM KINDERGARTEN THROUGH TWELFTH GRADE.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Bill Honig, State Superintendent of Public Instruction, encouraging him to consider the Commission's conclusions and recommendation to include parenting education in public school curricula when evaluating his department's position on the issue of parenting education in public schools.

On November 6, 1985, the Attorney General received a letter of response from Mr. Robert W. Lawrence, Deputy Superintendent for Field Services, State Department of Education. Mr. Lawrence stated in his letter:

"We concur with the Commission's finding that parenting education is essential to healthy families and children and to the long-term prevention of child abuse. We have recently established an Advisory Committee on Family Relationships and Parenting Education. This committee will assist the Department in developing a kindergarten through grade twelve curriculum in parenting education and to select recipients of grants for program implementation. The committee also will present recommendations on the most effective process to be followed and the role that schools can play in teaching parenting skills to our K-12 students so that they are successful as parents."

On February 27-28, 1986, the advisory committee met to discuss their official position on recommending parenting education in our public schools. Superintendent Honig will receive the recommendations no later than April 1986.

II.D.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT THE CONTINUED DEVELOPMENT AND EXPANSION OF TREATMENT RESOURCES FOR VICTIMS OF CHILD ABUSE, THEIR FAMILIES, AND FOR SELECTED OFFENDERS.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable George Deukmejian, Governor of California, encouraging him to support the continued development and expansion of treatment resources for victims of child abuse, their families, and selected offenders.

On November 27, 1985, the Attorney General received a letter of response from Governor Deukmejian, who stated:

"The provision of treatment services to victims of child abuse and their families is a very high priority of my administration. As

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you know, last year I signed AB 2443 (Chapter 1638) which appropriated \$11.25 million over 18 months for the Department of Social Services to select, implement and evaluate 145 primary prevention programs and two prevention training centers.

"In addition, this year I signed AB 454 (Chapter 1426) to provide funds for prior year cost of living increases to the Child Welfare Services Program. This increase will result in additional funds for counties to expand social worker services to abused and neglected children and their families.

"You may be assured, John, that I will continue to support the funding of effective child abuse treatment programs, and my administration is actively involved in continuing to improve child abuse services."

II.E.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL AND THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION JOINTLY SPONSOR LEGISLATION TO PROVIDE FUNDING THROUGH THE STATE DEPARTMENT OF EDUCATION TO:*

A. EXPAND SCHOOL-AGE AND PRESCHOOL-AGE CARE PROGRAMS

B. MAXIMIZE THE USE OF EXISTING SCHOOL FACILITIES FOR SUPERVISION OF CHILDREN FROM 7:00 A.M. TO 7:00 P.M.

Implementation Status

The Attorney General supported efforts by Senator David Roberti to provide significant funding for extended school-based child care for latchkey children, and AB 55 by Assemblymember Willie Brown, which proposed to significantly expand state subsidized preschool care.

SB 303 by Senator Roberti:

- . Establishes an extended day care program in the State Department of Education. (Ed. Code, §§ 8460-8492.)
- . Appropriates:
 - \$8,175,000 for extended day care programs (Stats. 1985, ch. 1026, § 3, subd. (a));
 - \$14,000,000 for capital outlay for extended day care services (Stats. 1985, ch. 1026, § 4)); and
 - \$22,500,000 from specified state entitlements to the State Child Care Facilities Fund for extended day care facilities for AFDC recipients participating in "workfare" programs (Stats. 1985, ch. 1026, § 5).

SB 303 was enacted into law as Chapter 1026, Statutes of 1985, effective September 27, 1985.

AB 55 by Assemblymember Willie Brown:

- . Appropriated \$30 million from the General Fund to the State Superintendent of Public Instruction for the purposes of child care and development services for specially designated programs. (Stats. 1985, ch. 1364, § 6.)

NOTE: The Governor reduced the appropriation from \$30 million to \$2,475,000, approving \$2,400,000 for the alternative payment programs and \$75,000 for the child development division study to determine the need for, and the availability of, appropriate child care for severely handicapped children.

AB 55 was enacted into law with a budget reduction as Chapter 1364, Statutes of 1985, effective October 1, 1985.

II.F.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT EFFORTS TO ENSURE THAT THE ENFORCEMENT OF CHILD ABUSE LAWS IS NONDISCRIMINATORY.

Implementation Status

In initiating efforts to assure the nondiscriminatory application of the child abuse laws, the Attorney General has developed a Spanish version of the child abuse brochure, and the public service announcement (PSA), "It Shouldn't Hurt To Be A Kid!," starring Ricky Schroder and John Houseman of the television series, "Silver Spoons."

The PSA has been distributed to all Spanish language theatres and radio and television stations in California. The Attorney General is also developing the child abuse brochure and PSA in other languages (e.g., Chinese and Vietnamese).

The Attorney General's Office provides consultation to local law enforcement and community groups, such as La Familia Council of Sacramento, for training in the cultural aspects of child abuse identification and prevention.

II.G.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SEEK DEVELOPMENT OF GUIDELINES FOR THE REPORTING AND MANAGEMENT OF CASES OF SUSPECTED NEONATAL DRUG AND ALCOHOL WITHDRAWAL, INCLUDING STANDARDS FOR TAKING THE CHILD INTO PROTECTIVE CUSTODY, FOR SUSTAINING A DEPENDENCY PETITION AND FOR TIMELY RESPONSE.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to Dr. Kenneth W. Kizer, Director of the State Department of Health Services (DHS), requesting that DHS develop guidelines for reporting and managing suspected neonatal drug and alcohol withdrawal cases and develop a standard minimum requirement for child abuse services for all licensed hospitals and clinics with active pediatric services.

Prevention Recommendations

In his response, Dr. Kizer agreed with the Commission's conclusion "that child abuse services are a necessary component of any medical service with a child population," however, he stated that "neither the general acute care hospital licensing regulations or the primary care licensing regulations address the management of child abuse in health facilities other than the reporting of such cases." Dr. Kizer further stated, "I believe there is a need for further clarification to address this issue in the regulations," and added, "The issue of identification and management of suspected neonatal drug and alcohol withdrawal cases can also be presented for discussion."

On January 14, 1986, the Department of Health Services, Licensing and Certification Division, invited representatives from the Attorney General's Office; the Department of Health Services, Maternal and Child Health Branch, the Department of Social Services, Community Care Licensing Division; and the Department of Developmental Services, to meet and discuss the Commission's recommendations as they pertain to the Department of Health Services, and to clearly define each department's role, responsibilities and common areas of overlap prior to amending the licensing regulations.

F. DATA COLLECTION AND RESEARCH RECOMMENDATIONS

- II.A.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL CONSIDER ESTABLISHING A PERMANENT CHILD ABUSE COMMISSION TO MEET QUARTERLY TO REVIEW FOLLOW-UP ON THE RECOMMENDATIONS OF THE ATTORNEY GENERAL'S COMMISSION ON THE ENFORCEMENT OF CHILD ABUSE LAWS, AND TO CONSIDER SPECIAL CONCERNS RELATED TO CHILD ABUSE.*

Implementation Status

Attorney General Van de Kamp requested that Richard Iglehart, Chair of the Attorney General's Commission on the Enforcement of Child Abuse Laws, continue to advise him and the office and to involve selected Commissioners as appropriate.

A meeting of the full Commission was held in Sacramento on November 18, 1985, to review implementation progress and to recommend further actions.

A follow-up meeting is scheduled in Southern California on April 3, 1986, one year after the Commission's Final Report was presented to Attorney General Van de Kamp.

- II.B.1. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR LEGISLATION TO ESTABLISH A CHILD VICTIMS' COURT PILOT PROJECT.*

Implementation Status

The Department of Justice is sponsoring SB 2530 by Senator Nicholas Petris in the 1986 legislative session.

SB 2530 would enact the California Child Victim Witness Protection Act which:

- . Would establish a Child Victim Witness Judicial Advisory Committee to study legal and judicial practices and procedures as they pertain to child victims and witnesses, with particular attention given to victims of intrafamilial child abuse and the coordination of related criminal and civil proceedings.
- . Would require the advisory committee to report its findings and recommendations to the Judicial Council, the Legislature, the Governor and the Attorney General no later than October 1, 1988. The report would include, but not be limited to, the following:
 - (a) Recommendations for minimizing or reducing unnecessary repetitive interviews and court appearances.

(b) Recommendations for improving legal and judicial practices and procedures including, but not limited to, the following:

(1) The management of child victims and witnesses in all criminal and civil judicial proceedings.

(2) Coordination of related criminal and civil proceedings, in particular dependency proceedings, and custody, termination of parental rights, guardianship and adoption proceedings.

(3) Coordination of judicial and investigative processes, including law enforcement and child welfare services investigations.

(c) Recommendations for the design and operation of the Child Victim Witness Court Pilot Project, to be established in later enacted legislation, to determine the most effective methods for implementing the advisory committee's findings.

(See Appendix B for copy of SB 2530.)

II.C.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT THE INCLUSION OF CHILD ABUSE STATISTICS IN THE FBI UNIFORM CRIME REPORTING (UCR) SYSTEM.

Implementation Status

At the request of Attorney General Van de Kamp, Senator Alan Cranston introduced S. 1320, which contained provisions addressing this and other Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at the request of the Attorney General, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston, introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. H. R. 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Require the United States Attorney General to modify the classification system used by the National Crime Information Center's Interstate Identification Index, and the FBI's Criminal File and Uniform Crime Reporting System, to include a category for specific statistics for offenses involving child abuse, including child sexual abuse.

The Children's Justice Act passed out of the Senate. On December 11, 1985, interim hearings were held before the Select Subcommittee on Education of the House Committee on Education and Labor and the

Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Action on the Children's Justice Act is expected by the Education and Labor Committee with the concurrence of the Judiciary Committee early this year.

(See Appendix A for a copy of S. 140.)

- II.C.2. **THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SPONSOR STATE LEGISLATION TO INCLUDE THE AGES OF VICTIMS AND THEIR RELATIONSHIPS TO OFFENDERS IN THE REPORTING OF ALL CRIMES AGAINST PERSONS UNDER 18 YEARS OF AGE.**

Implementation Status

The Department of Justice (DOJ), in a July 1985 analysis of the above recommendation, determined that the proposed National Incident-Based Crime Reporting (IBR) System would facilitate the collection and compilation of statewide data on crimes against persons under 18 years of age. Specifically, the IBR System would replace the current system of reporting summary counts of specified major crimes with a system whereby a separate record would be submitted on each incident, including descriptive data on each crime that occurred during the incident. These data would include victim characteristics, such as the age of the victim and victim/offender relationship.

The DOJ prepared a fiscal year 1986-1987 Budget Change Proposal (BCP) to conduct a study of the feasibility of implementing an IBR System in California; however, the BCP was denied by the Department of Finance. It is anticipated that the BCP will be resubmitted for fiscal year 1987-1988, at which time the FBI may have issued its directive to initiate statewide IBR conversion plans, further justifying the need for this study.

- II.C.3. **THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL INITIATE EFFORTS TO COORDINATE CHILD ABUSE DATA COLLECTION BY THE DEPARTMENT OF JUSTICE AND THE STATE DEPARTMENT OF SOCIAL SERVICES FOR PUBLIC DISSEMINATION.**

Implementation Status

Department of Justice (DOJ) Child Abuse Unit staff met with the Department of Social Services (DSS) staff to discuss standardizing child abuse statistics for public dissemination. To attain this objective, several revisions to the DSS data gathering form (Preplacement Preventive Services - Form SOC 291) were suggested. DSS also requested the County Welfare Directors Association to examine the suggested revisions to the DSS form SOC 291. DSS is currently reviewing DOJ's recommended changes to the data gathering form.

II.C.4. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL DEVELOP A PROCEDURE FOR TRACKING CHILD ABUSE CASES THROUGH THE CRIMINAL AND CIVIL COURT SYSTEMS.*

Implementation Status

At the request of Attorney General Van de Kamp, Senator Alan Cranston introduced S. 1320, which contained provisions addressing this and other Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at the request of the Attorney General, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston, introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. H. R. 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Direct the National Center on Child Abuse and Neglect in the Department of Health and Human Services to take an active role in:
 - compiling, analyzing, publishing, and disseminating to each state approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim;
 - developing and disseminating model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and
 - supporting research projects to assist in identifying effective approaches to improving the investigation and prosecution of child sexual abuse cases.

The Children's Justice Act passed out of the Senate. On December 11, 1985, interim hearings were held before the Select Subcommittee on Education of the House Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Action on the Children's Justice Act is expected by the Education and Labor Committee with the concurrence of the Judiciary Committee early this year.

(See Appendix A for a copy of S. 140.)

- II.C.5. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL REQUEST THAT THE JUDICIAL COUNCIL ANALYZE CHILD ABUSE-RELATED OFFENSES SEPARATELY IN ITS ANNUAL REPORT TO DETERMINE UNIFORMITY OF SENTENCING PRACTICES.*

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Rose Bird, Chief Justice of the California Supreme Court, and Chair of the Judicial Council, requesting that the Judicial Council analyze child abuse-related offenses separately in their annual report to determine uniformity of sentencing practices.

On October 18, 1985, the Attorney General received a letter of response from Chief Justice Bird, who stated in her letter:

"I appreciate your apprising me of those recommendations that relate specifically to the Judicial Council. It was kind of you to have done so. I have asked Ralph Gampell to bring your letter to the attention of the appropriate committees of the Council so that they may consider the Commission's proposals."

- II.C.6. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL INITIATE A SURVEY OF CASE MANAGEMENT DATA SYSTEMS FROM ALL CRIMINAL PROSECUTION AGENCIES.*

- II.C.7. *THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL COLLECT INFORMATION FROM INVESTIGATIVE AND PROSECUTION AGENCIES ON EXISTING PRACTICES USED TO RECORD INTERVIEWS WITH CHILD VICTIMS, AND INTERVIEW TECHNIQUES EMPLOYED BY SUCH AGENCIES.*

Implementation Status

As to Recommendations II.C.6 and II.C.7:

At the request of Attorney General Van de Kamp, Senator Alan Cranston introduced S. 1320, which contained provisions addressing this and other Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at the request of the Attorney General, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston, introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. H. R. 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Direct the National Center on Child Abuse and Neglect in the Department of Health and Human Services to take an active role in:
 - compiling, analyzing, publishing, and disseminating to each state approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim;
 - developing and disseminating model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and
 - supporting research projects to assist in identifying effective approaches to improving the investigation and prosecution of child sexual abuse cases.

The Children's Justice Act passed out of the Senate. On December 11, 1985, interim hearings were held before the Select Subcommittee on Education of the House Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Action on the Children's Justice Act is expected by the Education and Labor Committee with the concurrence of the Judiciary Committee early this year.

(See Appendix A for a copy of S. 140.)

II.C.8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL MAINTAIN STATISTICS REGARDING THE APPLICATION OF LAWS IN THE CHILD PORNOGRAPHY AREA.

Implementation Status

In September 1985, Attorney General Van de Kamp sent a letter to the Honorable Rose Bird, Chief Justice of the California Supreme Court, and Chair of the Judicial Council, requesting that the Judicial Council analyze child pornography offenses to maintain statistics regarding the application of these laws.

On October 18, 1985, the Attorney General received a letter of response from Chief Justice Bird, who stated in her letter:

"I appreciate your apprising me of those recommendations that relate specifically to the Judicial Council. It was kind of you to have done so. I have asked Ralph Gampell to bring your letter to the attention of the appropriate committees of the Council so that they may consider the Commission's proposals."

- II.D.1. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH INTO THE EFFECTS OF THE COURT PROCESS ON CHILD ABUSE VICTIMS.
- II.D.2. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH INTO THE FOLLOWING:
- . INTERVIEWING CHILD VICTIMS TO MINIMIZE TRAUMA AND MAXIMIZE RELIABILITY OF INFORMATION OBTAINED
 - . EXAMINING WHETHER EXISTING LEGAL PRACTICES IN DETERMINING CREDIBILITY OF CHILD VICTIMS ARE FAIR AND OFFER EQUAL PROTECTION TO CHILDREN AS A CLASS
 - . DETERMINING WHETHER EXISTING PRACTICES IN QUALIFYING CHILD WITNESSES TO TESTIFY ARE APPROPRIATE AND RELIABLE
 - . EFFECTIVENESS OF COURT ACTIONS IN PROTECTING CHILDREN FROM ABUSE
 - . CHILD ABUSING ASPECTS OF THE INTERVENTION SYSTEM (I.E., SYSTEM ABUSE)
 - . VALUE OF MULTIAGENCY, MULTIDISCIPLINARY INTERVENTION SYSTEMS
 - . EFFECTIVENESS OF CHILD ABUSE TREATMENT PROGRAMS
 - . CORRELATION BETWEEN CHILD ABUSE, SPOUSE ABUSE, AND ELDER ABUSE
 - . CHILD ABUSE WITHIN THE FOSTER-CARE SYSTEM
- II.D.3. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH DESIGNED TO DETERMINE THE MOST EFFECTIVE USE OF RESOURCES OF THE FOLLOWING GOVERNMENTAL AGENCIES AND PROFESSIONALS WITH A VIEW TOWARD MAXIMUM COORDINATION OF EFFORTS IN THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES: MANDATED REPORTERS, LAW ENFORCEMENT AGENCIES, CHILD WELFARE SERVICES AGENCIES, PROBATION DEPARTMENTS, STATE LICENSING AGENCIES, FAMILY COURT SERVICES, DISTRICT ATTORNEYS, PUBLIC DEFENDERS, COUNTY COUNSELS, MUNICIPAL COURTS, AND SUPERIOR COURTS.
- II.D.4. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH DESIGNED TO DETERMINE HOW COMMUNITY-BASED RESOURCES MAY BE MOST EFFECTIVELY COORDINATED TO MAXIMIZE CHILD ABUSE PREVENTION AND DETECTION EFFORTS: CHILD ABUSE COORDINATING COUNCILS, PARENTS' GROUPS, COMMUNITY-BASED SERVICE ORGANIZATIONS, CHILD CARE CENTERS/ RESOURCE AND REFERRAL NETWORKS, PUBLIC AND PRIVATE SCHOOLS AND EDUCATIONAL FACILITIES, HOSPITALS AND CLINICS, MEDICAL ASSOCIATIONS, BAR ASSOCIATIONS, AND MEDIA.
- II.D.5. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL, IN COOPERATION WITH OTHER AGENCIES, UNDERTAKE A STUDY OF THE INCIDENCE OF RECIDIVISM OF DEFENDANTS CONVICTED OF CHILD ABUSE OFFENSES.

- II.D.6. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LONG-TERM STUDY ON THE RELATIONSHIP BETWEEN CHILD ABUSE AND SUBSEQUENT CRIMINAL BEHAVIOR.
- II.D.7. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE LONG-TERM RESEARCH TO IDENTIFY THE KINDS OF COMMUNITY RESOURCES WHICH WOULD HAVE A MEASURABLE EFFECT ON (A) REDUCING THE INCIDENCE OF CHILD ABUSE, AND (B) REDUCING SUBSEQUENT CRIMINAL BEHAVIOR DETERMINED TO BE CAUSED BY CHILD ABUSE.
- II.D.8. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL RESEARCH THE EVALUATION OF CHILD ABUSE PREVENTION METHODS EMPLOYED IN OTHER JURISDICTIONS, BOTH DOMESTIC AND FOREIGN, INCLUDING AN ANALYSIS OF THE REASONS FOR THEIR EFFECTIVENESS OR LACK THEREOF.
- II.D.9. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL ENCOURAGE RESEARCH TO STUDY METHODS TO INCREASE SELF-REPORTING BY OFFENDERS.
- II.D.10. THE COMMISSION RECOMMENDS THAT THE ATTORNEY GENERAL SUPPORT RESEARCH ON THE DEVELOPMENT OF (A) PARENTING PROGRAMS, SUPPORT SERVICES AND OTHER SPECIALIZED PROGRAMS FOR PREGNANT FEMALES OR PARENTS OF CHILDREN UNDER 10 WHO ARE DETAINED, INCARCERATED, OR ON PROBATION OR PAROLE, AND (B) TREATMENT PROGRAMS FOR CHILD ABUSE OFFENDERS WHO ARE INCARCERATED OR ON PROBATION OR PAROLE.

Implementation Status

As to Recommendations II.D.1, II.D.2, II.D.3, II.D.4, II.D.5, II.D.6, II.D.7, II.D.8, II.D.9 and II.D.10:

Attorney General Van de Kamp sent letters to the presidents and chancellors of California State Universities and colleges, and selected private universities, requesting that they encourage the appropriate departments in their institutions to consider these research recommendations when establishing research priorities.

The Attorney General received 15 letters of response from presidents and chancellors of California state universities and colleges and private universities. The letters were supportive and agree that many of the Commission's recommendations demand the attention of higher education.

In addition, at the request of Attorney General Van de Kamp, Senator Alan Cranston introduced S. 1320, which contained provisions addressing these and other Commission recommendations, in the United States Senate. The provisions of S. 1320 were subsequently incorporated into S. 140, the Children's Justice Act, cosponsored by Senator Cranston.

Also at the request of the Attorney General, Congressmen Don Edwards, George Miller and Mel Levine, in cooperation with Senator Cranston,

introduced a companion measure to S. 1320 in the House of Representatives, H. R. 2791. H. R. 2791 was incorporated into the House version of the Children's Justice Act.

The Children's Justice Act would, in part:

- . Direct the National Center on Child Abuse and Neglect in the Department of Health and Human Services to take an active role in:
 - compiling, analyzing, publishing, and disseminating to each state approaches being utilized, developed, or proposed with respect to improving the investigation and prosecution of child sexual abuse cases in a manner which reduces the trauma to the child victim;
 - developing and disseminating model training materials and procedures to help ensure that all law enforcement, legal, judicial, and child welfare personnel are adequately trained to deal with child sexual abuse victims; and
 - supporting research projects to assist in identifying effective approaches to improving the investigation and prosecution of child sexual abuse cases.

The Children's Justice Act passed out of the Senate. On December 11, 1985, interim hearings were held before the Select Subcommittee on Education of the House Committee on Education and Labor and the Subcommittee on Civil and Constitutional Rights of the House Committee on the Judiciary. Action on the Children's Justice Act is expected by the Education and Labor Committee with the concurrence of the Judiciary Committee early this year.

(See Appendix A for a copy of S. 140.)

III. APPENDICES

A P P E N D I X A

FEDERAL LEGISLATION AS FOLLOWS:

S 140 A

Calendar No. 270

99TH CONGRESS
1ST SESSION**S. 140****[Report No. 99-123]**

To amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

IN THE SENATE OF THE UNITED STATES

JANUARY 3, 1985

Mrs. HAWKINS (for herself, Mr. GORE, Mr. DENTON, Mr. BOREN, Mr. MELCHER, Mr. BURDICK, Mr. JOHNSON, Mr. ANDREWS, Mr. MURKOWSKI, Mr. GARN, Mr. HEINZ, Mr. HATCH, Mr. PRYOR, Mr. DURENBERGER, Mr. DIXON, Mr. McCONNELL, Mr. CRANSTON, Mr. THURMOND, Mr. QUAYLE, Mr. D'AMATO, Mr. KERRY, Mr. DODD, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

JULY 31 (legislative day, JULY 16), 1985

Reported by Mr. HATCH, with an amendment and an amendment to the title

*[Strike out all after the enacting clause and insert the part printed in italic]***A BILL**

To amend the Child Abuse Amendments of 1984 to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of sexual child abuse cases.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*
 3 *That this Act may be cited as the "Children's Justice Act".*

4 ~~SEC. 2.~~ The Child Abuse Amendments of 1984 (Public
 5 Law 98-457) is amended by adding at the end thereof the
 6 following new title:

7 ~~"TITLE IV CHILDREN'S JUSTICE GRANT~~

8 ~~"DECLARATION OF POLICY~~

9 ~~"GRANTS AUTHORIZED~~

10 ~~"SEC. 401.~~ The Secretary of Health and Human Serv-
 11 ices (hereinafter in this title referred to as the 'Secretary') is
 12 authorized to make additional grants to States under section
 13 4(a) of the Child Abuse Prevention and Treatment Act for
 14 identification, treatment, and prevention of sexual abuse in
 15 accordance with the eligibility requirements of this title.

16 ~~"ELIGIBILITY OF ASSISTANCE~~

17 ~~"SEC. 402. (a)~~ A State is eligible for assistance under
 18 this title if the Secretary determines, that not later than one
 19 year after the date of enactment of this title, the State has
 20 enacted legal and administrative changes with respect to the
 21 investigation and prosecution of child sexual abuse cases as
 22 provided in subsection (b).

23 ~~"(b)(1)~~ A State shall have in effect a child sexual abuse
 24 program which includes at least one statute or administrative
 25 procedure to carry out the purposes of the categories de-
 26 scribed in paragraphs (2), (3), and (4).

1 “(2) A State shall provide for the handling of child
2 sexual abuse cases in a manner which reduces the trauma to
3 the child victim. Administrative procedures consistent with
4 the reduction of trauma may include—

5 “(A) the establishment of interdisciplinary teams
6 of child abuse professionals such as law enforcement
7 officers, child protective service workers, prosecutors,
8 child's advocates, mental health professionals, and
9 medical personnel for handling child sexual abuse
10 cases;

11 “(B) coordinated court proceedings for handling
12 intrafamily child sexual abuse; or

13 “(C) providing for specialized training of law en-
14 forcement, legal, judicial, and child welfare personnel
15 to deal with child sexual abuse victims.

16 “(3) A State shall establish reforms designed to improve
17 the chances of successful prosecution or legal action against
18 child molesters. Such reforms may include—

19 “(A) a specific definition of child sexual abuse;

20 “(B) modifications of certain evidentiary restric-
21 tions such as the hearsay rule, the corroboration re-
22 quirement, and the qualification of child sexual abuse
23 victims as witnesses to allow for the age of child
24 sexual abuse victims; or

1 “(C) establishing procedures for the videotaping of
2 victims statements and testimony to protect the child
3 sexual abuse victim from trauma.

4 “(4) In order to improve procedures to protect children
5 from sexual abuse, a State shall establish administrative stat-
6 utory reforms such as—

7 “(A) providing a guardian *ad litem* who is as-
8 signed to make an independent investigation and report
9 to court on recommendations regarding what action
10 should be taken that would be in the best interests of
11 child;

12 “(B) granting courts authority to grant civil pro-
13 tection orders to protect children from further abuse; or

14 “(C) providing treatment programs for the child
15 molester and sexually abused child.

16 “(e) The categories of statutes and administrative proce-
17 dures described in paragraphs (2), (3), and (4) of subsection
18 (b) are intended to be general guidelines for State action.
19 Each State is encouraged to develop innovative approaches
20 towards achieving the objectives described in subsection (b).

21 “REGULATIONS

22 “SEC. 403. As soon as practicable after the enactment
23 of this title, the Secretary shall issue such regulations as may
24 be necessary to implement sections 401 and 402. In estab-
25 lishing regulations under this section the Secretary shall con-
26 sider the purposes of this title.

1 **"AUTHORIZATION**

2 ~~"SEC. 404. There are hereby authorized to be appropri-~~
 3 ~~ated for the purposes of this title \$12,000,000 for the fiscal~~
 4 ~~years 1986 and 1987."~~

5 **SHORT TITLE**

6 *SECTION 1. This Act may be cited as the "Children's*
 7 *Justice Act".*

8 **CHILDREN'S JUSTICE GRANT**

9 *SEC. 2. Section 4 of the Child Abuse Prevention and*
 10 *Treatment Act is amended by—*

11 *(1) redesignating subsections (d), (e), (f), the first*
 12 *time such subsection appears, and (f), the second time*
 13 *such subsection appears, as subsections (e), (f), (g),*
 14 *and (h), respectively; and*

15 *(2) inserting after subsection (c) the following:*

16 *"(d)(1) In addition to grants made to States under sub-*
 17 *section (b), the Secretary is authorized to make grants to*
 18 *States for the purpose of assisting States in the developing,*
 19 *establishing, operating, or implementing programs or proce-*
 20 *dures for—*

21 *"(A) handling child abuse cases, especially child*
 22 *sexual abuse cases, in a manner which reduces the*
 23 *trauma to child victims;*

24 *"(B) improving the chances of successful prosecu-*
 25 *tion or legal action against individuals who abuse chil-*

1 *dren, especially individuals who sexually abuse chil-*
2 *dren; or*

3 *“(C) improving procedures for protecting children*
4 *from abuse,*

5 *in accordance with the eligibility requirements of this subsec-*
6 *tion. Grants under this subsection may be made to the State*
7 *agency which administers funds received under subsection*
8 *(a) or to an appropriate statewide law enforcement agency*
9 *which has developed a child abuse program which meets the*
10 *requirements of paragraph (2). The determination as to*
11 *which agency of a State may apply for a grant pursuant to*
12 *the preceding sentence shall be made by the chief executive*
13 *officer of such State.*

14 *“(2)(A) In order for a State to qualify for assistance*
15 *under this subsection, such State shall, except as provided in*
16 *subparagraphs (B) and (C)—*

17 *“(i) establish a multidisciplinary task force as*
18 *provided in paragraph (3); and*

19 *“(ii) adopt reforms recommended by the multidis-*
20 *ciplinary task force in each of the three categories pro-*
21 *vided in subparagraphs (B), (C), and (D) of para-*
22 *graph (3).*

23 *For purposes of clause (ii), reforms may include proof that*
24 *the State has made substantial improvement in implementing*
25 *or enforcing State laws or administrative practices in effect*

1 *on the date of enactment of the Children's Justice Act as*
2 *recommended by the task force of such State under paragraph*
3 *(3).*

4 “(B) *If the Secretary determines, at the request of any*
5 *State on the basis of information submitted by the State that*
6 *such State—*

7 “(i) *has established a multidisciplinary task force*
8 *within the 3 years prior to the enactment of the Chil-*
9 *dren's Justice Act with substantially the same func-*
10 *tions as the multidisciplinary task force provided for*
11 *under this subsection; and*

12 “(ii) *is making satisfactory progress toward devel-*
13 *oping, establishing, operating, or implementing the pro-*
14 *grams or procedures in each of the three categories pro-*
15 *vided in subparagraphs (B), (C), and (D) of para-*
16 *graph (3) and will continue to do so,*
17 *then such State shall not be required to meet the require-*
18 *ments of subparagraph (A).*

19 “(C) *A State may adopt reforms recommended by the*
20 *task force of such State in less than all three of the categories*
21 *provided in subparagraphs (B), (C), and (D) of paragraph*
22 *(3), but in the event that a State fails to adopt any recom-*
23 *mendation in a category the State shall submit to the Secre-*
24 *tary a detailed explanation of the reasons for the State not*
25 *planning to carry out any such omitted recommendation.*

1 “(3)(A) *Each State desiring to receive a grant under*
2 *this subsection shall establish a multidisciplinary task force*
3 *on children's justice composed of professionals experienced in*
4 *the criminal justice system and its operation relating to*
5 *issues of child abuse. The task force shall include representa-*
6 *tives of the law enforcement community, judicial and legal*
7 *officers including representatives of the prosecution and the*
8 *defense, child protective services, child advocates, health and*
9 *mental health professionals, and parents. Each State task*
10 *force shall, for fiscal year 1987, review, analyze, and make*
11 *recommendations for reforms needed to improve the response*
12 *of such State to child abuse cases in each of the categories*
13 *described in subparagraphs (B), (C), and (D).*

14 “(B) *A State shall provide for the handling of child*
15 *abuse cases, especially child sexual abuse cases, in a manner*
16 *which reduces the trauma to the child victim. Administrative*
17 *procedures consistent with the reduction of trauma may*
18 *include—*

19 “(i) *the establishment of interdisciplinary teams*
20 *of child abuse professionals such as law enforcement*
21 *officers, child protective service workers, prosecutors,*
22 *child's advocates, mental health professionals, and*
23 *medical personnel for handling child abuse cases;*

24 “(ii) *coordinated court proceedings for handling*
25 *intrafamily child abuse; or*

1 “(iii) providing for specialized training of law en-
2 forcement, legal, judicial, and child welfare personnel
3 to deal with child abuse victims and their families.

4 “(C) A State shall establish reforms designed to im-
5 prove the chances of successful prosecution or legal action
6 against individuals who abuse children, especially individ-
7 uals who sexually abuse children. Such reforms may
8 include—

9 “(i) strengthening the State definition of child
10 sexual abuse;

11 “(ii) modifications of certain evidentiary restric-
12 tions such as the corroboration requirement and the
13 qualification of child abuse victims as witnesses to
14 allow for the age of child abuse victims; or

15 “(iii) establishing procedures for the closed-circuit
16 televising or videotaping of victims testimony under
17 circumstances which ensure procedural fairness while
18 minimizing the trauma to the child abuse victim, espe-
19 cially child sexual abuse victim.

20 “(D) In order to improve procedures to protect children
21 from abuse, especially sexual abuse, a State shall establish
22 administrative reforms by law or, if possible, pursuant to law
23 by administrative action, such as—

24 “(i) providing a guardian ad litem who is as-
25 signed to make an independent investigation and report

1 to the court on recommendations regarding what action
2 should be taken that would be in the best interests of
3 the child;

4 “(ii) granting courts authority to grant civil pro-
5 tection orders to protect children from further abuse; or

6 “(iii) providing treatment programs for the indi-
7 vidual who abuses children, especially the individual
8 who sexually abuses children, and the abused child.

9 “(4) A grant authorized by this subsection may be made
10 by the Secretary upon application which is made at such
11 time or times and contains or is accompanied by such infor-
12 mation as the Secretary may prescribe. Each such applica-
13 tion shall—

14 “(A) contain such assurances as may be neces-
15 sary to evidence compliance with paragraphs (2) and
16 (3);

17 “(B) contain assurances that the State will
18 comply with the requirements of paragraph (2)(A)(ii)
19 during the fiscal year for which the grant is made; and

20 “(C) provide for making such reports, in such
21 form and containing such information as the Secretary
22 may require to carry out his functions under this sub-
23 section, and for keeping such records and for affording
24 such access thereto as the Secretary may find neces-

1 sary to assure the correctness and verification of such
2 reports.

3 “(5)(A) In order to assist the States in developing effec-
4 tive approaches to achieve the objectives set forth in para-
5 graph (1), the Secretary, through the National Center on
6 Child Abuse and Neglect established pursuant to section
7 2(a), shall—

8 “(i) compile, analyze, publish, and disseminate to
9 each State a summary, including an evaluation of the
10 effectiveness or lack thereof, of approaches being uti-
11 lized, developed, or proposed with respect to improving
12 the investigation and prosecution of child sexual abuse
13 cases in a manner which reduces the trauma to the
14 child victim along with such other materials or infor-
15 mation as may be helpful to the States in developing or
16 implementing programs or procedures to satisfy the re-
17 quirements of this subsection;

18 “(ii) develop and disseminate to appropriate State
19 and officials model training materials and procedures
20 to help ensure that all law enforcement, legal, judicial,
21 and child welfare personnel are adequately trained to
22 deal with child sexual abuse victims; and

23 “(iii) provide for the support of research projects
24 to assist in identifying effective approaches to achiev-
25 ing the objectives of this subsection.

1 “(B) Not later than two years after the date funds are
2 obligated under section 5(b) for the first fiscal year, the Sec-
3 retary shall—

4 “(i) review and evaluate the effectiveness of the
5 activities carried out with such funds in achieving the
6 objectives of this subsection; and

7 “(ii) report to the appropriate committees of the
8 Congress on the results of such review and evaluation
9 and on the steps taken by the Secretary, through the
10 National Center on Child Abuse and Neglect Center,
11 to assist the States in achieving such objectives.

12 “(C) The summary, information, and materials re-
13 quired under subparagraph (A) shall be made available to
14 appropriate State officials not later than 180 days after the
15 date of the enactment of the Children’s Justice Act.”.

16 AUTHORIZATION

17 SEC. 3. Section 5 of the Child Abuse Prevention and
18 Treatment Act is amended by—

19 (1) inserting “(a)” after “SEC. 5.”; and

20 (2) inserting at the end thereof the following:

21 “(b) There are authorized to be appropriated
22 \$12,000,000 for each of the fiscal years 1987 and 1988 for
23 the purposes of making grants under subsection (d) of section
24 4.”.

1 **COORDINATION OF FEDERAL PROGRAMS INVOLVING**
2 **CHILD ABUSE**

3 *SEC. 4. Section 7 of the Child House Prevention and*
4 *Treatment Act is amended by—*

5 (1) inserting “(a)” after “SEC. 7.”; and

6 (2) inserting at the end thereof the following:

7 “(b)(1) Within 180 days of the date of enactment of the
8 *Children’s Justice Act and every 6 months thereafter, the*
9 *Attorney General, the Secretary of Health and Human Serv-*
10 *ices, Secretary of Education, and the head of any other*
11 *agency or department designated by the President, or their*
12 *designees, responsible for programs involving child abuse pre-*
13 *vention and treatment shall meet for the purpose of coordinat-*
14 *ing such programs in order to—*

15 “(A) prevent the overlap of such programs and the
16 *resulting waste of resources; and*

17 “(B) assure that such programs effectively address
18 *all aspects of the child abuse problem.*

19 “(2) Within one year of the date of enactment of the
20 *Children’s Justice Act and annually thereafter, the Secretary*
21 *of Health and Human Services shall report to Congress with*
22 *respect to the actions carried out by agencies and departments*
23 *of the United States for the purpose of coordinating programs*
24 *involving child abuse prevention and treatment as provided*
25 *in paragraph (1).”.*

1 *MODIFICATION OF FBI OFFENSE CLASSIFICATION SYSTEM*

2 *SEC. 5. The Attorney General shall modify the classifi-*
 3 *cation system used by the National Crime Information*
 4 *Center in its Interstate Identification Index, and by the*
 5 *Identification Division of the Federal Bureau of Investiga-*
 6 *tion in its Criminal File, and its Uniform Crime Reporting*
 7 *System, with respect to offenses involving sexual exploitation*
 8 *of children by—*

9 *(1) including in the description of such offenses*
 10 *the age of the victim and the relationship of the victim*
 11 *to the offenders; and*

12 *(2) classifying such offenses by using a uniform*
 13 *definition of a child.*

14 *AMENDMENT TO PUBLIC HEALTH SERVICE ACT*

15 *SEC. 6. (a) Section 523 of the Public Health Service*
 16 *Act (42 U.S.C. 290dd-3) is amended—*

17 *(1) by striking out "subsection (e)" in subsection*
 18 *(a) and inserting in lieu thereof "subsections (e) and*
 19 *(i)"; and*

20 *(2) by adding at the end the following new sub-*
 21 *section:*

22 *"(i) Nothing in this section shall be construed to super-*
 23 *sede the application of State or local requirements for the*
 24 *reporting of incidents of suspected child abuse to the appro-*
 25 *priate State or local authorities."*

1 (b) Section 527 of such Act (42 U.S.C. 290ee-3) is
2 amended—

3 (1) by striking out “subsection (e)” in subsection
4 (a) and inserting in lieu thereof “subsections (e) and
5 (i)”; and

6 (2) by adding at the end the following new subsec-
7 tion:

8 “(i) Nothing in this section shall be construed to super-
9 sede the application of State or local requirements for the
10 reporting of incidents of suspected child abuse to the appro-
11 priate State or local authorities.”.

Amend the title so as to read “A bill to amend the Child Abuse Prevention and Treatment Act to establish a program to encourage States to enact child protection reforms which are designed to improve legal and administrative proceedings regarding the investigation and prosecution of the child abuse cases, especially child sexual abuse cases.”.

A P P E N D I X B

CALIFORNIA LEGISLATION AS FOLLOWS:

| | |
|-------------------|-----|
| SB 2530 | B-1 |
| AB 505. | B-2 |
| AB 1502 | B-3 |
| SB 1306 | B-4 |
| AB 1980 | B-5 |

Introduced by Senator Petris

February 21, 1986

An act to add Title 11 (commencing with Section 14150) to Part 4 of the Penal Code, relating to children, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 2530, as introduced, Petris. Child victims and witnesses.

Existing law provides various special procedures applicable to child victims and witnesses.

This bill would enact the California Child Victim Witness Protection Act, which would establish the Child Victim Witness Judicial Advisory Committee to conduct a specified study concerning child victims and witnesses, including the methods of establishing a Child Victim Witness Court Pilot Project, as specified. The study and its recommendation would be required to be submitted to the Judicial Council, the Legislature, the Governor, and the Attorney General by October 1, 1988.

The bill would appropriate \$175,000 to the Department of Justice for the provision of staff assistance to the advisory committee in 1987 and 1988.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Title 11 (commencing with Section
- 2 14150) is added to Part 4 of the Penal Code, to read:

1 TITLE 11. CALIFORNIA CHILD VICTIM WITNESS
2 PROTECTION ACT
3

4 Article 1. General
5

6 14150. This title shall be known and may be cited as
7 the California Child Victim Witness Protection Act.

8 14151. The Legislature finds and declares that there is
9 an urgent need for a comprehensive examination of the
10 role of child victims and witnesses in legal and judicial
11 proceedings. The Legislature further finds and declares
12 the following:

13 (a) Legal and judicial proceedings were not designed
14 for children. Recent experience demonstrates the
15 necessity of providing child victims and witnesses with
16 additional consideration and treatment differing from
17 that which is afforded to adults; failure to address the
18 special problems of child victims and witnesses may
19 result in trauma to these children and a breakdown of the
20 truth-finding process.

21 (b) A comprehensive approach to the sensible,
22 sensitive, and successful management of child victims
23 and witnesses in our legal and judicial systems should be
24 adopted. While there have been recent Legislative
25 reforms in this area, there is a need for a complete review
26 of legal and judicial practices and procedures involving
27 child victims and witnesses and, in particular, judicial
28 proceedings involving victims of child abuse.

29 (c) The purpose of this title is to improve legal and
30 judicial processes involving child victims and witnesses to
31 ensure that these children are treated fairly and
32 sensitively, and to ensure that they are not needlessly
33 traumatized or further victimized by unnecessary
34 repetitive interviews and court appearances and by
35 uncoordinated legal and judicial proceedings. It is the
36 intention of the Legislature to accomplish this purpose by
37 presently establishing a Child Victim Witness Judicial
38 Advisory Committee to make recommendations for
39 improving legal and judicial processes involving child
40 victims and witnesses and by establishing, at a future

1 date, a Child Victim Witness Court Pilot Project to
2 determine the most effective methods for implementing
3 these recommendations.

4 14152. The Legislature intends at a future date to
5 enact legislation establishing a Child Victim Witness
6 Court Pilot Project to determine the most effective
7 means for placing into operation the recommendations
8 made by the Child Victim Witness Judicial Advisory
9 Committee established by this title. It is the intention of
10 the Legislature that the advisory committee shall
11 monitor the implementation, operation, and evaluation
12 of that pilot project.

13
14 Article 2. Child Victim Witness Judicial Advisory
15 Committee
16

17 14153. There is in state government a Child Victim
18 Witness Judicial Advisory Committee. The purpose of the
19 advisory committee is to study legal and judicial practices
20 and procedures as they pertain to child victims and
21 witnesses, with particular attention to be given to the
22 special problems of victims of intrafamilial child abuse
23 and the coordination of related criminal and civil
24 proceedings. The advisory committee shall be composed
25 of 19 persons, appointed as follows:

26 (a) The Attorney General or his or her representative,
27 who shall be the chair of the Advisory Committee.

28 (b) One person appointed by the Judicial Council.

29 (c) One person appointed by the Governor.

30 (d) One person appointed by the Speaker of the
31 Assembly.

32 (e) One person appointed by the Senate Committee
33 on Rules.

34 (f) Five trial judges, one from the municipal court and
35 one each from the criminal, juvenile, civil, and family law
36 departments of the superior court, who have extensive
37 experience presiding over child abuse cases and cases
38 involving child witnesses, and one justice of the court of
39 appeal, all of whom shall be appointed by the Judicial
40 Council. The Judicial Council shall appoint the municipal

1 court judge and the criminal and juvenile superior court
2 judges from counties in which the judiciary has expressed
3 an interest in conducting the Child Victim Witness Court
4 Pilot Project.

5 (g) Two court clerks appointed by the Judicial
6 Council.

7 (h) One person appointed by the State Bar.

8 (i) One person appointed by the California District
9 Attorneys Association.

10 (j) One person appointed by the California County
11 Counsels Association.

12 (k) One person appointed by the California Public
13 Defenders Association.

14 (l) One person appointed by the California Peace
15 Officers' Association.

16 (m) One person appointed by the County Welfare
17 Directors Association.

18 14154. The advisory committee shall study all of the
19 following subjects and report its findings and
20 recommendations to the Judicial Council, the
21 Legislature, the Governor, and the Attorney General no
22 later than October 1, 1988:

23 (a) Recommendations for minimizing or reducing
24 unnecessary repetitive interviews and court
25 appearances.

26 (b) Recommendations for improving legal and
27 judicial practices and procedures, including, but not
28 limited to, the following:

29 (1) The management of child victims and witnesses in
30 all criminal and civil judicial proceedings.

31 (2) Coordination of related criminal and civil
32 proceedings, in particular dependency proceedings, and
33 custody, termination of parental rights, guardianship, and
34 adoption proceedings.

35 (3) Coordination of judicial and investigative
36 processess, including law enforcement and child welfare
37 services investigations.

38 (c) Recommendations for the design and operation of
39 the Child Victim Witness Court Pilot Project to
40 determine the most effective methods for implementing

1 the advisory committee's findings, including all of the
2 following:

3 (1) Determination of which recommendations from
4 subdivision (a) should be tested in the pilot project.

5 (2) Design of the pilot project, which may include
6 modification of existing judicial practices and procedures,
7 establishment of a specialty court, or both.

8 (3) Determination of the need for specific enabling
9 legislation or rule changes.

10 (4) Recommendation for the number of sites and term
11 of the pilot project.

12 (5) Selection of the pilot project sites.

13 (6) Recommendation for resource and funding
14 requirements.

15 14155. In making recommendations for improving
16 judicial practices and procedures and for the design of
17 the pilot project the advisory committee shall examine all
18 of the following issues:

19 (a) Consolidation and coordination of related legal
20 and judicial proceedings.

21 (b) Use of a vertical litigation organizational concept.

22 (c) Provision of child victim witness support systems.

23 (d) Appropriate modification of court facilities.

24 (e) Effective case management information systems.

25 14156. The advisory committee may conduct public
26 hearings to facilitate its study.

27 14157. Staff assistance to the advisory committee shall
28 be provided by the Department of Justice, with the
29 assistance of the Judicial Council, as needed.

30 14158. The members of the advisory committee shall
31 serve without compensation but shall be reimbursed for
32 expenses actually and necessarily incurred by them in the
33 performance of their duties.

34 SEC.2. The sum of one hundred seventy-five
35 thousand dollars (\$175,000) is hereby appropriated from
36 the General Fund to the Department of Justice for the
37 purposes specified in Section 14157 of the Penal Code, for
38 use in 1987 and 1988.

Assembly Bill No. 505

CHAPTER 1598

An act to add Sections 1522.1 and 1596.877 to the Health and Safety Code, and to amend Sections 11166.5, 11167, 11167.5, 11169, 11170, and 11172 of, and to add Sections 11165.6, 11166.1, and 11166.2 to, the Penal Code, relating to child abuse, and making an appropriation therefor.

[Approved by Governor October 2, 1985. Filed with
Secretary of State October 2, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 505, Leonard. Child abuse.

Under existing law, the California Community Care Facilities Act provides for the licensing of community care facilities, as defined, and the California Child Day Care Facilities Act provides for the licensing of child day care facilities, by the State Department of Social Services or other specified agencies. Existing law also provides for the collection, maintenance, and furnishing of specified information by the Department of Justice concerning child abuse.

This bill would require the State Department of Social Services, prior to granting a license to any individual to care for children, to check with the Department of Justice and to investigate reports of child abuse received from the Department of Justice. Denial of a license on the basis of those reports would not be authorized unless child abuse is substantiated. This bill would require the Department of Justice to furnish information concerning child abuse to the State Department of Social Services for purposes relating to its authority over community care facilities, child day care facilities, and adoption agencies.

Existing law contains various statutes relating to the reporting of suspected child abuse by specified persons.

Existing law imposes upon child care custodians, as defined, certain duties relative to reporting known or suspected child abuse.

This bill would include child day care facilities in the definition of child care custodians.

Existing law prohibits a supervisor or administrator of specified persons who are required to report known or suspected child abuse from impeding that reporting.

This bill would make it a misdemeanor to so impede that reporting.

Existing law requires new employees of a child care custodian, medical practitioner, or nonmedical practitioner, as defined, to be notified of child abuse reporting requirements, as specified.

This bill would include additional persons in the definitions of child care custodian and medical practitioner for those purposes.

This bill would impose additional requirements for reporting

known or suspected child abuse, and provide for the dissemination of information to the appropriate licensing agency, as defined, in instances occurring in a child day care facility or community care facility. The bill would require the Department of Justice to verify whether reports are unfounded, and to discard unverified reports. The bill would limit reporting by child protective agencies to cases that are investigated and found not to be unfounded.

The bill would create a state-mandated local program by imposing reporting requirements on local agencies and by making it a crime to violate those requirements and by making it a crime for a supervisor or administrator to impede the reporting of child abuse.

Existing law requires commercial film and photographic print processors to report suspected child abuse but does not include them in provisions granting immunity from civil and criminal liabilities.

This bill would include those persons in those immunity provisions and would allow a court to award them attorney's fees when a frivolous suit is brought against them because of a disclosure mandated by the bill.

The bill would delete child protective agencies from these provisions relating to immunity, but would not affect other applicable immunity provisions.

This bill incorporates changes in Sections 11166.5, 11167.5, 11170, and 11172 of the Penal Code to become operative only if, as the case may be, SB 254, SB 1358, and AB 2337 are enacted before this 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that no appropriation is made by this act for a specified reason with respect to provisions of this act creating a new crime or changing the definition of a crime. However, it would provide that reimbursement to local agencies and school districts for costs mandated by the state because of the other provisions of this act shall be made from the State Mandates Claims Fund if the statewide cost of the claim does not exceed \$500,000.

The bill would appropriate \$62,500 to the Department of Justice, and \$75,000 to the State Department of Social Services for the 1985-86 fiscal year for purposes of the bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1522.1 is added to the Health and Safety Code, to read:

1522.1. Prior to granting a license to any individual to care for

children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 2. Section 1596.877 is added to the Health and Safety Code, to read:

1596.877. Prior to granting a license to any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The department shall investigate any reports received from the Child Abuse Registry. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.

SEC. 3. Section 11165.6 is added to the Penal Code, to read:

11165.6. (a) As used in Section 11165, "abuse in out-of-home care" in addition to the persons or entities specified therein, includes day care providers.

(b) As used in Sections 11165 and 11166.5, "child-care custodian," in addition to the persons specified therein, includes a licensee, an administrator, or an employee of any child day care facility licensed to care for children.

(c) In addition to the definitions set forth in Section 11165, as used in this article, the definition set forth below shall control the meaning of the following terms:

(1) "Licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act and the California Child Day Care Act, including Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code, or the county licensing agency which has contracted with the state for performance of those duties.

(2) "Unfounded report" means a report which is determined by a child protective agency investigator to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse as defined in Section 11165.

SEC. 3.5. Section 11166.1 is added to the Penal Code, to read:

11166.1. Any supervisor or administrator who violates subdivision (f) of Section 11166 is guilty of a misdemeanor which is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both.

SEC. 4. Section 11166.2 is added to the Penal Code, to read:

11166.2. In addition to the reports required under Section 11166, a child protective agency shall immediately or as soon as practically possible report by telephone to the appropriate licensing agency every known or suspected instance of child abuse, except acts or omissions coming within the provisions of paragraph (2) of

subdivision (c) of Section 11165, which shall only be reported to the county welfare department, when the instance of abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency shall also send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report under this subdivision.

SEC. 5. Section 11166.5 of the Penal Code is amended to read:

11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of community care facilities or child day care facilities licensed to care for children; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code.

"Nonmedical practitioner" includes state or county public health

employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 5.1. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, medical practitioner, or nonmedical practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of community care facilities or child day care facilities licensed to care for children; headstart teachers; licensing workers or licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Medical practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, or any other person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code or emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code.

"Nonmedical practitioner" includes state or county public health employees who treat minors for venereal disease or any other condition; coroners; paramedics; marriage, family or child

counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in Document 11166.5 to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in Section 11166.5, the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

SEC. 5.2. Section 11166.5 of the Penal Code is amended to read:

11166.5. Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of community care facilities or child day care facilities licensed to care for children; headstart teachers; licensing workers or

licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, marriage, family, and child counselors, a person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code, state or county public health employees who treat minors for venereal disease or any other condition; coroners, paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

SEC. 5.3. Section 11166.5 of the Penal Code is amended to read:

11166.5. (a) Any person who enters into employment on and after January 1, 1985, as a child care custodian, health practitioner, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.

The statement shall include the following provisions:

Section 11166 of the Penal Code requires any child care custodian, health practitioner, employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she knows or reasonably suspects has been the victim of a child abuse to report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and to prepare and send a written report thereof within 36 hours of receiving the information concerning the incident.

"Child care custodian" includes teachers, administrative officers, supervisors of child welfare and attendance, or certificated pupil personnel employees of any public or private school; administrators of a public or private day camp; licensees, administrators, and employees of community care facilities or child day care facilities licensed to care for children; headstart teachers; licensing workers or

licensing evaluators; public assistance workers; employees of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities; and social workers or probation officers.

"Health practitioner" includes physicians and surgeons, psychiatrists, psychologists, dentists, residents, interns, podiatrists, chiropractors, licensed nurses, dental hygienists, marriage, family, and child counselors, a person who is licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, emergency medical technicians I or II, paramedics, or other persons certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or psychological assistants registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or unlicensed marriage, family, and child counselor interns registered under Section 4980.44 of the Business and Professions Code, state or county public health employees who treat minors for venereal disease or any other condition; coroners, paramedics; marriage, family or child counselors; and religious practitioners who diagnose, examine, or treat children.

The signed statements shall be retained by the employer. The cost of printing, distribution, and filing of these statements shall be borne by the employer.

This subdivision is not applicable to persons employed by child protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in Section 11166.5 to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in Section 11166.5, the statement shall also indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in jail or by a fine of one thousand dollars (\$1,000) or by both.

(c) As an alternative to the procedure required by subdivision (b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

SEC. 6. Section 11167 of the Penal Code is amended to read:

11167. (a) A telephone report of a known or suspected instance of child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including

information that led that person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the known or suspected case of child abuse.

(c) The identity of all persons who report under this article shall be confidential and disclosed only between child protective agencies, or to counsel representing a child protective agency, or to the district attorney 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 Section 318 of the Welfare and Institutions Code, or to the county counsel or district attorney in an action initiated under Section 232 of the Civil Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(d) Persons who may report pursuant to subdivision (d) of Section 11166 are not required to include their names.

SEC. 7. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars (\$500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) The State Department of Social Services, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any

reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 7.5. Section 11167.5 of the Penal Code is amended to read:

11167.5. (a) The reports required by Sections 11166 and 11166.2 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars (\$500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in subdivision (h) of Section 11166.

(6) The State Department of Social Services, as specified in paragraph (3) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse by an operator or employee of an out-of-home care facility.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 8. Section 11169 of the Penal Code is amended to read:

11169. A child protective agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse which is determined not to be unfounded, other than cases coming within the provisions of paragraph (2) of subdivision (c) of Section 11165. A child protective agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the

report is not unfounded, as defined in subdivision (n) of Section 11165. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The report required by this section shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the Department of Justice.

The immunity provisions of Section 11172 shall not apply to the submission of a report by a child protective agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

SEC. 8.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting medical practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

SEC. 8.5. Section 11170 of the Penal Code is amended to read:

11170. (a) The Department of Justice shall maintain an index of all preliminary reports of child abuse submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be unfounded. The department shall contact a child protective agency which submits a preliminary report after 60 days to verify that the report was not determined unfounded and shall not retain the report unless the verification is received within 30 days thereafter. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(b) (1) The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169, or a district attorney who requests notification, of any information maintained pursuant to subdivision (a) which is relevant to the known or suspected instance of child abuse reported by the agency. A child protective agency shall make that information available to the reporting health practitioner, child custodian, guardian ad litem appointed under Section 326, or counsel appointed under Section 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she is treating or investigating a case of known or suspected child abuse.

(2) When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The department shall make available to the State Department of Social Services any information received subsequent to January 1, 1981, pursuant to this section concerning any person who is an applicant for licensure or employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.876 of the Health and Safety Code, or Section 226 of the Civil Code. If the department has information which has been received subsequent to January 1, 1981, concerning such a person, it shall also make available to the State Department of Social Services any other information maintained pursuant to subdivision (a).

SEC. 9. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, medical practitioner, nonmedical practitioner, employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report

authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, medical practitioner, nonmedical practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both.

SEC. 10. Section 11172 of the Penal Code is amended to read:

11172. (a) No child care custodian, health practitioner, or employee of a child protective agency, or commercial film and photographic print processor who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse, or causing photographs to be taken of a suspected victim of child abuse, without parental consent, or for disseminating the photographs with the reports required by this article. However, the provisions of this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any child care custodian, health practitioner, nonmedical practitioner, or employee of a child protective agency who, pursuant to a request from a child protective agency, provides the requesting agency with access to the victim of a known or suspected instance of child abuse shall not incur civil or criminal liability as a result of providing that access.

(c) The Legislature finds that even though it has provided immunity from liability to persons required to report child abuse, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required reports of child abuse. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a child care custodian, health practitioner, an employee of a child protective agency, or commercial film and photographic print processor may present a claim to the State Board of Control for reasonable attorneys' fees incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The State Board of Control shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorneys' fees awarded

pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(d) A court may award attorney's fees to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

(e) Any person who fails to report an instance of child abuse which he or she knows to exist or reasonably should know to exist, as required by this article, is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than one thousand dollars (\$1,000) or by both.

SEC. 11. (a) Section 5.1 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by both this bill and SB 254. It shall only become operative if (1) both bills are enacted and become effective January 1, 1986, (2) each bill amends Section 11166.5 of the Penal Code, and (3) SB 1358 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 254, in which case Sections 5, 5.2, and 5.3 of this bill shall not become operative.

(b) Section 5.2 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by both this bill and SB 1358. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11166.5 of the Penal Code, (3) SB 254 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after SB 1358 in which case Section 11166.5 of the Penal Code, as amended by SB 1358 shall remain operative only until the operative date of this bill at which time Section 5.2 of this bill shall become operative and Sections 5, 5.1, and 5.3 of this bill shall not become operative.

(c) Section 5.3 of this bill incorporates amendments to Section 11166.5 of the Penal Code proposed by this bill, SB 254, and SB 1358. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1986, (2) all three bills amend Section 11166.5 of the Penal Code, and (3) this bill is enacted after SB 254 and SB 1358, in which case Section 11166.5 of the Penal Code, as amended by SB 1358 shall remain operative only until the operative date of this bill at which time Section 5.3 of this bill shall become operative and Sections 5.1, and 5.2 of this bill shall not become operative.

SEC. 12. Section 7.5 of this bill incorporates amendments to

Section 11167.5 of the Penal Code proposed by both this bill and AB 2337. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11167.5 of the Penal Code, and (3) this bill is enacted after AB 2337, in which case Section 11167.5 of the Penal Code, as amended by AB 2337, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 13. Section 8.5 of this bill incorporates amendments to Section 11170 of the Penal Code proposed by both this bill and SB 1358. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11170 of the Penal Code, and (3) this bill is enacted after SB 1358, in which case Section 11170 of the Penal Code, as amended by SB 1358, shall remain operative only until the operative date of this bill, at which time Section 8.5 of this bill shall become operative, and Section 8 of this bill shall not become operative.

SEC. 14. Section 10 of this bill incorporates amendments to Section 11172 of the Penal Code proposed by both this bill and SB 1358. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1986, (2) each bill amends Section 11172 of the Penal Code, and (3) this bill is enacted after SB 1358, in which case Section 11172 of the Penal Code, as amended by SB 1358, shall remain operative only until the operative date of this bill, at which time Section 10 of this bill shall become operative, and Section 9 of this bill shall not become operative.

SEC. 15. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because the amendments made to the Penal Code by this act, in part, create a new crime or infraction, change the definition of a crime or infraction, change the penalty for a crime or infraction, or eliminate a crime or infraction. However, reimbursement to local agencies and school districts for costs mandated by the state pursuant to the other provisions of this act which do not create a new crime or infraction, change the definition of a crime or infraction, or change the penalty for a crime or infraction, shall be made pursuant to Part 7 (commencing with Section 17550) of Division 4 of Title 2 of the Government Code and, if the statewide cost of the claim for reimbursement does not exceed five hundred thousand dollars (\$500,000), shall be made from the State Mandates Claims Fund.

SEC. 16. The sum of one hundred thirty-seven thousand five hundred dollars (\$137,500) is hereby appropriated from the General Fund for the 1985-86 fiscal year for the purposes of this act, to be allocated as follows:

(1) Sixty-two thousand five hundred dollars (\$62,500) to the Department of Justice.

(2) Seventy-five thousand dollars (\$75,000) to the State Department of Social Services.

O

Assembly Bill No. 1502

CHAPTER 884

An act to amend Sections 700, 701, and 765 of the Evidence Code, relating to evidence.

[Approved by Governor September 21, 1985. Filed with Secretary of State September 23, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1502, Molina. Evidence.

(1) Existing law provides that every person is qualified to be a witness and no person is disqualified to testify to any matter, except as otherwise provided by statute. Existing law also provides that a person is disqualified to be a witness if he is incapable of expressing himself concerning the matter so as to be understood, either directly or through an interpreter, or incapable of understanding the duty of a witness to tell the truth.

This bill would provide that every person, regardless of age, is qualified to be a witness, and would provide that in any proceeding held outside the presence of a jury, the court may reserve challenges to the competency of a witness until the conclusion of the direct examination of the witness.

(2) Existing law requires a court to exercise reasonable control over the mode of interrogation of a witness so as to make such interrogation as rapid, as distinct, and as effective for the ascertainment of the truth as may be, and to protect the witness from undue harassment or embarrassment.

This bill would also require a court to take special care with a witness under the age of 14 in order to protect him or her from undue harassment or embarrassment, and to restrict the unnecessary repetition of questions.

The people of the State of California do enact as follows:

SECTION 1. Section 700 of the Evidence Code is amended to read:

700. Except as otherwise provided by statute, every person, irrespective of age, is qualified to be a witness and no person is disqualified to testify to any matter.

SEC. 2. Section 701 of the Evidence Code is amended to read:

701. (a) A person is disqualified to be a witness if he or she is:

(1) Incapable of expressing himself or herself concerning the matter so as to be understood, either directly or through interpretation by one who can understand him; or

(2) Incapable of understanding the duty of a witness to tell the truth.

(b) In any proceeding held outside the presence of a jury, the court may reserve challenges to the competency of a witness until the conclusion of the direct examination of that witness.

SEC. 3. Section 765 of the Evidence Code is amended to read:

765. (a) The court shall exercise reasonable control over the mode of interrogation of a witness so as to make such interrogation as rapid, as distinct, and as effective for the ascertainment of the truth, as may be, and to protect the witness from undue harassment or embarrassment.

(b) With a witness under the age of 14, the court shall take special care to protect him or her from undue harassment or embarrassment, and to restrict the unnecessary repetition of questions.

O

Senate Bill No. 1306

CHAPTER 1528

An act to add Section 1596.889 to the Health and Safety Code, and to amend Sections 11165 and 11174 of the Penal Code, relating to child abuse.

[Approved by Governor October 2, 1985. Filed with Secretary of State October 2, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1306, Watson. Child abuse.

(1) Existing law provides for administrative proceedings regarding the suppression, revocation, or denial of a license, registration, or permit under the California Child Care Act.

This bill would require that those proceedings be conducted by using the preponderance of evidence standard.

(2) Existing law requires the Department of Justice, in cooperation with the State Department of Social Services, to prescribe by regulation guidelines for the investigation of child abuse in group homes or institutions.

This bill would require the department to prescribe by regulation guidelines for the investigation of abuse in out-of-home care, rather than the investigation of child abuse in group homes or institutions.

(3) Existing law defines the term "abuse in out-of-home care" to mean, among other things, a situation of physical injury on a child which is inflicted by other than accidental means, or sexual abuse, or neglect, or willful cruelty or unjustifiable punishment of a child where the person responsible for the child's welfare is, among others, a foster parent or an administrator or employee of a residential home.

This bill would revise this definition by deleting references to "foster parent" and "residential home." However, it would include within the scope of that definition, physical injury inflicted by corporal punishment or injury, and it would include within the persons responsible for a child's welfare a licensee, administrator, or employee of a licensed community care, or child day care facility.

Since this bill would expand the definition of "abuse in out-of-home care," it would include additional instances in which local authorities would be required to report child abuse cases to local child protective agencies, thus creating a state-mandated local program. Furthermore, because the failure to report instances of child abuse, which include abuse in out-of-home care, is a misdemeanor, it would expand the scope of that crime, thus creating a state-mandated local program.

(4) The bill also would incorporate further changes to Section 11165 of the Penal Code as proposed by AB 701, contingent upon the

prior chaptering of AB 701.

(5) 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.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

This bill would provide that no appropriation is made by this act because this act does not mandate a new program or higher level of service on local government.

(7) This bill would provide that, notwithstanding Section 2231.5 of the Revenue and Taxation Code, this bill does not contain a repealer, as required by that section; therefore, the provisions of the bill would remain in effect unless and until they are amended or repealed by a later enacted bill.

The people of the State of California do enact as follows:

SECTION 1. Section 1596.889 is added to the Health and Safety Code, to read:

1596.889. In all proceedings conducted in accordance with Section 1596.887, the preponderance of the evidence standard shall apply.

SEC. 2. Section 11165 of the Penal Code is amended to read:

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live

performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse, or neglect, or corporal punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare

is a licensee, administrator, or employee of a licensed community care or child day care facility, or the administrator or an employee of a public or private school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(l) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 2.5. Section 11165 of the Penal Code is amended to read: 11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(1) "Sexual assault" means conduct in violation of one or more of

the following sections of this code: Section 261 (rape), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivision (a) or (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), or 647a (child molestation).

(2) "Sexual exploitation" refers to any of the following:

(A) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(B) Any person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or any parent or guardian of a child under his or her control who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, or live performance involving obscene sexual conduct for commercial purposes.

(C) Any person who depicts a child in, or who knowingly develops, duplicates, prints, or exchanges, any film, photograph, videotape, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(c) "Neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(1) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by subdivision (d), including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or

physicians who have examined the minor shall not constitute neglect.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means a situation of physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect, or corporal punishment or injury, or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a licensee, administrator, or employee of a licensed community care or child day care facility, or the administrator or an employee of a public or private school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual abuse of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensee, an administrator, or an employee of a community care facility licensed to care for children; headstart teacher; a licensing worker or licensing evaluator; public assistance worker; an employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential care facilities; a social worker or a probation officer or any person who is an administrator or presenter of, or a counselor in, a child abuse presentation program in any public or private school.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, or a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public

health employee who treats a minor for venereal disease or any other condition; a coroner; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

(l) "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.

SEC. 3. Section 11174 of the Penal Code is amended to read:

11174. The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in subdivision (f) of Section 11165, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

SEC. 3.5. Section 2.5 of this bill incorporates amendments to Section 11165 of the Penal Code proposed by both this bill and AB 701. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1986, (2) each bill amends Section 11165 of the Penal Code, and (3) this bill is enacted after AB 701, in which case Section 2 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

SEC. 6. No appropriation is made by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act does not mandate a new program or higher level of service on school districts or local government. It is recognized, however, that school districts or local governments may make claims for reimbursement under Chapter 4 (commencing with Section 17550) of Part 7 of Division 4 of Title 2 of the Government Code.

Assembly Bill No. 1980

CHAPTER 1417

An act to add and repeal Chapter 12.5 (commencing with Section 18980) to Part 6 of Division 9 of the Welfare and Institutions Code, relating to child abuse prevention coordinating councils.

[Approved by Governor October 1, 1985. Filed with
Secretary of State October 1, 1985.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1980, N. Waters. Child abuse prevention coordinating councils.

Various provisions of existing law deal with child abuse, including pilot projects and prevention centers.

This bill would enact the Child Abuse Prevention Coordinating Council Act under which councils would be established by each county to coordinate community efforts to prevent and respond to child abuse, as specified.

The bill would provide that each county would provide funding for the establishment of these councils through county children's trust funds, or if one has not been established in each county, the board of supervisors would be required to seek funding from the State Children's Trust Fund.

These new requirements would constitute 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.

The people of the State of California do enact as follows:

SECTION 1. Chapter 12.5 (commencing with Section 18980) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.5. CHILD ABUSE PREVENTION COORDINATING
COUNCIL ACT

Article 1. General Provisions

18980. This chapter shall be known and may be cited as the Child Abuse Prevention Coordinating Council Act.

18981. The Legislature finds and declares all of the following:

(a) Child abuse is one of the most tragic social and criminal justice issues of our times.

(b) Victims of child abuse and their families face a complex intervention system involving many professionals and agencies.

(c) Coordination by child protection agencies and personnel improves the response to a victim and his or her family.

(d) The prevention of child abuse requires the involvement of the entire community.

18981.1. It is the intention of the Legislature to fund child abuse prevention coordinating councils in each county.

Article 2. Child Abuse Prevention Coordinating Councils

18982. A child abuse prevention coordinating council is a community council whose primary purpose is to coordinate the community's efforts to prevent and respond to child abuse.

18982.1. Councils funded by this chapter shall encourage representatives from the following:

(a) Public child welfare services, including the following:

(1) The county welfare or children's services department.

(2) The probation department.

(3) Licensing agencies.

(b) The criminal justice system, including the following:

(1) Law enforcement.

(2) The office of the district attorney.

(3) The courts.

(4) The coroner.

(c) Prevention and treatment services communities, including the following:

(1) Medical and mental health services.

(2) Community-based social services.

(3) Public and private schools.

(d) Community representatives, including the following:

(1) Community volunteers.

(2) Civic organizations.

(3) The religious community.

18982.2. The functions of a council shall include, but not be limited to, the following:

(a) To provide a forum for interagency cooperation and coordination in the prevention, detection, treatment, and legal processing of child abuse cases.

(b) To promote public awareness of the abuse and neglect of children and the resources available for intervention and treatment.

(c) To encourage and facilitate training of professionals in the detection, treatment, and prevention of child abuse and neglect.

(d) To recommend improvements in services to families and victims.

(e) To encourage and facilitate community support for child

abuse and neglect programs.

18982.3. Councils may form committees to carry out specific functions, such as the following:

- (a) Interagency coordination committees.
- (b) Multidisciplinary personnel teams.
- (c) Professional training committees.
- (d) Public awareness committees.
- (e) Service improvement committees.
- (f) Advocacy committees.
- (g) Fundraising committees.

18982.4. The multidisciplinary personnel team provisions of subdivision (1) of Section 5328, subdivision (d) of Section 18951, and Section 18961 shall apply to child abuse prevention coordinating councils funded under this chapter.

Article 3. Selection and Administration

18983. Each county shall fund child abuse prevention coordinating councils which meet the criteria in Section 18982 from the county's children's trust fund. In the event that the county does not create a children's trust fund, the board of supervisors shall apply for funds from the State Children's Trust Fund. Initial funding of councils shall be scheduled to accommodate ongoing funding of programs or funds already encumbered for other purposes.

Funds for councils selected pursuant to this chapter shall not be considered administrative costs for purposes of Sections 18967 and 18969.

18983.3. In the event that more than one council per county exists, the county board of supervisors shall develop a procedure for selecting a council for funding. More than one existing council may be funded in counties with geographically distinct population centers.

18983.4. For counties without existing councils the county board of supervisors shall make every effort to facilitate the formation and funding of a council in that county.

18983.5. Councils funded under this chapter shall be incorporated as nonprofit corporations, or established as independent organizations within county government, or comparably independent organizations as determined by the office. New or existing councils may apply for funds using a fiscal agent pending incorporation.

18983.6. Councils receiving funding under this chapter shall develop a protocol for interagency coordination and provide yearly reports to the county board of supervisors.

18983.8. Councils receiving funding under this chapter shall provide a local cash or in-kind match of 33⅓ percent. For councils unable to raise the full match for the maximum allocation, a partial grant shall be provided in the amount of three grant dollars to each

match dollar.

Article 4. Fiscal Provisions

18984. This chapter shall remain in effect only until June 30, 1989, and as of that date is repealed, unless a later enacted statute, which is enacted before June 30, 1989, deletes or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a county has the authority to obtain sufficient funds to pay for the program or level of service mandated by this act.

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