
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2019 - 2020 Regular

Bill No: AB 2741 **Hearing Date:** July 31, 2020
Author: Blanca Rubio
Version: February 20, 2020
Urgency: No **Fiscal:** No
Consultant: NS

Subject: *Children's Advocacy Centers*

HISTORY

Source: Child Advocacy Centers of California

Prior Legislation: AB 1221 (Cooley), 2019, vetoed

Support: Alameda County District Attorney's Office; California Judges Association; California Sexual Assault Forensic Examiners Association; Family Healing Center; Juvenile Court Judges of California; Los Angeles County District Attorney's Office; Napa County District Attorney's Office; Palomar Health Child Abuse Program; Peace Officers Research Association of California (PORAC); San Diego County District Attorney's Office; San Mateo County District Attorney's Office; StrengthUnited; The Children's Advocacy Center for Child Abuse Assessment and Treatment; The University Corporation Dba Strength United; Tuolumne County District Attorney's Office

Opposition: None known

Assembly Floor Vote: 75 - 0

PURPOSE

The purpose of this bill is to authorize counties to create Child Advocacy Centers (CAC) to implement a coordinated multidisciplinary approach to investigative reports of child abuse.

Existing law states the legislature intends that law enforcement agencies and the county welfare or probation department in each county shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. (Pen. Code, § 11166.3, subd. (a).)

Existing law requires the local law enforcement agency having jurisdiction over a mandated child abuse or neglect case, as specified, shall report to the county welfare or probation department that it is investigating the case within 36 hours after starting its investigation. (Pen. Code § 11166.3, subd. (a).)

Existing law requires the county welfare department or probation department, in cases where a minor is a victim of child molestation, as specified, and a dependency petition has been filed with regard to the minor, to evaluate what action or actions would be in the best interest of the

child victim. (Pen. Code § 11166.3, subd. (a).)

Existing law provides notwithstanding any other provision of law, the county welfare department or probation department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel. (Pen. Code § 11166.3, subd. (a).)

Existing law mandates a local law enforcement agency having jurisdiction over a reported child abuse or neglect case to report to the district office of the State Department of Social Services any case reported under this section if the case involves a specified facility and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency. (Pen. Code § 11166.3, subd. (b).)

Existing law mandates the Department of Justice, in cooperation with the State Department of Social Services, to prescribe by regulation guidelines for the investigation of child abuse or neglect, as defined, in facilities licensed to care for children. (Pen. Code § 11174.1, subd. (a).)

Existing law authorizes members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse to disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information reasonably believes it is generally relevant to the prevention, identification or treatment of child abuse. (Welf. and Inst. Code, § 830.)

Existing law provides that counties may establish child abuse multidisciplinary personnel teams within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse and neglect, as specified, or for the purpose of child welfare agencies making a detention determination. (Welf. & Inst. Code, § 18961.7, subd. (a).)

Existing law defines "multidisciplinary personnel" as any team of two or more persons who are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to:

- a) Psychiatrists, psychologists or other trained counseling personnel;
- b) Police officers or other law enforcement agents;
- c) Medical personnel with sufficient training to provide health services;
- d) Social workers with training or experience in child abuse prevention; and,
- e) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee. (Welf. & Inst. Code, § 18961.7, subd. (b)(1).)

Existing law defines "provider agency" as any governmental or other agency that has as one of its purposes the prevention, identification, management, or treatment of child abuse or neglect. The provider agencies serving children and their families that may share information shall include, but not be limited to the following entities or agencies: social services, children's services, health services, mental health services, probation, law enforcement; and schools. (Welf. & Inst. Code, § 18961.7, subd. (b)(2).)

Existing law provides that notwithstanding any other provision of law, during a 30-day period, or longer if good cause exists following a report of suspected child abuse or neglect, members of a child abuse multidisciplinary team engaged in the prevention, identification, and treatment of child abuse may disclose to, and exchange with one another information and writing that relate to any incident of child abuse that may also be designated as confidential if the member of that team having that information or writing reasonably believes it is generally relevant to the prevention, identification, and treatment of child abuse. Any discussion relative to the disclosure or exchange of the information or writings during a team meeting is confidential, and notwithstanding any other provision of law, testimony concerning that discussion is not admissible in any criminal, civil, or juvenile court proceeding. (Welf. & Inst. Code, § 18961.7, subd. (c)(1).)

Existing law states that all information and records communicated or provided to the team members by all provider agencies, as well as information and records created in the course of a child abuse or neglect investigation, shall be deemed private and confidential and shall be protected from discovery and disclosure by all applicable statutory and common law protections. Existing civil and criminal penalties shall apply to the inappropriate disclosure of information held by team members. (Welf. & Inst. Code, § 18961.7, subd. (h).)

Existing law provides that any county may establish a computerized data base system within that county to allow provider agencies, as defined, to share specified identifying information regarding families at risk for child abuse and neglect, for the purposes of forming multidisciplinary personnel teams. (Welf. & Inst. Code, § 18961.5, subd. (a).)

Existing law provides that no employee of a provider agency which serves children and their families shall be civilly or criminally liable for furnishing or sharing information, as specified. (Welf. & Inst. Code, § 18961.5, subd. (g).)

Existing law authorizes each county to establish an interagency child death review team to assist local agencies in identifying and reviewing a suspicious child death and facilitating communication among persons who perform autopsies and the various persons and agencies involved in child abuse or neglect cases. (Pen. Code § 11174.32, subd. (a).)

This bill states the legislature finds and declares:

- a) Perpetration of child abuse and neglect is detrimental to children;
- b) All victims of child abuse or neglect deserve to be treated with dignity, respect, courtesy, and sensitivity as a matter of high public importance;
- c) In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case should consider the needs of the child victim and do whatever is

necessary to prevent psychological harm to the child and ensure that children disclosing abuse are not further victimized by the intervention systems designed to protect them;

- d) A multidisciplinary approach to investigating child abuse and neglect is associated with less anxiety, fewer interviews, and increased support for the child, as well as interagency collaboration, coordination, intervention, and sharing of information;
- e) A multidisciplinary response to allegations of child abuse and neglect has been found most effective and least traumatic when coordinated through a children's advocacy center; and,
- f) The use of multidisciplinary teams and the establishment of children's advocacy centers throughout the State of California is necessary to coordinate investigation and prosecution of child abuse and neglect and to facilitate treatment referrals.

This bill authorizes counties to utilize child advocacy centers (CAC) to use a multidisciplinary response to investigate reports of child physical or sexual abuse, exploitation, or maltreatment.

This bill requires a CAC to meet the following standards:

- a) The multidisciplinary team associated with the CAC shall consist of a representative of the CAC and at least one representative from each of the following disciplines: law enforcement, child protective services, district attorney's office, medical providers, mental health providers, victim advocate, or a representative of the CAC. Members of the multidisciplinary team may fill more than one role as needed.
- b) The multidisciplinary team shall have cultural competency and diversity training to meet the needs of the community it serves.
- c) The CAC shall have a designated legal entity responsible for the governance of its operations. This entity shall oversee business practices of the CAC, including setting and implementing administrative policies, hiring and managing personnel, obtaining funding, supervising program and fiscal operations, and long-term planning.
- d) The CAC shall provide a child-focused setting, designed to provide a safe, comfortable and neutral place where forensic interviews and other CAC services can be provided for children and families.
- e) The CAC shall use written protocols for case review and case review procedures. Additionally, the CAC shall use a case tracking system to provide information on essential demographics and case information.
- f) The CAC shall verify that members of the multidisciplinary team responsible for medical evaluations have specific training in child abuse or child sexual abuse examinations.
- g) The CAC shall verify that members of the multidisciplinary team responsible for mental health services are trained in, and deliver, trauma-focused, evidence supported, mental health treatments.

- h) The CAC shall conduct interviews for investigations in a child focused setting and forensically sound manner.

This bill states a county can utilize more than one CAC.

This bill states that any documents used or developed in providing services through a CAC are confidential and not public records.

This bill authorizes members of a multidisciplinary team at a CAC to share with other multidisciplinary team members any information or records concerning the child and family and the person who is the subject of the investigation of suspected child abuse or neglect for the sole purpose of facilitating a forensic interview or case discussion or providing services to the child or family; provided, however, that the shared information or records shall be treated as privileged and confidential to the extent required by law by the receiving multidisciplinary team members.

This bill grants immunity for an employee or designated agent of a child and family advocacy center from any civil liability from a situation that arises from the employee's or designated agent's participation in the investigation process and services provided by the child and family advocacy center. This immunity is not granted if the employee or agent acts with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided.

COMMENTS

1. Need for Bill

According to Author:

Children's Advocacy Centers (CAC's) are at the forefront of the fight against the abuse and exploitation of vulnerable individuals. CAC's are able to address a continuum of care for abused children with a wide breadth of personnel including law enforcement, child protection entities, and medical professionals. These services are a critical foundation to ensuring abused children receive the resources and protections they require. However, without a statutory definition of the services that must be provided at these centers, there can be confusion as to what services are available to the children and the families served by them.....

Defining CACs will help secure support for emerging CACs to create buy-in abilities for local agencies by showing the State recognizes national trends and acknowledges that the CAC model is the preferred, evidence-based method for investigating child abuse allegations. Further, many centers throughout the state are small and may be overwhelmed by the projected onslaught of cases. Recognition at the state level will vitally help them as they apply for funding and resources to ensure they are meeting the needs of the children in their counties.

2. Governor's Veto

This bill was identical to AB 1221 Cooley, of the 2019-2020 Legislative Session, which was vetoed by the Governor. Governor Newsom in his veto message stated, "This bill would specify requirements for what constitutes a child advocacy center established in counties to coordinate

the investigation and prosecution of child abuse cases. While this bill is well-intentioned, it provides overly broad immunity from civil and criminal liability for persons providing services to children and non-offending family members. For example, the measure makes no exceptions when a service provider acted with malice, gross negligence or in bad faith, or has been criminally charged with, or is suspected of, abusing or neglecting the child who is the subject of the investigation or services provided. For these reasons, I am unable to sign this bill.”

This bill now has provisions that does not grant immunity to employees or designated agent who act with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided.

3. Argument in Support

According to the Peace Officer’s Research Association of California (PORAC)

“This bill would authorize a county, in order to implement a multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment, to use a children’s advocacy center that includes representatives from specified disciplines and provides dedicated child-focused settings for interviews and other services. The bill would authorize members of a multidisciplinary team associated with a children’s advocacy center to share with each other information in their possession concerning the child, the family of the child, and the person who is the subject of the abuse or neglect investigation, as specified.

PORAC believes that by investigating abuse and neglect with a multidisciplinary approach within children’s advocacy centers, as well as sharing information between members of the multidisciplinary team is critical to the health and safety of our youth and can assist children and families to facilitate treatment moving forward.”

-- END --