
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair
2021 - 2022 Regular

Bill No: AB 506 **Hearing Date:** June 22, 2021
Author: Lorena Gonzalez
Version: June 15, 2021
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Youth service organizations: mandated reporters*

HISTORY

Source: Insurance Commissioner, Ricardo Lara

Prior Legislation: AB 1963 (Chu), Chaptered 243, Stats. 2020
AB 189 (Kamlager-Dove), Chapter 674, Stats. 2019

Support: Arcadia Police Officers' Association; Burbank Police Officers Association; California Coalition of School Safety Professionals; California Department of Insurance; California Park & Recreation Society; Coalition for Institutional Child Abuse Prevention; Culver City Police Officers Association; Fullerton Police Officers' Association; Inglewood Police Officers Association; Los Angeles School Police Officers Association; Newport Beach Police Association Nonprofit Insurance Alliance of California; Palos Verdes Police Officers Association; Peace Officers Research Association of California (PORAC); Pomona Police Officers' Association; Riverside Sheriffs' Association Santa Ana Police Officers Association

Opposition: ACLU California Action; Alliance for Children's Rights; California Association of Nonprofits; California State PTA; Children's Law Center of California; East Bay Family Defenders; Los Angeles Dependency Lawyers; National Center for Lesbian Rights; Public Counsel

Assembly Floor Vote: 74 - 0

PURPOSE

The purpose of this bill is to make an adult volunteer at a public or private youth center, youth recreation program, or youth organization a mandated reporter of child abuse or neglect for the purpose of the Child Abuse and Neglect Reporting Law (CANRA).

Existing law establishes the CANRA and states that the intent and purpose of the Act is to protect children from abuse and neglect. (Penal Code § 11164.)

Existing law defines "mandated reporter" under CANRA as any of the following: a teacher; an instructional aide; a teacher's aide or teacher's assistant employed by any public or private school; a classified employee of any public school; an administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private

school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis; a licensee, an administrator, or an employee of a licensed community care or child day care facility; a Head Start program teacher; a licensing worker or licensing evaluator employed by a licensing agency as defined; a 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, probation officer, or parole officer; an employee of a school district police or security department; any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed to represent a minor; a peace officer, as defined, who is not otherwise described in this section; a firefighter, except for volunteer firefighters; a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed as a health care professional as specified; any emergency medical technician I or II, paramedic, or other person certified to provide emergency medical services; a registered psychological assistant; a marriage and family therapist trainee, as defined; a registered unlicensed marriage and family therapist intern; a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a medical examiner, or any other person who performs autopsies; a commercial film and photographic print processor, as defined; a child visitation monitor, as defined; an animal control officer or humane society officer, as defined; a clergy member, as defined; any custodian of records of a clergy member, as specified; any employee of any police department, county sheriff's department, county probation department, or county welfare department; an employee or volunteer of a Court Appointed Special Advocate program, as defined; any custodial officer, as defined; any person providing services to a minor child, as specified; an alcohol and drug counselor, as defined; a clinical counselor trainee, as defined; and a registered clinical counselor intern. (Penal Code § 11165.7 (a).)

Existing law provides that when two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. (Penal Code § 11166 (h).)

Existing law provides that volunteers of public or private organizations, except a volunteer of a Court Appointed Special Advocate program, whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to a specified agency. (Penal Code, § 11165.7(b).)

Existing law strongly encourages employers to provide their employees who are mandated reporters with training in the duties imposed by CANRA. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether

or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with a statement that informs the employee that he or she is a mandated reporter and informs the employee of his or her reporting obligations and of his or her confidentiality rights. (Penal Code, § 11165.7(c).)

Existing law encourages public and private organizations to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect. (Penal Code, § 11165.7 (f).)

Existing law requires a mandated reporter to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as is practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow-up report thereof within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident. (Penal Code § 11166 (a).)

Existing law any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a specified agency discovers the offense. (Penal Code § 11166 (c).)

Existing law defines "child" under CANRA to mean a person under the age of 18 years. (Penal Code § 11165.)

Existing law defines "child abuse or neglect" under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Penal Code § 11165.6.)

This bill makes a volunteer over 18 years of age who volunteers more than 16 hours per month or 32 hours per year with a public or private youth center, youth recreation program, youth organization and whose duties involve direct contact with, or supervision of, children a mandated reporter for the purpose of CANRA.

This bill requires an administrator, employee, or volunteer of a youth service organization who is a mandated reporter of child abuse and neglect shall complete the online mandated reporter training provided by the Office of Child Abuse or Prevention in the State Department of Social Services.

This bill requires that an administrator, employee, or volunteer of a youth service organization over 18 years of age undergo a background screening to identify and exclude any persons with a history of child abuse.

This bill states that a volunteer who volunteers fewer than 16 hours per month or 32 hours per year with the service organization shall not be required to undergo a background screening.

This bill requires a youth service to develop to implement child abuse prevention policies and procedures, including but not limited to, both of the following:

- a) Policies to ensure the reporting of suspected incidents of child abuse to persons or entities outside of the organizations, including reports to specified law enforcement agencies; and
- b) Policies requiring to the greatest extent possible, the presence of at least two mandated reporters whenever administrators, employees, or volunteers are in contact with, or supervising children.

This bill states that before writing liability insurance for a youth service organization in this state, an insurer may request information demonstrating compliance with this section from the youth service organization as a part of the insurer's lost control program.

This bill defines "youth service organization" means that an organization that employs or utilizes the services of persons who, due to their relationship with the organization are mandated reporters under existing law.

COMMENTS

1. Need for This Bill

According to the author:

Over the past few years, horrific stories of abuses against children that went unreported for decades have finally come to light with the help of movements like #TimesUp, #MeToo, legislation, and news investigations. However, it is not enough to hold abusers accountable after the fact. This is especially true in spaces like youth organizations, which are intended to provide a safe environment for our children to grow, explore, and develop. AB 506 would institute new requirements for youth organizations and insurers to help prevent child abuse and neglect, and lower the risk of related losses to insurers.

In 2019, the Legislature passed AB 218 (Gonzalez) which lengthened the statute of limitations for victims of childhood sexual abuse, and created a three year window to revive lapsed claims. This window, along with prior and ongoing efforts across the country to investigate and raise awareness of childhood sexual abuse, shed light on abuse which occurred in schools, churches, sports teams, and nonprofit youth organizations.

In the case of the Boy Scouts of America (BSA), over 90,000 claims of abuse spanning several decades across the country were filed¹. Evidence from litigation in Oregon showed internal BSA files tracking the identities and crimes of hundreds of perpetrators, but often suspected abuse of youth within BSA was not reported to police². BSA filed for bankruptcy in February 2020 as insurers dropped the organization's liability coverage and the organization face millions of dollars' worth of legal costs. Insurers argued that the BSA was not only aware of the widespread abuse and failed to take preventative measures to stop it, but also kept information on abuse from the insurers providing their liability coverage.

Similarly, over 200 claims of childhood sexual abuse were filed against the Boys and Girls Club, which is a nonprofit targeted to serving at-risk youth. The Boys and Girls Club failed in some cases to report abuse to law enforcement, and in some cases had failed to run background checks on the staff accused of abuse³.

Existing law encourages volunteers and employees of youth organizations to be trained on child abuse identification and prevention (PEN 11165.7). Volunteers who work closely with children are often the only adults present to witness and report abuse, but are not required to receive abuse prevention training or report suspected abuse to outside entities. In contrast, mandated reporters are compelled under law to notify law enforcement of potential child abuse and neglect.

Many youth organizations have already adopted internal best practices which are proven to help prevent abuse of children. By helping to prevent abuse, these practices also lower the liability risk of future claims against the organizations, which can provide more assurance of solvency to the insurer and prevent losses.

However, as youth continue to join youth organizations, particularly as youth are feeling more isolated due to the COVID-19 pandemic and seeking companionship, youth organizations still lack uniform standards for the prevention of future abuse.

2. Mandated reporters

Existing law requires a mandated report to report whenever in their professional capacity they have knowledge of or observe a child whom they reasonably suspect to be a victim of child abuse or neglect. Failure to report is a 6 month misdemeanor.

¹ <https://apnews.com/article/90k-sex-abuse-claims-filed-boy-scouts-7c60a301143de7553787ebdfcf8f0703>

² https://www.oregonlive.com/portland/2012/06/oregon_supreme_court_orders_re.html

³ <https://www.vice.com/en/article/mbma98/hundreds-of-kids-across-the-country-were-abused-at-boys-and-girls-clubs-of-america-report-reveals>

Teachers, teacher's aids, other school employees, medical professionals, social workers and many others are among those that are mandated reporters.

Administrators and employees of a public or private youth center, youth recreation program, or youth organization are also currently considered mandated reporters. This bill expands that category to include a volunteer over 18 years of age who volunteers more than 16 hours per month or 32 hours per year with the youth center, youth recreation program, or youth organization whose duties involve direct contact with, or supervision of, children. Under existing law volunteers are not mandated reporter.

What impact will including all volunteers to youth programs have on reporting? Will this result in too many unnecessary reports that will have to be investigated taking time from legitimate cases because people are afraid of not reporting? Will this impact a volunteer's willingness to volunteer at these organizations? Will it hamper organizations be able to get last minute volunteers when necessary?

3. Duties of Youth Service Organization

This bill defines youth service organization as an organization that employs or utilizes the services of persons who, due to their relationship with the organization, are mandated reporters.

a. Training

Existing law encourages organizations to train mandated reporters with training on the duties required of them and also encourages non-mandated reporter volunteers to be offered training and encouraged to report.

This bill would require an administrator, employee, or volunteer of a youth service organization who is a mandated reporter, as defined by this bill, to complete the online mandated reporter training. The training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. The training requirement may be met by completing the online mandated reporter training by the Office of Child Abuse Prevention in the State Department of Social Services. This training is 4 hours. (<https://www.mandatedreporter.ca.com/>) It is staff's understanding that there is training offered by other organizations who work to stop child abuse that have training courses that are less than 4 hours and the author intends to allow other courses. Should the bill be further clarified that other courses are available? Could this required training, especially since the named course is 4 hours, be a deterrent to a working parent who just wants to coach or help out with their child's soccer team?

b. Background check

This bill requires an administrator, employee, or volunteer over the age of 18 of a youth service organization to undergo a background screening, unless the volunteers for fewer than 16 hours a month or 32 hours per year.

This bill does not specify what kind of "background screening" which would seem to allow a name based screening through a private organizations. Name based screenings are not accurate and can result in wrong information including the completely wrong person with the same or similar name. They are also not required to update regarding cases that

were dismissed, or expunged, or otherwise no longer what the crime for which a person was arrested.. For these reasons in the past this Committee has not approved of background checks that were not fingerprint based on through the Department of Justice. Should this bill be amended to require the background check to be fingerprint based under Penal Code Section 11105?

c. Policies

This bill requires a youth service organization to develop and implement child abuse prevention policies including, but not limited to, the following:

- i. Policies to ensure the reporting of suspected incidents of child abuse to a persons or entities outside of the organization, including the reporting required to the mandated reporter statute.
- ii. Policies requiring, to the greatest extent possible, the presence of at least two mandated reporters whenever administrators, employees, or volunteers are in contact with, or supervising, children.

d. Insurance

This bill provides that an insurer may request information demonstrating compliance with this section from the youth service organization before writing liability insurance.

4. Argument in Support

The Insurance Commissioner, the sponsor of this bill:

In recent years, ongoing efforts across the country to investigate and raise awareness of childhood sexual abuse have shed light on abuse which has occurred in schools, churches, sports teams, and youth organizations.

In the case of the Boy Scouts of America (BSA), over 90,000 claims of abuse spanning several decades across the country have been filed. Evidence from litigation in Oregon showed internal BSA files tracking the identities and crimes of hundreds of perpetrators, but the suspected abuse was often not reported to police. Similarly, over 200 claims of childhood sexual abuse were filed against the Boys and Girls Club, which in some cases failed to report abuse to law enforcement or to run background checks on the staff accused of abuse.

Filings in the BSA bankruptcy case also reveal details of the organization's ongoing legal disputes with their liability insurance companies. Insurers have been and continue to drop BSA from liability coverage, arguing that the BSA was not only aware of the widespread abuse and failed to take preventative measures to stop it, but they also kept information on abuse from the insurers providing their liability coverage. Similar unreported abuse situations can be seen in insurer disputes with Rockefeller University and the Roman Catholic Archdiocese of New York.

Many youth organizations have already adopted internal best practices which are proven to help prevent abuse of children. By helping to prevent abuse, these practices also lower the liability risk of future claims against the organizations,

which can provide more assurance of solvency to the insurer. However, as youth continue to join youth organizations, particularly as youth are feeling more isolated due to COVID-19 and seeking companionship, there is still a lack of uniform standards for the prevention of abuse in youth organizations.

Assembly Bill 506 would require youth organizations to develop and implement child abuse prevention policies and would require their administrators, employees, and volunteers to undergo background screenings and complete mandated reporter training. In addition, liability insurers would be allowed to review a youth organization's compliance with these requirements prior to issuing any policy. Lastly, **Assembly Bill 506** would also require specified volunteers in youth organizations who have direct contact with or supervision of children to become mandated reporters.

5. Argument in Opposition

The Children's Law Center of California opposes this bill unless amended stating:

While CLC applauds AB 506's goal of promoting the safety and wellness of youth served by volunteer organizations, we are concerned that the inclusion of largely untrained volunteers as mandated reporters could have the unintended consequence of flooding the child welfare system with unsubstantiated reports that have long-term and traumatic consequences on children and families. We know that this reporting already has a disparate impact on families of color; requiring volunteers who have neither the experience nor proper training to be mandated reporters has the likelihood of exacerbating the existing and pervasive implicit bias within the child welfare system. Despite the problematic provisions related to mandated reporting, CLC believes the provisions of the bill requiring background checks on administrators, employees and volunteers of youth organizations to identify and exclude persons with a history of child abuse are an effective tool in increasing the visibility of potentially abusive situations within youth-serving organizations.

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