
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: SB 332 **Hearing Date:** April 7, 2015
Author: Block
Version: February 23, 2015
Urgency: No **Fiscal:** Yes
Consultant: AA

Subject: *Child Abuse Reporting: School District Police Departments*

HISTORY

Source: San Diego Schools Police Officers Association
Prior Legislation: SB 1219 (Presley) – Chapter 1459, Statutes of 1987
Support: Peace Officers Research Association of California
Opposition: None known

PURPOSE

The purpose of this bill is to authorize school district police departments to receive mandated reports of suspected child abuse or neglect.

Current law establishes the Child Abuse and Neglect Reporting Act ("CANRA"), which generally is intended to protect children from abuse and neglect. (Penal Code § 11164.)

Current law requires mandated reporters to make reports of suspected child abuse or neglect, as specified. (Penal Code § 11165.9.)

Current law enumerates 44 categories of mandatory child abuse reporters. (Penal Code § 11165.7.)

Current law requires the Department of Justice ("DOJ") to maintain an index of all reports of child abuse and severe neglect ("CACI") submitted by specified reporting agencies. CACI is required by statute to be continually updated and not contain any reports determined to be unfounded. (Penal Code § 11170(a)(1).)

Current law states that the DOJ shall act only as a repository of the suspected child abuse or neglect reports that are maintained in CACI, and that the reporting agencies are responsible for the accuracy, completeness, and retention of reports. (Penal Code § 11170(a)(2).) Only information from reports that are reported as substantiated shall be filed, and all other determinations shall be removed from the central list. (Penal Code § 11170(a)(3).)

Current law requires that reports of suspected child abuse or neglect be made “to any police department or sheriff’s department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. . . .” (Penal Code § 11165.9.)

This bill would provide that these reports may be made to a school district police department, not including a school district security department.

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state’s ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its “ROCA” policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, *Coleman v. Brown, Plata v. Brown* (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Stated Need for This Bill

The author states:

Current law states that a mandated reporter is to report suspected child abuse or neglect to certain specified departments or agencies. This includes a police or sheriff department, a county probation department if designated by the county, and a county welfare department. Excluded from this list is school district police.

When this law was written, school districts did not have their own sworn officers or police departments. Over time, school districts have had to deal with increasing violence and threats of violence on their campuses. As a result, school district police departments have been formed and are staffed with sworn peace officers under Penal Code Section 830.32. Tasked with protecting our students, these school officers are currently precluded from receiving reports on instances of child abuse and/or neglect.

These officers interact with students on a daily basis and many times are the first person that students turn to when they need to report instances of abuse and/or neglect. However, due to current law, these police officers are not identified as authorized persons to receive such reports. This results in officers referring students to other agencies to tell their story all over again, re-victimizing the student. There is also the possibility that the student does not report the incident because of not wanting to tell their story a second time.

SB 332 will update current law to reflect the important role that school district police officers play in the lives of students.

2. What This Bill Would Do

As explained above, this bill would authorize school police departments to receive child abuse or neglect reports which are mandated or authorized. Currently, these reports may be made to any police department or sheriff's department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. School district police or security departments are expressly excluded from receiving these reports.

3. What Happens Under Current Law; Variation Between this Bill and Current Law

Current statute states that agencies authorized to receive mandated child abuse or neglect reports are required to forward a written report to DOJ "of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated," except as specified. (Penal Code § 11169(a).) When this occurs, these agencies generally are required to notify the known or suspected child abuser, who is entitled to specified due process rights to challenge his or her listing on the state's Child Abuse Central Index ("CACI"), which DOJ maintains. However, since January 1, 2012, police departments and sheriff's departments no longer forward DOJ these reports; these reports

now are submitted by probation or the county child welfare agency.¹ Adding school police as agencies authorized to receive these reports without revising the section concerning their obligation to forward reports to DOJ may create uncertainty in this respect.

Members and the author may wish to discuss whether this bill should be amended to make school police consistent with police and sheriff's departments.

SHOULD PENAL CODE SECTION 11169 BE AMENDED TO BE CONSISTENT WITH THIS BILL?

-- END --

¹ Penal Code section 11169 subdivision (b) states: "(b) On and after January 1, 2012, a police department or sheriff's department specified in Section 11165.9 shall no longer forward to the Department of Justice a report in writing of any case it investigates of known or suspected child abuse or severe neglect." (*See also*, DOJ Information Bulletin dated 12/7/11: "To: All Police Chiefs, Sheriffs, County Welfare, and Probation Departments Effective January 1, 2012, Chapter 468, Statutes of 2011, amends Penal Code sections 11165.12, 11169, and 11170 of the Child Abuse and Neglect Reporting Act. The new law directs the Department of Justice (DOJ) to receive and enter into the Child Abuse Central Index (CACI) only substantiated reports of child abuse or severe neglect submitted by a child welfare agency or a county probation department. Police and sheriff departments are no longer required to submit reports of known or suspected child abuse or severe neglect to the DOJ via the Child Abuse or Severe Neglect Indexing Form (BCIA 8583). . . .") (<http://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/bcia11-10.pdf>.)