
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 1207 **Hearing Date:** June 23, 2015
Author: Lopez
Version: June 10, 2015
Urgency: No **Fiscal:** Yes
Consultant: AA

Subject: *Mandated Child Abuse Reporting: Child Day Care Personnel: Training*

HISTORY

Source: Child Care Law Center

Prior Legislation: AB 1432 (Gatto), Chapter 797, Statutes of 2014

Support: American Federation of State, County and Municipal Employees; California Child Care Health Program; California State Council of Service Employees (SEIU); California State PTA; Child Care Law Center; Family Child Care Alameda County Network; Family Child Care Association of San Francisco; Health Officers Association of California; Knowledge Universe; Los Angeles County Child Death review Team; National Association of Social Workers, California Chapter; Public Counsel; The Wolf Pack Family Child Care; two individuals

Opposition: None Known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to require that 1) child care licensee applicants take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure; 2) child care administrators or employees of a licensed child day care facility take training in the duties of mandated reporters during the first six weeks of employment; and 3) the Office of Child Abuse Prevention and the Community Care Licensing Division within the Department of Social Services provide training for child abuse and neglect detection and reporting to providers, administrators, and employees of licensed child day care facilities, as specified.

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 provides that “(e)mployers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. 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 the statement required pursuant to subdivision (a) of Section 11166.5.” (Penal Code § 11165.7(c).)

Current law provides that except as specified, “volunteers of public or private organizations 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. . . . “ (Penal Code § 11165.7(b).)

Current law provides that except as specified, “employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. . . . “ (Penal Code § 11165.7(c).)

Current law requires school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools to “annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.” (Penal Code § 11165.7(d).)

Current law states that “(p)ublic and private organizations are encouraged 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).)

This bill would require a child care licensee applicant to “take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a child care administrator or an employee of a licensed child day care facility shall take training in the duties of mandated reporters during the first six weeks when he or she is employed by the facility,” pursuant to the provisions described below.

This bill additionally would require a child care licensee applicant to “take the training regularly, as defined by the regulations adopted pursuant to (the section added by this bill). The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.”

Current law generally authorizes at least one director or teacher at each day care center, and each family day care home licensee who provides care, to have specified health and safety training in identifying and reporting signs and symptoms of child abuse. (Health and Safety Code § 1596.866(a)(3).)

This bill would delete this provision.

This bill would require the Office of Child Abuse Prevention (“OCAP”) and the Community Care Licensing Division within the department, in consultation, shall do all of the following:

- (1) Develop and disseminate information to all providers, administrators, and employees of licensed child day care facilities regarding detecting and reporting child abuse and neglect.
- (2) Provide statewide instruction on the responsibilities of a mandated reporter who is a provider, administrator, or employee of a licensed child day care facility, as specified. OCAP would be required to “provide the instruction using its free online General Training Module and Child Care Professionals Training Module of the Child Abuse Mandated Reporter Training-California project provided on the State Department of Social Services Internet Web site or as otherwise specified by the department. This instruction content shall include, but is not necessarily limited to, all of the following:
 - a) Information on the identification of child abuse and neglect, including behavioral signs or abuse and neglect.
 - b) When to call for emergency medical attention to prevent further injury or death.
 - c) Reporting requirements for child abuse and neglect, including guidelines on how to make a suspected child abuse report when suspected abuse or neglect takes place outside a child day care facility, or within a child day care facility, and to which enforcement agency or agencies a report is required to be made.
 - d) Information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is 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.
 - e) Information on protective factors that may help prevent abuse, including dangers of shaking a child, safe sleep practices, psychological effects of repeated exposure to domestic violence, safe and age-appropriate forms of discipline, how to promote a child’s social and emotional health, and how to support positive parent-child relationships.
 - f) Information on recognizing risk factors that may lead to abuse, such as stress and social isolation, and available resources to which a family may be referred to help prevent child abuse and neglect.
 - g) Information on childhood stages of development in order to help distinguish whether a child’s behavior or physical symptoms are within range for his or her age and ability, or are signs of abuse or neglect.
 - h) Best practices on how a provider, administrator, or employee of a licensed child day care facility might communicate with a family before and after making a suspected child abuse report.”
- (3) Translate information and instruction materials described in this subdivision into non-English languages spoken by a substantial number of child care providers, administrators, and employees of licensed child day care facilities, as specified.

This bill would require that, “on or before March 30, 2017, a person who, on January 1, 2017, is a provider, administrator, or employee of a licensed child day care facility shall complete mandated reporter training pursuant to this subdivision, and shall complete renewal mandated reporter training every three years following the date on which he or she completed the initial mandated reporter training.”

This bill would require that, on “and after January 1, 2017, a person who applies for a license to be a provider of a child day care facility shall complete mandatory reporter training pursuant to this subdivision as a precondition to licensure and shall complete renewal mandatory reporter training every three years following the date on which he or she completed the initial mandatory reporter training.”

This bill would require that, on “and after January 1, 2017, a person who becomes an administrator or employee of a licensed child day care facility shall complete mandatory reporter training pursuant to this subdivision within the first 90 days that he or she is employed at the facility and shall complete renewal mandatory reporter training every three years following the date on which he or she completed the initial mandatory reporter training.”

This bill would require that a “provider of a licensed child day care facility shall obtain proof from an administrator or employee of the facility that the person has completed mandatory reporter training in compliance with this subdivision.”

This bill would require that training pursuant to this provision shall include information that failure to report an incident of known or reasonably suspected child abuse or neglect, as required by Section 11166 of the Penal Code, is a misdemeanor punishable by up to six months confinement in a county jail, or by a fine of . . . \$1,000, or by both that imprisonment and fine.

This bill would require a person taking training pursuant to this provision to complete the training using the online training module provided by OCAP.

This bill would require a provider, administrator, or employee of a licensed child day care facility who does not use the online training module provided by OCAP to report to, and obtain approval from, OCAP regarding the training that person shall use in lieu of the online training module.

This bill would require that current proof of completion for each child care provider, administrator, and employee of a licensed child day care facility, be submitted to the Department of Social Services (“DSS”) upon inspection of the child day care facility, when proof of other required training is submitted to DSS, or upon request by DSS.

This bill would require DSS to issue a notice of deficiency at the time of a site visit to a provider of a licensed child day care facility who is not in compliance with this section. The provider would be required, at the time the notice is issued, to develop a plan of correction to correct the deficiency within 90 days of receiving the notice. DSS would be authorized to revoke the facility’s license if the facility fails to correct the deficiency within the 90-day period, as specified.

This bill would provide that a provider, administrator, or employee of a licensed child care facility would be exempt from the detecting and reporting child abuse training if he or she has limited English proficiency and training is not made available in his or her primary language.

This bill would require DSS to adopt regulations to implement this section.

This bill would provide that these provisions would become operative on January 1, 2017.

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 in part:

. . . California law does not require that child care providers receive any training in recognizing signs of child maltreatment or in how to navigate the complicated reporting system despite their status as “mandated reporters” — professionals who are legally obligated to report suspected abuse or neglect to CPS agencies. The California Penal Code only requires mandated reporters to “sign a statement” attesting to their knowledge of and willingness to comply with the reporting obligation. Pursuant to this law, California Community Care Licensing Division of the California Department of Social Services (Licensing) issues a form to child care licensee applicants entitled “Statement Acknowledging Requirement to Report Child Abuse.” The one-and-a-half page form generally informs child care providers that they are mandated reporters, briefly describes what, when, and where to report, and explains that reporters are immune from civil or criminal liability and their identity is confidential. The form also explains the criminal and civil penalties for failure to report.

The only information that accompanies the form is in Licensing’s orientation training for family child care home licensees and child care center directors. This training touches on the mandatory reporting requirement and lists several agencies to which reports should be directed (law enforcement, CPS or Child Abuse Hotline, and/or Licensing). Trainees are informed that they must sign and keep a copy of the signed Licensing form on file. The orientation training is only required to be taken by child care licensees and child care center directors – child care staff are not required to take the training. Without instruction or guidance on how to recognize the signs of child abuse and neglect, how to support a child, and work with a family during or after a report, or the process of how to make a report, mandated reporters in child care facilities can be unaware of what being a mandated reporter entails.

Many child care providers express confusion about their legal reporting obligations. Child care providers who were surveyed statewide described some of the barriers that prevent them from reporting: 50% did not know how to make a CPS report, 65% expressed discomfort because of their close relationship with the families they serve, 36% feared being accused of the abuse, and 45% feared losing future business. Moreover, a large majority of child care providers—83%—say that they would find training on these issues useful, and 78% feel that it should be required.

Proper CPS intervention following a CPS report is a key deterrent to recurring child abuse and neglect. A required comprehensive training in recognizing and reporting child abuse and neglect will offer child care providers tools for supporting families, including those who present risk factors for child maltreatment, possibly preventing child abuse before it occurs. It will also empower child care providers to become proactive reporters when they recognize

signs of abuse and neglect, helping eradicate child abuse, and in turn dramatically reduce costs to the state for medical and mental health services used by victims of child abuse and neglect. Moreover, training will decrease the number of unsubstantiated reports, sparing agencies from spending limited resources on investigating unfounded allegations or reports containing insufficient information.

AB 1432 offers a model for similar requirements in the child care setting. Additionally, a free online training for child care providers in English and Spanish already exists on the California Department of Social Services website. . . .

2. What This Bill Would Do

As explained above, this bill would impose specified training requirements for child care providers concerning detecting and reporting child abuse or neglect, and would require state entities to provide training, and impose license-related consequences for the violation of the bill's requirements, as specified.

Current law defines "mandated reporter" under CANRA with an extensive list of employee classifications (such as teachers, doctors, firefighters, counselors, etc.) and individuals, such as foster parents. The list includes a licensee, administrator, or employee of a licensed community care or child day care facility, or a Head Start program teacher.

Current law also strongly encourages employers to provide their employees who are mandated reporters with training in the duties imposed by CANRA.

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