
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: AB 1221 **Hearing Date:** June 11, 2019
Author: Cooley
Version: May 30, 2019
Urgency: No **Fiscal:** No
Consultant: JK

Subject: *Children's Advocacy Centers*

HISTORY

Source: Children's Advocacy Centers of California

Prior Legislation: AB 320 (Cooley), 2018, held in Assembly Human Services Committee
AB 1352 (Corbett), 2012, Vetoed

Support: Alameda County District Attorney; CALICO; California Sexual Assault Forensic Examiner Association; California State Association of Counties; Chadwick Center for Children and Families; Children's Advocacy Centers of California; Children Now; Kings County District Attorney's Office; National Center for Youth Law; National Children's Alliance; Napa County District Attorney's Office; Palomar Health Child Abuse Program; Riverside County Child Assessment Team; Strength United; Tuolumne County Kids Interview Team; Women's Foundation of California

Opposition: None known

Assembly Floor Vote: 77 - 0

PURPOSE

The purpose of this bill is to authorize counties to create Child Advocacy Centers (CAC) in order to impose statutory requirements that implement a coordinated multidisciplinary responses to child abuse.

Existing law states the legislative intent that the 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 (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 (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 (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 (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 (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 (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 (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:

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

- 1) Social services;
- 2) Children's services;
- 3) Health services;
- 4) Mental health services;
- 5) Probation;
- 6) Law enforcement; and,
- 7) Schools. (Welf. & Inst. Code, § 18961.7 (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 (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 (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 (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 (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 (a).)

This bill establishes that each county may use a children's advocacy center (CAC) to implement a coordinated multidisciplinary response to investigate reports involving child physical or sexual abuse, exploitation, or maltreatment.

This bill states a county that utilizes a CAC to coordinate its multidisciplinary response shall require the children's advocacy center to meet the following standards:

- 1) 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, and victim advocates. Members of the multidisciplinary team may fill more than one role, within the scope of their practice, as needed.
- 2) The multidisciplinary team associated with the CAC shall have cultural competency and diversity training to meet the needs of the community it serves.
- 3) The CAC shall have a designated legal entity responsible for the governance of its operations. This entity shall oversee ongoing 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.
- 4) The CAC shall provide a dedicated child-focused setting designed to provide a safe, comfortable and neutral place where forensic interviews and other CAC services can be appropriately provided for children and families.
- 5) The CAC shall produce written protocols for case review and case review procedures. Additionally, the Center shall use a case tracking system to provide information on essential demographics and case information.
- 6) 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.
- 7) 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.
- 8) The CAC shall verify that interviews conducted in the course of investigations are conducted in a forensically sound manner and occur in a child-focused setting designed to provide a safe, comfortable and dedicated for children and families.

This bill provides that counties are not limited to utilizing only one CAC.

This bill states that the files, reports, records, communications, and working papers used or developed in providing services through a CAC are confidential and not public records.

This bill authorizes a multidisciplinary team at a CAC to share with others 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 states that members of a multidisciplinary team associated with a CAC, child forensic interviewers, and other providers at a CAC shall not be civilly or criminally liable for providing services to children or nonoffending family members.

This bill creates the following legislative findings and declarations:

- 1) Perpetration of child abuse and neglect is detrimental to children;
- 2) All victims of child abuse or neglect deserve to be treated with dignity, respect, courtesy, and sensitivity as a matter of high public importance;
- 3) 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;
- 4) 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;
- 5) 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
- 6) 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.

COMMENTS

1. Need for This Bill

According to the Author of this bill:

California does not have a statutory definition for what constitutes a children's advocacy center (CAC). Consequently, there are no minimum standards that outline what services an abused child should receive when being served at a CAC, and no clarity for children, families and child abuse investigators as to what an entity calling itself a CAC should provide.

To ensure children and families receive the services they need and provide guidance to existing child advocacy centers in California, AB 1221 creates statutory requirements for children's advocacy centers to clarify what services must be provided in order for an entity to be considered a children's advocacy center. These requirements include: using a multi-disciplinary approach with representatives from law enforcement, child protective services, district attorneys,

and/or medical personnel who are trained in cultural competency and community diversity; having a designated legal entity responsible for the governance of its operations; and, providing a child-focused setting designated to provide a safe, comfortable and neutral place where forensic interviews and other center services can be appropriately provided for children and families.

2. Children's Advocacy Centers

According to Children's Advocacy Centers of California, children's advocacy centers help local communities respond to allegations of child abuse by providing, "a child-focused center that coordinates the investigation, prosecution, and treatment of child abuse while helping abused children heal."¹ Children's Advocacy Centers of California help to provide resources and trainings to CACs but there are no current regulations that require the use of their model, or any model at all. This lack of regulation means that local CACs may not provide equal quality of services across California.

However, counties are currently permitted to create advocacy centers and multidisciplinary agreements. CACs and multidisciplinary teams can currently receive accreditation through the National Children's Alliance, which requires each child advocacy program to meet specified standards for the composition of members, medical evaluations, mental health and forensic interviews.² This accreditation is not required, therefore, the National Children's Alliance is currently supporting this legislation.

3. Argument in Support

According to the National Children's Alliance:

The CAC model is a data driven, evidence based approach that requires adherence to a strict set of well-established standards developed by experts and agreed to by a network of close to 900 centers across the country. Statutorily defining CACs has proven foundational to improving the response to child abuse, protecting the integrity of the model, providing quality assurances to victims, service providers, law enforcement and the courts, and securing adequate resources. At least 35 states have adopted similar legislation and most others have drafts under consideration. For all of these reasons, we wholeheartedly support AB1221 and urge its swift passage.

The adoption of this legislation will provide quality assurances in California's response to allegations of child abuse, by clearly defining Children's Advocacy Centers and ensuring that an entity representing itself as a CAC adheres to a set of standards consistent with the National Children's Alliance standards for accreditation. Additionally, the bill addresses the balance between confidentiality of information and the need for information sharing between investigating agencies that will allow for the best possible outcomes in these difficult cases. Lastly, the legislation provides for immunity from civil liability for CAC employees acting in good faith in the performance of their duties. This provision has been recommended by the US Department of Health and Human Services to

¹ <https://www.cacc-online.org/what-is-a-cac>

² <https://www.nationalchildrensalliance.org/what-accreditation-means/>

provide stronger protections to allow professionals to work on child maltreatment cases without fear of being sued for providing assistance to vulnerable children; and it aligns CAC employee protections with the immunity afforded to other multidisciplinary team members under the *Qualified Immunity Doctrine* by virtue of their being government employees.

-- END --