

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 4, 1987

ALL COUNTY INFORMATION NOTICE NO. I-110-87

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY COUNSELS

SUBJECT: CHAPTER 640, STATUTES OF 1987 (AB 285)

REFERENCE: ACIN I-70-86 IS SUPERCEDED BY THIS ACIN

This letter is to notify counties of the enactment of Chapter 640, Statutes of 1987 (AB 285) regarding investigations conducted on school grounds relative to alleged child abuse that occurred within the child's home.

Effective January 1, 1988, Penal Code Section 11174.3 is added to clearly authorize a child protective worker who has deemed it necessary to interview a suspected victim of child abuse during school hours, to conduct the interview on school grounds. Further, the child has the right to opt for either a private interview or to select a school staff member to be present during the interview. Child protective workers are specifically directed to inform the child of this right before the interview occurs.

It is anticipated that allowing the child the option of having a familiar adult from the school present will help reduce anxiety to the child and result in a more productive and less traumatic interview. Any adult school staff person may be selected by the child to be present. In the event that the child does elect to have another adult present and the selected adult agrees to sit in on the interview, this staff person is subject to the child abuse confidentiality provisions and potential penalties for unauthorized disclosure as specified in Section 11167.5 of the Penal Code.

Child protective agencies, including county welfare departments, are mandated to notify each employee who participates in child abuse investigations of the requirements contained in Penal Code Section 11174.3. School district personnel are to be informed of this requirement by the Superintendent of Public Instruction.

Enactment of this law clearly allows social workers access to school grounds to interview alleged child abuse victims, however, it does not provide equally clear authority for social workers to require school personnel to delay contact with parents regarding such investigations. As described in ACIN I-70-86 which is superseded by this ACIN, Education Code Section 48906 does not specifically require the school to delay parental contact, however, it does require the school principal to refrain from notification of the child's parents in those cases where a peace officer is to take into custody a minor who is an alleged victim of child abuse. In these cases, the school principal is to provide the peace officer with the parents' names and address and the peace officer is to contact the parents. This section is cited as rationale for a school to delay contacting parents under circumstances which, based on the social worker's assessment, may result in confrontations.

A copy of the legislation is attached for your information. If you have questions, please contact your Adult & Family Services Operations consultant at (916) 445-0623 or ATSS 485-0623.



LOREN D. SUTER
Deputy Director
Adult and Family Services

Attachment

cc: CWDA

Assembly Bill No. 285

CHAPTER 640

An act to add Section 11174.3 to the Penal Code, relating to child abuse.

[Approved by Governor September 14, 1987. Filed with Secretary of State September 15, 1987.]

LEGISLATIVE COUNSEL'S DIGEST

AB 285, Leonard. Child abuse.

Existing law requires certain classes of persons to report known or suspected instances of child abuse to child protective agencies, as specified.

This bill would specify that a representative of a child protective agency (which is defined under existing law as including a police or sheriff's department) may interview suspected victims of child abuse on school premises, during school hours, concerning reports of suspected child abuse that occurred within such a child's home, as specified. It would afford a child who is to be interviewed the option of being interviewed in private or selecting an adult who is a member of the staff of that school to be present at the interview to lend him or her support. As the bill would impose new duties on child protective agencies, such as the duty to make specified notifications relating to the above provisions, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares that a number of victims of child abuse must be interviewed by representatives of child protective agencies during school hours, on school premises, regarding suspected child abuse. It is essential to minimize the trauma to the child attendant with such an interview and to thereby increase the likelihood of ascertaining the true facts in the case.

Accordingly, it is desirable that the child should have the opportunity to have present at the interview an adult who is a member of the staff of the school with whom the child has a comfortable relationship.

SEC. 2. Section 11174.3 is added to the Penal Code, to read:

11174.3. (a) Whenever a representative of a child protective agency deems it necessary, a suspected victim of child abuse may be interviewed during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the child protective agency shall inform the child of that right prior to the interview. The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible; however, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district, and each child protective agency shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.