

INITIAL STATEMENT OF REASONS

- a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 31-002(c)(5)

Specific Purpose:

This section is amended to clarify the definition of a case record, which is in accordance with existing regulations. A dependent child or child receiving some form of child welfare services will have both electronic and hard file documents within their case record. This includes additional court documents as defined in the California Rules of Court, Rule 5.552, that are maintained by the child welfare services agency, in the child's case file record.

Factual Basis:

This amendment is necessary, as it provides the source where specific information is kept, which must be released per the conditions of Senate Bill (SB) 39. The chaptered legislation provides very specific and sensitive information that must be released upon request when a child suffers abuse and/or neglect that results in a fatality.

Section 31-002(g)(3)

Specific Purpose/Factual Basis:

This section is amended to repeal the cross reference of Welfare and Institutions Code Section 366.25, as it no longer exists. It is amended for clarification.

Section 31-002(r)(7)

Specific Purpose/Factual Basis:

This section is being adopted to provide a definition of risk assessment information that is already being captured by the counties for which there is no existing regulatory definition. This section is necessary to provide guidance to counties to clarify the pertinent documented information that shall be released upon request pursuant to SB 39 and Welfare and Institutions Code Section 10850.4 when a child fatality occurs as a result of abuse and/or neglect.

Sections 31-002(s)(1)

Specific Purpose/Factual Basis:

This section is being adopted to provide a definition of safety assessment information that is already being captured by the counties for which there is no existing regulatory definition. This section is necessary to provide guidance to counties to clarify the pertinent documented information that shall be released upon request pursuant to SB 39 and Welfare and Institutions Code Section 10850.4 when a child fatality occurs as a result of abuse and/or neglect.

Sections 31-002(s)(2) through (s)(10)

Specific Purpose/Factual Basis:

These sections are being renumbered accordingly to allow for the adoption of Section 31-002(s)(1).

Section 31-003

Specific Purpose/Factual Basis:

This section is being adopted to provide a definition section for the form that is referred to in Division 31, for clarity and ease of use.

Sections 31-003(a) through (r)

Specific Purpose/Factual Basis:

These sections are being adopted to reserve a space for forms that are referenced in Division 31, to support county child welfare service agencies. They are put into alphabetical order for ease of use.

Section 31-003(s)(1)

Specific Purpose:

This section is adopted to provide guidance to the counties when reporting information to the Department related to child fatalities and near fatalities that resulted from abuse and/or neglect.

Factual Basis:

This section is necessary to provide the updated SOC 826 form created by CDSS to support the counties with fulfilling both SB 39 requirements and Child Abuse Prevention and Treatment Act reporting requirements.

Sections 31-003(t) through (z)

Specific Purpose/Factual Basis:

These sections are being adopted to reserve a space for forms that are referenced in Division 31 to support county child welfare service agencies. They are put into alphabetical order for ease of use.

Sections 31-502.1 through .11

Specific Purpose:

These sections are being adopted to provide guidance to the county child welfare agencies regarding how to report, using the SOC 826 form, each child fatality that occurs when there is a reasonable suspicion that the fatality was a result of abuse and/or neglect.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007 created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will notify CDSS when they have learned of a child fatality and they have applied the standard of reasonable suspicion of abuse or neglect as defined in Penal Code Section 11166(a)(1). These sections are necessary to comply with this statute.

Sections 31-502.111 and .111(a) (Handbook)

Specific Purpose:

These sections are being adopted to provide examples of sources from which a county child welfare agency may learn of a child fatality. Section 31-502.111(a) Handbook provides the legal definition of "reasonable suspicion" as defined in Penal Code Section 11166(a)(1), that must be applied once the county has learned of a child fatality.

Factual Basis:

These sections are necessary because counties are responsible for complying with this statute for any deaths that occur on or after January 1, 2008 where there is reasonable suspicion of child abuse and/or neglect that occurs on or after January 1, 2008. It is also necessary to make clear to counties that reasonable suspicion is required to be applied to any information that is received regarding a child fatality.

Sections 31-502.112 and .112(a)

Specific Purpose:

Section 31-502.112 is being adopted to make clear to the counties, that once they learn of a child fatality, and have applied the reasonable suspicion standard, a referral must be generated and documented within the child's case record. Further, Section 31-502.112(a) describes how counties are to proceed in order to comply with reporting requirements in the same manner as any abuse or neglect referral pursuant to Manual of Policies and Procedures (MPP) Division 31, Section 31-501.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will notify CDSS when they have learned of a child fatality and they have applied the standard of reasonable suspicion as defined in Penal Code Section 11166(a)(1). Counties are responsible for complying with this statute for any deaths that occur on or after January 1, 2008, where there is reasonable suspicion of child abuse and/or neglect. Further, Penal Code Sections 11166 and 11169 specify additional reporting requirements for child welfare agencies, when child abuse and/or neglect allegations have been substantiated or found to be inconclusive.

Sections 31-502.113 and .113(a) through (d)

Specific Purpose:

These sections are adopted to specify information relating to a child who has died where there is reasonable suspicion of child abuse and/or neglect, that is to be reported on the SOC 826 and submitted to CDSS by the county child welfare agency.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will notify CDSS when they have learned of a child fatality and they have applied the standard of reasonable suspicion as defined in Penal Code Section 11166(a)(1). Counties are responsible for complying with this statute for any deaths that occur on or after January 1, 2008, where there is reasonable suspicion of child abuse and neglect.

Sections 31-502.2 and .21

Specific Purpose:

These sections are being adopted to specify additional information that shall be reported to CDSS by the county child welfare agency when a determination has been made that a child did or did not die as a result of abuse and/or neglect.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will notify CDSS when they have learned of a child fatality and a determination has been made by an agency as specified in statute. Counties are responsible for complying with this statute for any deaths that occur on or after January 1, 2008, where there is reasonable suspicion of child abuse and neglect.

Sections 31-502.22 through .223

Specific Purpose:

These sections are being adopted to specify the agencies that are identified by statute to make such a determination. These sections further clarify how a determination of abuse and/or neglect is made by these identified agencies.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will notify CDSS when they have learned of a child fatality and a determination has been made by an agency as specified in statute. Counties are responsible for complying with this statute for any deaths that occur on or after January 1, 2008, where there is reasonable suspicion of child abuse and neglect.

Section 31-502.224 (Handbook)

Specific Purpose:

This handbook section is added to provide the counties with a reference to Penal Code Section 11165.12(b) which defines a "substantiated" report as used by county child welfare agencies. This further clarifies how the county child welfare agencies determine whether or not child abuse or neglect occurred.

Factual Basis:

The counties are responsible for complying with this statute for any child abuse and/or neglect case that results in a fatality that occurs on or after January 1, 2008.

Section 31-502.23

Specific Purpose/Factual Basis:

This section is being adopted to clarify the necessary information that shall be reported to CDSS by the county child welfare agency when it is substantiated that a child fatality was the result of abuse and/or neglect. This information is necessary to remain in compliance with federal laws (The Child Abuse Prevention and Treatment Act [CAPTA]). The findings and information of abuse and neglect cases that result in fatalities shall be disclosed upon public request. This information shall be documented by the county child welfare agencies on the SOC 826 form.

Sections 31-502.3 through .32

Specific Purpose:

These sections are adopted to clarify how the county shall respond to public requests for information related to a child fatality that is suspected or has been determined to be a result of abuse and/or neglect. These sections specify the timeframes for when the information shall be provided, and describe those individuals who must be notified of such a request when there is an objection to the release of such information regarding a child who is related directly or indirectly related to the to the deceased child's case record.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008.

Sections 31-502.33 through .331(g)

Specific Purpose:

These sections are adopted to specify case record information that shall be released by the counties upon public request. These sections identify specific documents within a child's case record that are to be released when a determination has been made that the child died as a result of abuse and/or neglect. These sections specify timeframes to which counties must adhere when responding to requests for information as mandated by statute. A cross reference to Section 31-502.4 is also included to make clear to counties that specific confidential information shall be redacted prior to public disclosure.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008.

Sections 31-502.34 through .35

Specific Purpose:

These sections are being adopted to specify case record information that is to be released by the counties upon public request for children who have died as a result of abuse and/or neglect inflicted by the foster parent. These sections identify specific documents within a child's case record that are to be released when a determination has been made that the child died as a result of abuse and/or neglect, including specific licensing information, if in the case record. Additional instruction is also provided for instances where a child fatality may have occurred within a non-residential licensed child care center, which falls under the jurisdiction of an agency other than the county child welfare agency, to the extent the information is available in the case record. These sections further specify timeframes to which counties must adhere when responding to requests for information as mandated by statute.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008.

Sections 31-502.4 through .437

Specific Purpose:

These sections are adopted to provide instructions to the counties for redacting confidential and sensitive information that is not releasable from the child's case record regardless if the child fatality was caused by abuse and/or neglect. The counties shall also consult with the local law enforcement agency and/or the District Attorney to identify if whether any information that is to be released would jeopardize a criminal investigation. This information is necessary in order for counties to remain in compliance with CAPTA requirements.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008. Further, Welfare and Institutions Code Section 10850.4 mandates that CDSS will develop regulations specifying confidentiality laws and information that shall be redacted from case record documents prior to release. CAPTA excludes the disclosure of information that may jeopardize a criminal investigation or proceeding.

Section 31-502.44

Specific Purpose:

This section is adopted to provide counties with instruction related to confidentiality laws, which must be adhered to for redacting confidential and sensitive information that is not releasable from the child's case record.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008. Further, Welfare and Institutions Code Section 10850.4 mandates that CDSS will develop regulations specifying confidentiality laws and information that shall be redacted from case record documents prior to release.

Sections 31-502.441 through .441(j)

Specific Purpose:

These sections are being adopted to provide guidance to the counties regarding their responsibility of maintaining confidentiality when disclosing documents from a child's case record when the child has died as a result of abuse and/or neglect. These sections specify state laws and rules governing confidentiality and the release of sensitive personal information, which are not subject to SB 39 or Welfare and Institutions Code Section 10850.4.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case record information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008. Further, Welfare and Institutions Code Section 10850.4 clearly states that the CDSS shall provide the county child welfare agencies, with a list of state laws limiting the scope of disclosing case record documents.

Sections 31-442 through .442(g)

Specific Purpose:

These sections are being adopted to provide guidance to the counties regarding their responsibilities of maintaining confidentiality when disclosing documents from a child's case record when the child has died as a result of abuse and/or neglect. These sections specify federal laws and rules governing confidentiality and the release of sensitive personal information, which is not subject to SB 39 or Welfare and Institutions Code Section 10850.4.

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse or neglect case that resulted in a fatality that occurs on or after January 1, 2008. Further, Welfare and Institutions Code Section 10850.4 clearly states that the CDSS shall provide the county child welfare agencies, with a list of state and federal laws limiting the scope of disclosing case record documents.

Sections 31-502.45 through .47

Specific Purpose:

These sections are adopted to provide guidance to the counties for their responsibilities with reporting and releasing documents from a child's case record when the child has died as a result of abuse and/or neglect. Further, these sections provide counties with directions as to the limits of their responsibilities for disclosure of information that is not within the child's case record as defined in MPP Division 31, Section 31-002(c)(5).

Factual Basis:

SB 39, Chapter 468, Statutes of 2007, created Welfare and Institutions Code Section 10850.4 and amended Section 827 to mandate that counties will provide specific case file information to public and private entities upon request for any child fatality that was a result of abuse and/or neglect and was known to the county agency. Counties are responsible for complying with this statute for any child abuse and/or neglect case that resulted in a fatality that occurs on or after January 1, 2008.

b) Identification of Documents Upon Which Department Is Relying

- Senate Bill 39, Chapter 468, Statutes of 2007
- Penal Code Sections 11165.12, 11166, and 11169
- 42 USC 5106
- 45 CFR 1340.15(b)

c) Local Mandate Statement

Although these regulations do impose a mandate on local county child welfare agencies to respond to public requests for information, this will not create any additional costs for the local county child welfare agencies.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.