Amend Section 31-002 to read:

31-002 DEFINITIONS (Continued) 31-002

(c) (Continued)

(5) "Case Record" means an electronic and/or written record for each child receiving child welfare services including, but not limited to, the emergency response protocol. The Case Record contains all of the documentation requirements specified by the Division 31 regulations, and includes court documents maintained by the child welfare services agency, as defined in Rule 5.552 of the California Rules of Court. (Continued)

(g) (Continued)

(3) "Guardian" means a person appointed by the superior court pursuant to the provisions of Probate Code Section 1514, or appointed by the juvenile court pursuant to the provisions of Welfare and Institutions Code Section 366~~.25 or~~ .26. (Continued)

(r) (Continued)

(7) "Risk assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates the protective capacity of the caregiver, any likelihood for future maltreatment, the age and vulnerability of a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

(s) (1) "Safety assessment" means documented information collected from the child(ren), caregiver, and/or collateral support persons that evaluates and determines whether there are present dangers and/or imminent threats of serious harm/maltreatment to a child or children, while including objective values of different cultures that will not result in a disparity of treatment services provided to all families receiving child welfare services.

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) (Continued)

(8) (Continued)

(9) (Continued)

(10) (Continued)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code and Assembly Bill 1695, Section 21.

Reference: Sections 300, 300(c), 300(e), 306(b), 309(d), 319, 319(f), 727, 11402, and 16507.5(b) (as amended by AB 1695, Chapter 653, Statutes of 2001), 361, 361.2, 361.2(h), 361.3, 361.3(a)(8), 361.4(a)(3)(A), (b), and (c), 362.7, 366.22, 366.3(e)(4) and (e)(8), 391, 636.1(c), 706.6(o), 727, 727.2, 4094, 4094.5, 4094.6, 4094.7, 5585.58, 5600.3, 10553, 10554, 10850.4, 11100, 11105, 11108.15, 11155.5, 11400(a), 11402, 11404, 11467.1, 16001.5, 16001.9, 16010, 16012, and 16501, 16501(a)(3), 16501.1(e)(9), 16501.1(f)(7), 16503, 16504, 16506, 16506(c), 16507.5(b), 16516.5, 16520, 16521, 17736, and 18951(d), Welfare and Institutions Code; Section 11165 et seq., Penal Code; Section 265, Civil Code; 42 U.S.C. Section 675; Sections 1502, 1502(a)(8), 1505.2 (as added by Assembly Bill 1544, Chapter 793, Statutes of 1997), 1522, 1522.06, and 1530.8, Health and Safety Code; 45 CFR 233.120; 42 U.S.C. 675(5); Sections 7002, 7901, 7911, 7911.1, and 7912, Family Code; Public Law 105-89 (Adoption and Safe Families Act of 1977), and Rule 5.552 of the California Rules of Court.

1. Adopt Section 31-003 to read:
2. Post Hearing: Amend Section 31-003(s)(1) to read:

31-003 DEFINITIONS - FORMS 31-003

(a) (Reserved)

(b) (Reserved)

(c) (Reserved)

(d) (Reserved)

(e) (Reserved)

(f) (Reserved)

(g) (Reserved)

(h) (Reserved)

(i) (Reserved)

(j) (Reserved)

(k) (Reserved)

(l) (Reserved)

(m) (Reserved)

(n) (Reserved)

(o) (Reserved)

(p) (Reserved)

(q) (Reserved)

(r) (Reserved)

(s) (1) SOC 826 (Rev. ~~11~~8/08~~8~~9) Child Fatality/Near Fatality County Statement of Findings and Information.

(t) (Reserved)

(u) (Reserved)

(v) (Reserved)

(w) (Reserved)

(x) (Reserved)

(y) (Reserved)

(z) (Reserved)

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Sections 827 and 10850.4, Welfare and Institutions Code and 42 USC 5106.

1. Adopt Section 31-502 to read:
2. Post-Hearing: Amend Section 31-502 to read:

31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502

.1 ~~The county shall submit a report to the Department for all child fatalities when there is reasonable suspicion, as defined in Penal Code Section 11166(a)(1), that a child fatality was caused by abuse and/or neglect.~~

~~.11~~ When the county learns that a child fatality has occurred and ~~there is~~ has reasonable suspicion that the fatality was ~~caused by~~ a result of abuse and/or neglect, the county shall ~~notify the Department by submitting the Child Fatality/Near Fatality County Statement of Findings and Information (SOC 826) form within five (5) business days~~ generate a referral within the Child Welfare Services/Case Management system, and the county shall respond to the referral as described in Section 31-101.

.11 If the county finds an allegation to be inconclusive or substantiated, they shall complete the reporting requirements as described in Section 31-501.

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.111 The county may "learn" of the fatality in ways that may include, but not be limited to, a formal report, emergency response referral, a cross report from a law enforcement agency or a private party. Once this information is learned the standard condition of reasonable suspicion is applied.

(a) Penal Code Section 11166(a)(1) defines "reasonable suspicion" and states in pertinent part: "~~"~~reasonable suspicion~~"~~" for the purposes of this section means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

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~~.112 Once information regarding a child fatality is learned and there is reasonable suspicion that the cause was due to abuse and/or neglect, the county shall generate a referral within the Child Welfare Services/Case Management System, and the county shall respond to the referral as described in Section 31-101.~~

~~(a) If the county finds an allegation to be inconclusive or substantiated, they shall complete the reporting requirements as described in Section 31-501.~~

~~.113 The following information shall be reported to the Department, using the SOC 826 form:~~

~~(a) The age and gender of the child.~~

~~(b) The date of death.~~

~~(c) Residence of child at the time of death.~~

~~(1) Foster care placement as defined by Section 31-002(f)(8).~~

~~(2) Parent or Guardian as defined by Sections 31-002(p)(1) and (g)(3).~~

~~(d) Whether an investigation is being conducted by a law enforcement agency and/or the county child welfare agency.~~

.2 ~~The county shall report additional information to the Department, using the SOC 826 form, upon the completion of the child abuse and/or neglect investigation of the deceased child. The subsequent report shall include the information listed in Section 31-502.113 as well as the following:~~ The county shall submit a report to the Department for each child fatality when, upon completion of the child abuse and/or neglect investigation, it has been determined that the child fatality was the result of abuse and/or neglect. The county shall report this information to the Department using the SOC 826 form. The report shall include the following information:

.21 ~~Whether the child fatality was or was not determined to be a result of abuse and/or neglect.~~ The age and gender of the child.

.22 The date of death.

.23 Residence of child at the time of death.

.231 Foster care placement as defined by Section 31-002(f)(8).

.232 Parent or Guardian as defined by Sections 31-002(p)(1) and (g)(3).

.24 Whether an investigation is being conducted by a law enforcement agency and/or the county child welfare agency.

.2~~2~~5 The agency that made the determination whether the child fatality was or was not the result of abuse and/or neglect:

.2~~2~~51 CWS or Probation

A "determination" of abuse and/or neglect by CWS or Probation is the substantiation of abuse and/or neglect allegations ~~as the direct cause of~~ which resulted in the fatality.

.2~~2~~52 Law Enforcement

A law enforcement investigation concludes that the child's death was a ~~direct~~ result of abuse and/or neglect.

.2~~2~~5~~3~~ Coroner/Medical Examiner

A coroner/medical examiner concludes that the child's death was a ~~direct~~ result of abuse and/or neglect.

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.2~~2~~5~~4~~ Penal Code 11165.12(b) defines a "substantiated" report as one "that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred."

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~~.23 If the child fatality is substantiated as a result of abuse and/or neglect, pursuant to Section 31-502.224, the findings and information related to the child fatality shall be included in the subsequent report to the Department.~~

.3 Upon public request, whether written, verbal, or via email or facsimile, the county shall ~~disclose~~ release information related to a child fatality to the requesting party in the following circumstances:

.31 When there is reasonable suspicion that the fatality was a result of abuse and/or neglect, the county shall provide the information as listed in Section 31-502.~~113~~2 to the requesting party within five (5) business days of receiving the request.

.32 Upon receiving the public request for information pursuant to Sections 31-502.33 and/or .34, the county shall notify counsel for any child directly or indirectly related to the deceased child's case record.

.33 When the agency, pursuant to Section 31-502.2~~2~~5, makes the determination that the child fatality was a result of abuse and/or neglect~~;~~, the child resided with his/her parent or guardian, as defined by Sections 31-002(g)(3) and (p)(1), and the abuse and/or neglect was inflicted by the parent or guardian, the county shall release additional documents pertinent to that parent or guardian.

.331 The following information, subject to redactions specified in Section 31-502.4, shall ~~also~~ be released by the county upon public request within ten (10) business days of receiving the request or the determination of the investigation, whichever is later:

(a) All information listed in Section 31-502.~~113~~2.

(b) Any emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that ~~caused~~ resulted in the death of the child.

(c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with that parent or guardian.

(d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency.

(e) Any copies of police reports about the person against whom the child abuse and/or neglect was substantiated.

(f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect.

(g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and 31-002(s)(1), relating to the deceased child that were completed by the county.

.34 When the agency, pursuant to Section 31-502.2~~2~~5, makes the determination that the child fatality was a result of abuse and/or neglect~~;~~, the child resided in foster care, and the abuse and/or neglect was inflicted by the foster parent(s), the county shall release additional documents pertinent to the foster parent(s).

.341 The following documents, subject to redactions specified in Section 31-502.4, shall also be released by the county to the requesting party within ten (10) business days of the request or the final determination of the investigation, whichever is later:

(a) All of the information listed in Section 31-502.~~113~~21 through .25.

(b) The emergency response referral information, completed by the county, which pertains to the abuse and/or neglect that ~~caused~~ resulted in the death of the child.

(c) Any previous referrals of abuse or neglect specific to the deceased child that were determined to be inconclusive or substantiated while living with the foster parent(s).

(d) Any cross reports relating to the deceased child that were completed by the county and sent to a law enforcement agency pertinent to the foster parent(s).

(e) Any copies of police reports about the person(s) against whom the child abuse and/or neglect was substantiated.

(f) Any health care records, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse and/or neglect inflicted by the foster parent(s).

(g) Any risk and safety assessments, as defined by Sections 31-002(r)(7) and (s)(1), relating to the deceased child that were completed by the county pertinent to the foster parent(s).

(h) Records pertaining to the foster parent's license and type of license or licenses held, if in the case record.

(i) Records pertaining to the approval of the foster family home of the relative or non-related extended family member, including a caregiver assessment, and health and safety inspection of the home, if in the case record.

(j) All documented licensing violations, including plans of correction, if in the case record.

(k) Records of any training completed by the foster parent(s), if in the case record.

(l) If licensing records pertaining to the foster parent(s) are not contained in the child's case record, the county shall release the documents and information specified in Sections 31-502.341(a) through (k) that are available within the case record and direct the requesting party to the appropriate licensing agency for any additional information or documents. For licensing/approval files maintained by the county, the county shall forward that part of the request to the appropriate county custodian of records.

.35 When a child fatality has occurred as a result of abuse and/or neglect by a non-residential licensed child care provider, the county shall direct any public request to the appropriate licensing department or agency that has jurisdiction over the facility.

.4 The county shall redact information that is privileged, confidential, or not subject to disclosure prior to public release.

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.41 This section does not apply to those entitled to unredacted records; for example, Welfare and Institutions Code Section 4903 states that counties are required, in some circumstances, to release information without redactions to the protection and advocacy agency in California.

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.~~41~~2 After consultation with law enforcement or the District Attorney, if the release of specific information would jeopardize a criminal investigation or proceeding, that information shall be redacted prior to release.

.~~42~~3 If disclosure of information ~~for~~ about a child, including the deceased child or any sibling of the deceased child, as listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (k), may be detrimental to the well-being of another child, counsel for that child may petition the juvenile court to prevent the release of any document or part of a document requested, pursuant to Welfare and Institutions Code Section 827.

.~~42~~31 To comply with federal law, 42 USC 5106, the county shall release the SOC 826 form, whether or not a petition has been filed in the juvenile court.

.~~42~~32 Only information or documents that may pose potential detriment to a child who is directly or indirectly connected to the case, as found by the juvenile court, shall be redacted.

.~~43~~4 Information that shall be redacted includes:

.~~43~~41 Names, except that the name of a county or state department or agency shall not be redacted.

.~~43~~42 Addresses, except that the address of a county or state department or agency shall not be redacted.

.~~43~~43 Telephone numbers, except that the public telephone number of a county or state department or agency shall not be redacted.

.~~43~~44 Ethnicity.

.~~43~~45 Religion.

.~~43~~46 Social Security numbers or referral/case identifiers.

.~~43~~47 Any other identifying information of any person or institution, other than the county or state department or agency information indicated in Sections 31-502.~~43~~41, .~~43~~42, and .~~43~~43.

.445 The county shall adhere to all laws that govern confidentiality of the release of information.

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.451 The following are examples of state laws and rules and are not intended to be an exhaustive list of such laws and rules.

~~(a) California Constitution: Article 1, Section 1~~

~~(b) Civil Code Sections 56.05 through 56.36~~

~~(c) Evidence Code Sections 990, 1010, 1560~~

~~(d) Family Code Sections 1818, 3111, 3118, 7643, 7805, 9200, 3041.5, 17212, and 17505~~

~~(e) Government Code: Public Records Act 6250-6276.48~~

~~(f) Health and Safety Code Section 255.7~~

~~(g) Penal Code Sections 293.5, 841.5, 851.8, 851.85, 1054.2, 1191.15, 1203.3(c), 4011.6, 11081, 11105, 11167.5, and 13300.~~

~~(h) Revenue and Tax Code Sections 19542 and 19548~~

~~(i) Welfare and Institutions Code Sections 300.2, 345, 676, 827, 828, 5328, 10850, and 11478.1~~

~~(j) Rules of Court, 3.60, 5.552, 7.1001(c), and 7.1050(c)~~

~~.442 The following are examples of federal laws and are not intended to be an exhaustive list of such laws.~~

~~(a) 5 USC Section 552a~~

~~(b) 15 USC Section 1681(b)~~

~~(c) 20 USC Sections 1232(g), 1417(c), and 1418(a)(8)~~

~~(d) 26 USC Section 6103~~

~~(e) 42 USC Sections 405, 671(a)(8), 671(a)(20)(c)(iii), 675(1), 675(5)(D), and 5106(a) and (b)~~

~~(f) 45 CFR 160 and 164, Health Insurance Portability and Accountability Act.~~

~~(g) 45 CFR Sections 205.50, 302.34, 307.13, 1340.14(i), and 1340.20~~

(a) Family Code Sections 3041.5, 3111, and 7643

(1) Family Code Section 3041.5 provides for alcohol and drug testing in judicial proceedings concerning custody, visitation, and guardianship. The results of such tests are confidential and shall be redacted.

(2) Family Code Section 3111 provides for confidential child custody evaluation reports in cases of contested child custody and contested visitation rights. For example, one family member may object to visits from another family member. Documents from such cases are in the files of the Superior Court, or the Juvenile Court. If such evaluation reports are found in the case record, they shall be redacted.

(3) Family Code Section 7643 provides for confidentiality of court proceedings to establish the identity of a child's father. Records of such proceedings shall be redacted.

(b) Health and Safety Code Section 1255.7 and 1522

(1) Health and Safety Code Section 1255.7 provides for "safe-surrender site" and for the confidentiality of any identifying information that pertains to a parent or individual who surrenders a child pursuant to this section. Any identifying information that pertains to a parent or an individual who surrenders a baby under this section is exempt from disclosure and, therefore, if this information is in the case record, this information shall be redacted.

(2) Health and Safety Code Section 1522 provides for a process to obtain fingerprints, the criminal history, and a criminal records clearance or criminal records exemptions for persons working with or in contact with clients in a community care facility, foster family home or certified family home of a licensed foster family agency. This statute also provides for the confidentiality and privacy of this information. If any of this information is found in the case record it shall be redacted.

(c) Penal Code Sections 851.8, 11081, 11105, 11167.5, and 13300

(1) Penal Code Section 851.8 provides for the sealing and destruction of arrest records if a determination of factual innocence was made by the court. If the Child Welfare Agency still maintains such records in the case record those records shall be destroyed.

(2) Penal Code Section 11081 provides the general rule that there is no access to any criminal offender record information obtained from the Department of Justice unless otherwise authorized by law. This information shall be redacted if it is part of the case record.

(3) Penal Code Section 11105 provides that Child Welfare Agency may obtain summary criminal history information from the Department of Justice. This information shall be redacted if it is part of the case record.

(4) Penal Code Section 11167.5 provides that all reports of child abuse or neglect by mandated reporters shall be confidential and may be disclosed only to authorized persons or agencies. Reports of suspected child abuse or neglect may only be disclosed to authorized persons. Therefore, reports written pursuant to 11166, 11166.2, or authorized by 11166.05 may not be disclosed. Any information that may identify a mandated reporter that is maintained in the case record shall be redacted.

(5) Penal Code Section 13300 allows several government agencies, including child welfare agencies, to obtain "local summary criminal history information," more commonly known as "rap sheets." Rap sheet information concerning the perpetrator(s) of neglect or abuse that has come from a local criminal justice agency shall be redacted. Rap sheet information concerning the criminal history of persons other than the perpetrator(s) of neglect or abuse shall be redacted. Information about the criminal history of the perpetrator(s) of neglect or abuse that has come from sources other than a "rap sheet," such as police reports, the individual concerned, family members, child welfare department personnel, or any other documents subject to disclosure pursuant to Welfare and Institutions Code Section 10850.4 shall not be redacted.

(d) Welfare and Institutions Code Section 11478.1

(1) Welfare and Institutions Code Section 11478.1 requires public agencies to maintain the confidentiality of information gathered for purposes of child and spousal support enforcement. (See 42 U.S.C., Chapter 7, Part D, Section 651.) Documents generated or acquired for purposes of child or spousal support enforcement, as well as information derived from such documents, shall be redacted. Information that could have been acquired for purposes of child or spousal support enforcement, but which actually was acquired through other channels (for example: mother tells Child Welfare Services caseworker how much father earns) shall not be redacted.

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.~~45~~6 When a public request is made for documents other than those listed in Sections 31-502.331(a) through (g) and Sections 31-502.341(a) through (l), the county shall only release this information upon an order from the juvenile court pursuant to Welfare and Institutions Code Section 827.

.~~46~~7 All case records shall be retained as described in Sections 31-075.2 through .21. The county is not required to retain case record documents beyond any date otherwise required by law.

.~~47~~8 The county is not required to obtain documents that are not within the child's case record as defined in MPP Section 31-002(c)(5).

Authority Cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code.

Reference: Penal Code Sections 11165.12, 11166, and 11169; 42 USC 5106; 45 CFR 1340.15(b), and Sections 827, 4903, and 10850.4, Welfare and Institutions Code.

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
CHILDREN'S SERVICES OPERATIONS BUREAU
(916) 651-8100

CHILD FATALITY/NEAR FATALITY COUNTY STATEMENT OF FINDINGS AND INFORMATION

INSTRUCTIONS:

Counties shall complete this form for each child fatality/near fatality determined to be a result of abuse and/or neglect. The form shall be submitted to CDSS within ten business days of notification of final determination from the investigating agency.

For a child fatality, complete parts A and B.
For a child near fatality, complete parts A and C.

PART A - ALWAYS COMPLETE THIS INFORMATION FOR CDSS SUBMISSION

Date form completed: _____ ☐ Fatality ☐ Near Fatality

Note: Redact information in this box prior to the public release of this document.

CWS/CMS 19 DIGIT REFERRAL # OF CHILD VICTIM:

COUNTY CONTACT AND PHONE NUMBER *(INDIVIDUAL THAT CDSS WOULD CONTACT FOR ADDITIONAL INFORMATION):*

COUNTY WHERE INCIDENT OCCURRED:		REPORTING COUNTY (IF DIFFERENT):
CHILD'S GENDER: ☐ MALE ☐ FEMALE	CHILD'S AGE:	DATE OF FATALITY/NEAR FATALITY (IF KNOWN):

RESIDENCE OF THE CHILD AT THE TIME OF THE ABUSE/NEGLECT THAT RESULTED IN THE FATALITY/NEAR FATALITY:

☐ Home of parent/ legal guardian ☐ Foster Care/Out-of-Home Care

INVESTIGATION CONDUCTED BY:

☐ Law Enforcement ☐ CWS/Probation

PART B - CHILD FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY

DETERMINATION MADE BY:

☐ Coroner/ Medical Examiner ☐ Law Enforcement ☐ CWS/Probation

FINDING OF CHILD FATALITY DUE TO (CHECK ALL THAT APPLY):

☐ Crime ☐ Suicide ☐ Non-Accidental ☐ Undetermined ☐ Other: _____

PART C - CHILD NEAR FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY

DETERMINATION MADE BY:

☐ Physician ☐ Law Enforcement ☐ CWS/Probation

FINDINGS OF CHILD NEAR FATALITY DUE TO (CHECK ALL THAT APPLY):

☐ Crime ☐ Attempted Suicide ☐ Non-Accidental ☐ Undetermined ☐ Other: _____

DO NOT INCLUDE A NARRATIVE; CHECK THE APPROPRIATE BOXES ABOVE.

Please fax this form to:
Children's Services Operations Bureau,
Attention: Bureau Chief at (916) 651-8144.