
THIRD READING

Bill No: AB 2274
Author: Blanca Rubio (D)
Amended: 3/31/22 in Assembly
Vote: 21

SENATE PUBLIC SAFETY COMMITTEE: 5-0, 6/14/22
AYES: Bradford, Ochoa Bogh, Kamlager, Skinner, Wiener

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/11/22
AYES: Portantino, Bates, Bradford, Jones, Laird, McGuire, Wieckowski

ASSEMBLY FLOOR: 66-0, 5/9/22 - See last page for vote

SUBJECT: Mandated reporters: statute of limitations

SOURCE: San Diego County District Attorney's Office

DIGEST: This bill extends the statute of limitations for the failure of a mandated reporter to report reasonably suspected child abuse or severe neglect not involving sexual abuse to within one year of the discovery of the offense, but in no case later than four years after the commission of the offense.

ANALYSIS:

Existing law:

- 1) Establishes the Child Abuse and Neglect Reporting Act (CANRA) and states that the intent and purpose of the Act is to protect children from abuse and neglect. (Penal Code § 11164.)
- 2) Defines "child" under CANRA to mean person under the age of 18 years. (Penal Code § 11165.)
- 3) Defines severe neglect as the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those

situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, including the intentional failure to provide adequate food, clothing, shelter, or medical care. (Penal Code Section 11165.2(a))

- 4) Defines "child abuse or neglect" under CANRA to include physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined, neglect as defined, the willful harming or injuring of a child or the endangering of the person or health of a child as defined, and unlawful corporal punishment or injury, as defined. (Penal Code § 11165.6.)
- 5) Enumerates close to 50 categories of mandatory child abuse reporters. Specific occupations that are mandated reporters include, but are not limited to, teachers, athletic coaches, social workers, peace officers, firefighters, physicians, psychologists, psychiatrists, emergency medical technicians, licensed family therapists, child visitation monitors, and clergy (Penal Code § 11165.7)
- 6) Requires a mandated reporter to make a report to a specified agency whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect to report that incident immediately to a specified child protection agency by telephone, and further requires a written report be sent within 36 hours. (Penal Code §11166 (a).)
- 7) Makes it a misdemeanor for a mandated reporter to fail to report an incident of known or reasonably suspected child abuse or neglect as required by the CANRA. The offense is punishable by up to six months confinement in a county jail, or by a fine of \$1,000, or by both. (Penal Code § 11166 (c).)
- 8) States that if a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect, the failure to report is a continuing offense until a specified agency discovers the offense. (Penal Code § 11166 (c).)
- 9) Provides that the prosecution of a misdemeanor must commence within one year of the commission of the offense, unless otherwise provided by law. (Penal Code § 802 (a).)

- 10) Provides exceptions for the one-year statute of limitations for specified misdemeanors. (Penal Code § 802.)
- 11) States that the prosecution for a mandated reporter's failure to report known or reasonably suspected sexual assault may be filed at any time within five years from the date of the occurrence of such offense. (Penal Code, § 801.6.)
- 12) States that, unless otherwise provided by law, a statute of limitations is not tolled or extended for any reason. (Penal Code § 803(a).)
- 13) States that, for specified crimes, the statute of limitations does not begin to run until the offense has been discovered, or could have reasonably been discovered. (Penal Code § 803 (e).)
- 14) Provides that if more than one statute of limitations period applies to a crime, the time for commencing an action shall be governed by the period that expires later in time. (Penal Code § 803.6 (a).)
- 15) States that a prosecution is commenced when one of the following occurs:
 - a) An indictment or information is filed;
 - b) A complaint charging a misdemeanor or infraction is filed;
 - c) The defendant is arraigned on a complaint that charges him or her with a felony; or,
 - d) An arrest warrant or bench warrant is issued. (Penal Code § 804.)

This bill provides that notwithstanding any other statute of limitations, prosecution for the failure of a mandated reporter to report an incident under Section 11166 known or reasonably suspected by the mandated reporter to be child abuse or severe neglect that is not a sexual assault may be filed within one year of the discovery of the offense, but in no case later than four years after the commission of the offense.

Comments

According to the author:

Current law requires mandated reporters report known or suspected child abuse and neglect so that an investigation can take place. However, if a mandated reporter fails to protect a child by failing to report, and one-year passes, the law is no longer enforceable. The problem with this is approach is that several cases

have occurred where a child has been the victim of physical abuse or neglect and a mandated reporter was made aware of this, but for a variety of reasons, did not report this abuse to authorities. This lapse in time, sometimes months or years, creates a very difficult prosecution of the perpetrator due to lost evidence, and exposes the vulnerable child to an egregious situation of becoming an ongoing victim of preventable physical abuse or neglect.

AB 2274 does not increase the penalty of the “failure to report” crime; the bill merely extends the statute of limitations to ensure mandated reporters take this legal responsibility seriously, specifically in cases of severe neglect. Mandated reporters are aware of their obligations, but because there is little to no enforcement many organizations develop a sense that there are no consequences or there exists a culture wherein the mandated reporting rules can be bent and altered by the specific organization

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

According to the Senate Appropriations Committee, “AB 2274 would extend the statute of limitations for the failure of a mandated reporter to report an incident known or reasonably suspected by the mandated reporter to be child abuse or severe neglect, authorizing filing within one year of the discovery of the offense, but no later than four years after the commission of the offense.”

SUPPORT: (Verified 8/11/22)

San Diego County District Attorney’s Office (source)

Arcadia Police Officers Association

Burbank Police Officers' Association

California Coalition of School Safety Professionals

California Council of Community Behavioral Health Agencies

California District Attorneys Association

Child USA

Children's Legal Services of San Diego

Claremont Police Officers Association

Consumer Attorneys of California

Corona Police Officers Association

Culver City Police Officers' Association

Fullerton Police Officers' Association

Inglewood Police Officers Association

Los Angeles County District Attorney's Office

Los Angeles School Police Officers Association

Newport Beach Police Association

Palos Verdes Police Officers Association
Placer County Deputy Sheriffs' Association
Pomona Police Officer Association
Riverside Police Officers Association
Riverside Sheriffs' Association
Santa Ana Police Officers Association
Upland Police Officers Association

OPPOSITION: (Verified 8/11/22)

California Psychological Association

ARGUMENTS IN SUPPORT: According to the sponsor, the San Diego County District Attorney's Office:

In San Diego, we have several cases where a child has been the victim of physical abuse or neglect and a mandated reporter was made aware of this, but for a variety of reasons, did not report this abuse to authorities. This lapse in time, sometimes months or years, creates a very difficult prosecution of the perpetrator due to lost evidence, and exposes the vulnerable child to an egregious situation of becoming an ongoing victim of preventable physical abuse or neglect.

AB 2274 does not increase the penalty of the "failure to report" crime; we are only extending the SOL to ensure mandated reporters take this legal responsibility seriously. It is our first-hand experience with current cases that training has not been sufficient to encourage people to abide by the law. Mandated reporters are aware of their obligations, but because there is little to no enforcement many organizations develop a sense that there are no consequences or there exists a culture wherein the mandated reporting rules can be bent and altered by the specific organization.

Many organizations ask their staff and employees to report suspected child abuse "up the chain" as opposed to going to law enforcement and/or CWS. Doing both is absolutely acceptable under the law, but oftentimes, law enforcement and/or CWS are never notified, and the abuse or suspicion of abuse is kept in-house, where no independent investigation takes place, and those who do investigate internally do so using standards that are not consistent with the mandating reporting laws.

Our office has seen on multiple occasions where a school did not notify the authorities of suspected sexual abuse by a staff member on underage girls. The mandated reporter relied upon their superiors who reviewed the allegations internally using a school district sexual harassment policy. Using this standard, which is not consistent with the mandating reporting laws, and with no third-party witness, officials determined the allegations by the girls were unsubstantiated and closed the cases without ever notifying law enforcement or CWS.

Foreseeably, as time went by in those situations, more allegations from additional girls were made. Had the mandated reporting laws been followed initially, later victims could have been spared. Instead, abusers were protected by mandated reporters who failed to report.

In all these cases, *mandated reporters knew they were legally obligated to report suspected abuse because they have been trained regularly on this, and yet they failed the children time and time again.* By simply extending this specific SOL, we can solve this problem.

ARGUMENTS IN OPPOSITION: The California Psychological Association opposes this bill stating:

On behalf of the California Psychological Association (CPA), a non-profit association of licensed psychologists and others affiliated with the delivery of psychological services across California, I am sad to inform you that we OPPOSE AB 2274, as amended March 31st. The bill would extend the statute of limitations for mandated reporters, including psychologists, to report suspected child abuse or severe neglect (not involving sexual abuse) to within one year of the discovery of the offense or within four years after the commission of the offense.

Unfortunately, the bill would lead to the opposite of its intended effect of improving the outcomes for those suffering from abuse or severe neglect. The bill would increase reporting in community health centers and lead to increased strains in certain populations and families, leading to them withdrawing to treatment.

The bill may also create a burdensome incentive for licensed providers to needlessly document why child abuse reporting was not warranted or necessary in fear of future accusations, and the extended statute may incentivize mandated reporters to over-report child abuse for fear of not reporting it. Over-reporting

may tax an already burdened system and result in valid cases of abuse being regrettably missed.

ASSEMBLY FLOOR: 66-0, 5/9/22

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Mia Bonta, Bryan, Calderon, Carrillo, Cervantes, Chen, Choi, Cooley, Cooper, Megan Dahle, Daly, Davies, Mike Fong, Fong, Friedman, Gabriel, Gallagher, Eduardo Garcia, Gipson, Haney, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Villapudua, Voepel, Waldron, Akilah Weber, Wicks, Wilson, Wood, Rendon

NO VOTE RECORDED: Boerner Horvath, Cunningham, Flora, Cristina Garcia, Gray, Grayson, Lackey, Medina, Quirk-Silva, Luz Rivas, Valladares, Ward

Prepared by: Mary Kennedy / PUB. S. /
8/13/22 9:49:34

**** END ****