

AMENDED IN SENATE MARCH 10, 2021

SENATE BILL

No. 537

**Introduced by Senator Rubio
(Coauthor: Senator Eggman)**

February 17, 2021

~~An act relating to domestic violence. An act to amend Section 300 of, and to add Sections 16515 and 16515.1 to, the Welfare and Institutions Code, relating to child welfare.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 537, as amended, Rubio. ~~Domestic violence: child welfare. Child welfare: domestic violence.~~

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent of the court under certain circumstances, including when the child suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness as a result of the failure or inability of their parent or guardian to adequately supervise or protect the child, or a parent willfully or negligently fails to provide the child with adequate food, clothing, shelter, or medical treatment. Existing law prohibits a child from being found to be a child so described solely due to the lack of an emergency shelter for the family.

This bill would also prohibit a child from being found to be a child as described above solely due to the parent or guardian being a victim of domestic violence.

Existing law governs the provision of child welfare services, which is defined to mean public social services that are directed toward the accomplishment of specified purposes, including protecting and promoting the welfare of all children, preventing the unnecessary

separation of children from their families, and restoring to their families children who have been removed. Existing law requires the State Department of Social Services to select and award a grant to a private nonprofit or public entity for the purpose of establishing a statewide multipurpose child welfare training program designed to provide practice-relevant training to county child protective services social workers who screen referrals for child abuse or neglect and for all workers assigned to provide emergency response, family maintenance, family reunification, and permanent placement services. Existing law requires the training to include, among other topics, information regarding the dynamics and effects of domestic violence upon families and children.

This bill would require each county child welfare agency to coordinate and communicate with domestic violence agencies in order to ensure various things, including that a county child welfare agency knows where and how to access expertise and resources to most effectively intervene in cases invoking child abuse or neglect and involving domestic violence. The bill would require the State Department of Social Services to collect and analyze specified data relating to reports of child abuse or neglect in which domestic violence is involved in a report to be annually submitted to the Legislature, and would require a county child welfare services agency to provide that specified data regarding its county to the department. By imposing duties on local officials, the bill 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law, the Child Abuse and Neglect Reporting Act, requires a mandated reporter, as defined, to report whenever they, in their professional capacity or within the scope of their employment, have knowledge of or observed a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Existing law makes it a crime to endanger, neglect, or abandon a child, as specified. Existing law permits a court to adjudge a person a dependant child of the court upon finding that a child has suffered, or there is a substantial risk that the child will suffer serious physical harm or illness as a result of the failure to inability of the parent or guardian~~

of the child to adequately supervise or protect the child, or by the willful neglect failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, as specified. Existing law makes it a crime to endanger, neglect, or abandon a child, as specified.

~~This bill would state the intent of the Legislature to enact legislation relating to the assessment and identification of domestic violence in relation to child welfare investigations.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 300 of the Welfare and Institutions Code
2 is amended to read:

3 300. A child who comes within any of the following
4 descriptions is within the jurisdiction of the juvenile court which
5 may adjudge that person to be a dependent child of the court:

6 (a) The child has suffered, or there is a substantial risk that the
7 child will suffer, serious physical harm inflicted nonaccidentally
8 upon the child by the child’s parent or guardian. For purposes of
9 this subdivision, a court may find there is a substantial risk of
10 serious future injury based on the manner in which a less serious
11 injury was inflicted, a history of repeated inflictions of injuries on
12 the child or the child’s siblings, or a combination of these and other
13 actions by the parent or guardian that indicate the child is at risk
14 of serious physical harm. For purposes of this subdivision, “serious
15 physical harm” does not include reasonable and age-appropriate
16 spanking to the buttocks if there is no evidence of serious physical
17 injury.

18 (b) (1) The child has suffered, or there is a substantial risk
19 that the child will suffer, serious physical harm or illness, as a
20 result of the failure or inability of ~~his or her~~ *the child’s* parent or
21 guardian to adequately supervise or protect the child, or the willful
22 or negligent failure of the child’s parent or guardian to adequately
23 supervise or protect the child from the conduct of the custodian
24 with whom the child has been left, or by the willful or negligent
25 failure of the parent or guardian to provide the child with adequate
26 food, clothing, shelter, or medical treatment, or by the inability of
27 the parent or guardian to provide regular care for the child due to

1 the parent's or guardian's mental illness, developmental disability,
2 or substance abuse. A child shall not be found to be a person
3 described by this subdivision solely due to the lack of an
4 emergency shelter for the family. *A child shall not be found to be*
5 *a person described by this subdivision solely due to the parent or*
6 *guardian being a victim of domestic violence.* Whenever it is
7 alleged that a child comes within the jurisdiction of the court on
8 the basis of the parent's or guardian's willful failure to provide
9 adequate medical treatment or specific decision to provide spiritual
10 treatment through prayer, the court shall give deference to the
11 parent's or guardian's medical treatment, nontreatment, or spiritual
12 treatment through prayer alone in accordance with the tenets and
13 practices of a recognized church or religious denomination, by an
14 accredited practitioner thereof, and shall not assume jurisdiction
15 unless necessary to protect the child from suffering serious physical
16 harm or illness. In making its determination, the court shall
17 consider (1) the nature of the treatment proposed by the parent or
18 guardian, (2) the risks to the child posed by the course of treatment
19 or nontreatment proposed by the parent or guardian, (3) the risk,
20 if any, of the course of treatment being proposed by the petitioning
21 agency, and (4) the likely success of the courses of treatment or
22 nontreatment proposed by the parent or guardian and agency. The
23 child shall continue to be a dependent child pursuant to this
24 subdivision only so long as is necessary to protect the child from
25 risk of suffering serious physical harm or illness.

26 (2) The Legislature finds and declares that a child who is
27 sexually trafficked, as described in Section 236.1 of the Penal
28 Code, or who receives food or shelter in exchange for, or who is
29 paid to perform, sexual acts described in Section 236.1 or 11165.1
30 of the Penal Code, and whose parent or guardian failed to, or was
31 unable to, protect the child, is within the description of this
32 subdivision, and that this finding is declaratory of existing law.
33 These children shall be known as commercially sexually exploited
34 children.

35 (c) The child is suffering serious emotional damage, or is at
36 substantial risk of suffering serious emotional damage, evidenced
37 by severe anxiety, depression, withdrawal, or untoward aggressive
38 behavior toward self or others, as a result of the conduct of the
39 parent or guardian or who has no parent or guardian capable of
40 providing appropriate care. A child shall not be found to be a

1 person described by this subdivision if the willful failure of the
2 parent or guardian to provide adequate mental health treatment is
3 based on a sincerely held religious belief and if a less intrusive
4 judicial intervention is available.

5 (d) The child has been sexually abused, or there is a substantial
6 risk that the child will be sexually abused, as defined in Section
7 11165.1 of the Penal Code, by ~~his or her~~ *the child's* parent or
8 guardian or a member of ~~his or her~~ *the child's* household, or the
9 parent or guardian has failed to adequately protect the child from
10 sexual abuse when the parent or guardian knew or reasonably
11 should have known that the child was in danger of sexual abuse.

12 (e) The child is under the age of five years and has suffered
13 severe physical abuse by a parent, or by any person known by the
14 parent, if the parent knew or reasonably should have known that
15 the person was physically abusing the child. For the purposes of
16 this subdivision, "severe physical abuse" means any of the
17 following: any single act of abuse which causes physical trauma
18 of sufficient severity that, if left untreated, would cause permanent
19 physical disfigurement, permanent physical disability, or death;
20 any single act of sexual abuse which causes significant bleeding,
21 deep bruising, or significant external or internal swelling; or more
22 than one act of physical abuse, each of which causes bleeding,
23 deep bruising, significant external or internal swelling, bone
24 fracture, or unconsciousness; or the willful, prolonged failure to
25 provide adequate food. A child shall not be removed from the
26 physical custody of ~~his or her~~ *the child's* parent or guardian on the
27 basis of a finding of severe physical abuse unless the social worker
28 has made an allegation of severe physical abuse pursuant to Section
29 332.

30 (f) The child's parent or guardian caused the death of another
31 child through abuse or neglect.

32 (g) The child has been left without any provision for support;
33 physical custody of the child has been voluntarily surrendered
34 pursuant to Section 1255.7 of the Health and Safety Code and the
35 child has not been reclaimed within the 14-day period specified
36 in subdivision (g) of that section; the child's parent has been
37 incarcerated or institutionalized and cannot arrange for the care of
38 the child; or a relative or other adult custodian with whom the child
39 resides or has been left is unwilling or unable to provide care or

1 support for the child, the whereabouts of the parent are unknown,
2 and reasonable efforts to locate the parent have been unsuccessful.

3 (h) The child has been freed for adoption by one or both parents
4 for 12 months by either relinquishment or termination of parental
5 rights or an adoption petition has not been granted.

6 (i) The child has been subjected to an act or acts of cruelty by
7 the parent or guardian or a member of ~~his or her~~ *the child's*
8 household, or the parent or guardian has failed to adequately protect
9 the child from an act or acts of cruelty when the parent or guardian
10 knew or reasonably should have known that the child was in danger
11 of being subjected to an act or acts of cruelty.

12 (j) The child's sibling has been abused or neglected, as defined
13 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
14 that the child will be abused or neglected, as defined in those
15 subdivisions. The court shall consider the circumstances
16 surrounding the abuse or neglect of the sibling, the age and gender
17 of each child, the nature of the abuse or neglect of the sibling, the
18 mental condition of the parent or guardian, and any other factors
19 the court considers probative in determining whether there is a
20 substantial risk to the child.

21 It is the intent of the Legislature that this section not disrupt the
22 family unnecessarily or intrude inappropriately into family life,
23 prohibit the use of reasonable methods of parental discipline, or
24 prescribe a particular method of parenting. Further, this section is
25 not intended to limit the offering of voluntary services to those
26 families in need of assistance but who do not come within the
27 descriptions of this section. To the extent that savings accrue to
28 the state from child welfare services funding obtained as a result
29 of the enactment of the act that enacted this section, those savings
30 shall be used to promote services which support family
31 maintenance and family reunification plans, such as client
32 transportation, out-of-home respite care, parenting training, and
33 the provision of temporary or emergency in-home caretakers and
34 persons teaching and demonstrating homemaking skills. The
35 Legislature further declares that a physical disability, such as
36 blindness or deafness, is no bar to the raising of happy and
37 well-adjusted children and that a court's determination pursuant
38 to this section shall center upon whether a parent's disability
39 prevents ~~him or her~~ *the parent* from exercising care and control.
40 The Legislature further declares that a child whose parent has been

1 adjudged a dependent child of the court pursuant to this section
2 shall not be considered to be at risk of abuse or neglect solely
3 because of the age, dependent status, or foster care status of the
4 parent.

5 As used in this section, “guardian” means the legal guardian of
6 the child.

7 *SEC. 2. Section 16515 is added to the Welfare and Institutions*
8 *Code, to read:*

9 *16515. Each county child welfare agency shall coordinate and*
10 *communicate with domestic violence agencies in order to ensure*
11 *all of the following:*

12 *(a) The county child welfare agency knows where and how to*
13 *access expertise and resources in order to most effectively*
14 *intervene in cases invoking child abuse or neglect and involving*
15 *domestic violence.*

16 *(b) Improvement of communication and coordination practices*
17 *between a county child welfare agency and domestic violence*
18 *agencies in order to address child maltreatment practice and to*
19 *improve the immediate response to mental health services for*
20 *children and families experiencing domestic violence.*

21 *(c) In order to support and improve communication and*
22 *practices, engagement with domestic violence agencies in an*
23 *ongoing relationship-building process that places the needs of the*
24 *abused individual and their children at the forefront of the*
25 *discussion.*

26 *SEC. 3. Section 16515.1 is added to the Welfare and Institutions*
27 *Code, to read:*

28 *16515.1. (a) The department shall collect and analyze all of*
29 *the following data, disaggregated by age, race, and ethnicity, in*
30 *a report to be annually submitted to the Legislature:*

31 *(1) The number of reports of child abuse or neglect received in*
32 *which domestic violence is involved.*

33 *(2) The number of reports described in paragraph (1) that were*
34 *investigated.*

35 *(3) The number of reports described in paragraph (1) that led*
36 *to the opening of a child welfare case in which services were*
37 *provided to the family.*

38 *(4) The number of families in which a child was not removed*
39 *from the home following a report described in paragraph (1).*

1 (5) *The number of families in which a child was removed from*
2 *the home following a report described in paragraph (1).*

3 (6) *The number of families reunified after a child was removed*
4 *from the home, as described in paragraph (5).*

5 (7) *The number of families in which parental rights have been*
6 *terminated after a child was removed from the home, as described*
7 *in paragraph (5).*

8 (b) *Each county child welfare services agency shall provide the*
9 *data specified in subdivision (a) from its county to the department.*

10 (c) *A report to be submitted pursuant to subdivision (a) shall*
11 *be submitted in compliance with Section 9795 of the Government*
12 *Code.*

13 *SEC. 4. To the extent that this act has an overall effect of*
14 *increasing the costs already borne by a local agency for programs*
15 *or levels of service mandated by the 2011 Realignment Legislation*
16 *within the meaning of Section 36 of Article XIII of the California*
17 *Constitution, it shall apply to local agencies only to the extent that*
18 *the state provides annual funding for the cost increase. Any new*
19 *program or higher level of service provided by a local agency*
20 *pursuant to this act above the level for which funding has been*
21 *provided shall not require a subvention of funds by the state or*
22 *otherwise be subject to Section 6 of Article XIII B of the California*
23 *Constitution.*

24 ~~SECTION 1. It is the intent of the Legislature to enact~~
25 ~~legislation relating to the assessment and identification of domestic~~
26 ~~violence in relation to child welfare investigations.~~