

AMENDED IN ASSEMBLY JUNE 19, 2023

AMENDED IN SENATE APRIL 27, 2023

AMENDED IN SENATE APRIL 17, 2023

AMENDED IN SENATE MARCH 6, 2023

**SENATE BILL**

**No. 88**

---

---

**Introduced by Senator Skinner**

January 17, 2023

---

---

An act to amend Section 49406 of, and to add Article 5 (commencing with Section 39875) to Chapter 1 of Part 23.5 of Division 3 of Title 2 of, the Education Code, and to amend Section 11165.7 of the Penal Code, relating to pupil transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 88, as amended, Skinner. Pupil transportation: driver qualifications.

(1) Existing law requires the driver of a school pupil activity bus, as defined, to be subject to the regulations adopted by the Department of the California Highway Patrol governing schoolbus drivers, except as specified.

This bill would place various requirements upon a driver who provides certain transportation services for pupils, including, among others, by requiring these drivers to be mandated reporters and to submit and clear tuberculosis risk assessments, as provided. The bill would require any vehicle used to provide pupil transportation for compensation by a local educational agency, as defined, to be inspected, as specified, and to be equipped with a first aid kit and a fire extinguisher.

The bill would require any local educational agency contracting with a private entity to provide pupil transportation to obtain from the private

entity a written attestation that, among other things, it not have any applicable law violations, as defined, at the time of applying for the contract, that it will maintain compliance with applicable laws, as defined, for the duration of the contract, and that it will retain direct control over the manner and means for performance of any individual driver during the duration of the contract. The bill would authorize a third party to report to the relevant local educational agency that the private entity the local educational agency contracted with has failed to provide a truthful attestation or has failed to maintain compliance with the applicable laws required for the duration of the contract, as specified.

The bill would apply the above-mentioned provisions to all drivers, whether employed by or contracted with a local educational agency, providing pupil transportation for compensation. The bill would not apply the above-mentioned provisions to ~~drivers~~ (A) *a driver of a municipally owned transit system offering supplementary service, as defined*; *defined*, (B) *a parent or guardian who is compensated to drive their own children, or* (C) *a school employee of a local educational agency when the employee provides transportation to pupils due to or because of the employee's supervision of pupils for a field trip, before or after school activity, or athletic program, as specified. To the extent that the above-mentioned requirements conflict with a contract entered into between a local educational agency and a private entity before January 1, 2024, the bill would not apply those requirements until the expiration or renewal of that contract on or after January 1, 2024.* By imposing new requirements on local educational agencies, the bill would constitute a state-mandated local program.

(2) 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. Failure by a mandated reporter to report an incident of known or reasonably suspected child abuse or neglect is a misdemeanor punishable by up to 6 months of confinement in a county jail, by a fine of \$1,000, or by both that imprisonment and fine. Under existing law, employers are strongly encouraged to provide their employees who are mandated reporters with training in these duties, including training in identification and reporting of child abuse and neglect.

This bill would add a driver, whether employed by or contracted with a local educational agency, providing pupil transportation for compensation described in paragraph (1) to the list of individuals who are mandated reporters. By imposing the reporting requirements on a new class of persons, for whom failure to report specified conduct is a crime, this bill would impose a state-mandated local program.

(3) Existing law requires a governing board or county superintendent of schools providing for the transportation of pupils under contract, as provided, or any other provision of law to require as a condition of the contract the tuberculosis risk assessment, as provided, except that, at the discretion of the governing board or county superintendent of schools, that provision does not apply to a private contracted driver who transports pupils infrequently without prolonged contact with the pupils.

This bill would delete that exception for private contracted drivers.

(4) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Article 5 (commencing with Section 39875) is  
2 added to Chapter 1 of Part 23.5 of Division 3 of Title 2 of the  
3 Education Code, to read:

4

5 Article 5. Compensated Driver Requirements

6

7 39875. (a) The Legislature finds and declares all of the  
8 following:

9 ~~-(a)~~

1 (1) Schoolbus drivers provide an important service to our pupils  
2 and their families. They ensure the safe transportation of pupils  
3 between home and school.

4 ~~(b)~~

5 (2) Schoolbus drivers and school buses are heavily regulated  
6 by the State Department of Education, the Department of Motor  
7 Vehicles, and the Department of the California Highway Patrol.

8 ~~(e)~~

9 (3) In recent years, some local educational agencies have entered  
10 into multiyear and multimillion dollar contracts with app-based  
11 companies, also known as transportation network companies, to  
12 perform home-to-school transportation and other pupil  
13 transportation.

14 ~~(d)~~

15 (4) The Public Utilities Commission licenses and regulates  
16 transportation network companies. Transportation network  
17 companies provide prearranged transportation services for  
18 compensation using an online platform or smartphone application  
19 to connect drivers using their personal vehicles with passengers.

20 ~~(e)~~

21 (5) The Public Utilities Commission does not regulate  
22 transportation network companies when the transportation of pupils  
23 is due to or based on a contract entered into with the governing  
24 board of a school district pursuant to the Education Code.

25 ~~(f)~~

26 (6) Due to this unregulated space, transportation network  
27 companies and their drivers neither fall under the rules and  
28 regulations of the Public Utilities Commission, the State  
29 Department of Education, the Department of Motor Vehicles, nor  
30 the Department of the California Highway Patrol when performing  
31 the job and duties that, until recently, have only been performed  
32 by schoolbus drivers.

33 ~~(g)~~

34 (7) For the health and safety of pupils and the public, it is the  
35 intent of the Legislature that there is parity in law that applies  
36 equally to all drivers, regardless of employer and employment  
37 status, who are compensated to transport pupils.

38 (b) *It is the intent of the Legislature that the requirements*  
39 *established by this article are minimum requirements, and local*  
40 *educational agencies or private entities, or both, are encouraged*

1 *to exceed these requirements for drivers who are compensated to*  
2 *transport pupils.*

3 39876. (a) ~~Notwithstanding any other law, Except as provided~~  
4 *pursuant to subdivisions (b) to (d), inclusive, this article shall apply*  
5 *to all drivers, whether employed by or contracted with a local*  
6 *educational agency, providing pupil transportation for*  
7 *compensation.*

8 (b) ~~Nothing in this article shall be construed to apply to drivers~~  
9 *a driver of a municipally owned transit-systems system offering*  
10 *supplementary service.*

11 (c) *Nothing in this article shall be construed to apply to a parent*  
12 *or guardian who is compensated to drive their own children.*

13 (d) *If both of the following occur, nothing in this article shall*  
14 *be construed to apply to a school employee of a local educational*  
15 *agency when the employee provides transportation to pupils due*  
16 *to or because of the employee's supervision of pupils for a field*  
17 *trip, before or after school activity, or athletic program:*

18 (1) *A local educational agency makes a reasonable effort to*  
19 *secure a driver who meets the requirements of this article.*

20 (2) *When a local educational agency is unable to secure a driver*  
21 *who meets the requirements of this article, the local educational*  
22 *agency informs the parent or guardian of the pupil being*  
23 *transported that the driver transporting their pupil does not meet*  
24 *the requirements of this article.*

25 (e) *To the extent that the requirements of this article conflict*  
26 *with a contract entered into between a local educational agency*  
27 *and a private entity before January 1, 2024, this article shall not*  
28 *apply until the expiration or renewal of that contract on or after*  
29 *January 1, 2024.*

30 39877. (a) *A driver who provides transportation services for*  
31 *pupils in a vehicle with a maximum capacity of 10 or fewer*  
32 *persons, including the driver, shall:*

33 (1) *Hold a valid California driver's license for the appropriate*  
34 *class of vehicle.*

35 (2) *Be at least 18 years of age.*

36 (3) *Pass a criminal background check, including fingerprint*  
37 *clearance pursuant to Section 45125 for employees and Section*  
38 *45125.1 for all other compensated drivers.*

39 (4) *Have a satisfactory driving record that includes none of the*  
40 *following:*

1 (A) Within three years, has committed any violation that results  
2 in a conviction assigned a violation point count of two or more,  
3 as defined in Sections 12810 and 12810.5 of the Vehicle Code.

4 (B) Within three years, has had their driving privilege  
5 suspended, revoked, or on probation for any reason involving the  
6 unsafe operation of a motor vehicle.

7 (C) Has been determined by the Department of Motor Vehicles  
8 to be a negligent or incompetent operator.

9 (5) Not have demonstrated irrational behavior to the extent that  
10 a reasonable and prudent person would have reasonable cause to  
11 believe that the driver's ability to perform the duties of a driver  
12 may be impaired.

13 (6) Not have been convicted of an offense listed in paragraph  
14 (1) of subdivision (a) of Section 13370 of the Vehicle Code,  
15 paragraph (5) of subdivision (a) of Section 13370 of the Vehicle  
16 Code, or subdivision (b) of Section 13370 of the Vehicle Code.

17 (7) Provide their employer or the private entity contracting with  
18 the local educational agency a report showing the driver's current  
19 public record as recorded by the Department of Motor Vehicles  
20 and participate in the Department of Motor Vehicles' pull-notice  
21 system.

22 (8) Be subjected to and comply with drug and alcohol testing  
23 pursuant to Section ~~34520~~ 34520.3 of the Vehicle Code.

24 (9) Be a mandated reporter and comply with the provisions of  
25 law as required by the Child Abuse and Neglect Reporting Act  
26 (Article 2.5 (commencing with Section 11164) of Chapter 2 of  
27 Title 1 of Part 4 of the Penal Code).

28 ~~(10) Complete a medical examination consistent with Section~~  
29 ~~12517.2 of the Vehicle Code and provide a copy of the medical~~  
30 ~~examiner's certificate of clearance to their employer or the private~~  
31 ~~entity contracting with the local educational agency. Neither the~~  
32 ~~driver nor the medical examiner need to submit this examination~~  
33 ~~result to the Department of Motor Vehicles.~~

34 (10) (A) *Complete a medical examination not more than two*  
35 *years prior to the driver performing pupil transportation by a*  
36 *physician licensed to practice medicine, a licensed advanced*  
37 *practice registered nurse qualified to perform a medical*  
38 *examination, a licensed physician assistant, or a licensed doctor*  
39 *of chiropractic listed on the most current National Registry of*  
40 *Certified Medical Examiners, as adopted by the United States*

1 *Department of Transportation. The driver shall provide a copy of*  
2 *the Medical Examiner's Certificate, Form MCSA-5876, or the*  
3 *medical examiner's certificate of clearance to their employer or*  
4 *the private entity contracting with the local educational agency.*  
5 *Neither the driver nor the medical examiner need to submit this*  
6 *examination result to the Department of Motor Vehicles.*

7 (B) *The driver shall complete a medical examination pursuant*  
8 *to this paragraph every two years after the initial examination and*  
9 *provide a copy of the Medical Examiner's Certificate, Form*  
10 *MCSA-5876, or the medical examiner's certificate of clearance*  
11 *to their employer or the private entity contracting with the local*  
12 *educational agency.*

13 (C) *Within the same month of reaching 65 years of age and*  
14 *each 12th month thereafter, the driver shall undergo a medical*  
15 *examination pursuant to this paragraph and provide a copy of the*  
16 *Medical Examiner's Certificate Form, MCSA-5876, or the medical*  
17 *examiner's certificate of clearance to their employer or the private*  
18 *entity contracting with the local educational agency.*

19 (11) *Submit and clear a tuberculosis risk assessment pursuant*  
20 *to Section 49406.*

21 (12) *Not drive for more than 10 hours within a work period, or*  
22 *after the end of the 16th hour after coming on duty following eight*  
23 *consecutive hours off duty.*

24 (13) *Complete a minimum of 10 hours of initial training and a*  
25 *minimum of two hours of annual refresher courses in all of the*  
26 *following:*

27 (A) *Pretrip vehicle inspections.*

28 (B) *Safe loading and unloading of passengers.*

29 (C) *Proper use of seatbelts and child safety restraints.*

30 (D) *Handling accidents, incidents, and emergency situations.*

31 (E) *Providing proper accommodations for pupils with*  
32 *disabilities.*

33 (F) *Defensive driving.*

34 (G) *Operations in inclement weather.*

35 (H) *Operations at night or under impaired visibility conditions.*

36 (14) *Maintain a daily log sheet and complete the daily pretrip*  
37 *inspection of the vehicle being driven that day, which shall include*  
38 *all of the following:*

39 (A) *A check of the operability of all lights, initialed by the driver*  
40 *before the vehicle is first driven in service that day.*

1 (B) A check for fluid leaks, initialed by the driver before the  
2 vehicle is first driven in service that day.

3 (C) A check for the operability of the brakes, initialed by the  
4 driver before the vehicle is driven in service that day.

5 (15) ~~Hold~~ *Complete training at least equivalent to the American*  
6 *Red Cross first aid training program, or hold* a valid and current  
7 first aid certificate issued by the American Red Cross or by an  
8 organization whose first aid training program is at least equivalent  
9 to the American Red Cross' first aid training program, as  
10 determined by the Emergency Medical Services Authority.

11 (b) For vehicles with a maximum capacity of eight or fewer  
12 passengers, excluding the driver, only street-legal coupes, sedans,  
13 or light-duty vehicles, including vans, minivans, sport utility  
14 vehicles, and pickup trucks, shall be used for pupil transportation.

15 39878. A driver who provides transportation services for pupils  
16 in a vehicle with a capacity of more than 10 persons, including the  
17 driver, shall:

18 (a) Hold a valid California commercial driver's license for the  
19 appropriate class of vehicle, endorsed for passenger transportation  
20 pursuant to Section 15278 of the Vehicle Code.

21 (b) Comply with paragraphs (2) to (15), inclusive, of subdivision  
22 (a) of Section 39877 if they are not already required to by law.

23 39879. (a) Any local educational agency contracting with a  
24 private entity to provide pupil transportation shall obtain from the  
25 private entity a written attestation to all of the following:

26 (1) That it not have any applicable law violations at the time of  
27 applying for the contract.

28 (2) That it will maintain compliance with applicable laws for  
29 the duration of the contract.

30 (3) That it will retain direct control over the manner and means  
31 for performance of any individual driver during the duration of  
32 the contract.

33 (4) That only drivers who meet the requirements of paragraphs  
34 (2) to (15), inclusive, of subdivision (a) of Section 39877 work,  
35 or will work, under the contract between the private entity and  
36 local educational agency.

37 (5) That it has on file all the reports and documents required  
38 pursuant to paragraphs (2) to (15), inclusive, of subdivision (a) of  
39 Section 39877 for the duration of the contract, including, but not  
40 limited to, updated, revised, or modified reports and documents.



1 These reports and documents shall be available for inspection by  
2 the local educational agency or any other state regulatory agency  
3 at any time.

4 (b) A third party may report to the relevant local educational  
5 agency that the private entity the local educational agency  
6 contracted with has failed to provide a truthful attestation as  
7 required under subdivision (a) or has failed to maintain compliance  
8 with the applicable laws required for the duration of the contract.  
9 The third party shall provide documentation to substantiate their  
10 allegation before the local educational agency considers it.

11 (c) Any vehicle used to provide pupil transportation for  
12 compensation by a local educational agency shall meet both of the  
13 following:

14 (1) Be inspected every 12 months, or every 50,000 miles,  
15 whichever comes first, at a facility licensed by the Bureau of  
16 Automotive Repair to ensure that the vehicle passes a 19-point  
17 vehicle inspection, as adopted by the Public Utilities Commission  
18 and set forth in D.13-09-045, before allowing the vehicle to be  
19 driven. This requirement does not apply to vehicles owned or  
20 contracted with a local educational agency already subject to a  
21 statutory inspection program.

22 (2) Be equipped with a first aid kit and a fire extinguisher.

23 39880. As used in this article, the following definitions apply:

24 (a) “Applicable law” means applicable California laws within  
25 the Labor and Workforce Development Agency’s jurisdiction  
26 related to the misclassification of employees as independent  
27 contractors, including the failure to pay wages, imposing unlawful  
28 expenses on employees, failure to provide workers’ compensation  
29 insurance, and failure to remit payroll taxes as required under the  
30 Unemployment Insurance Code as well as laws protecting worker  
31 health and safety.

32 (b) “Applicable law violation” means a violation that has a final  
33 determination, order, judgment, or award issued against a private  
34 entity for engaging in illegal conduct related to applicable laws  
35 and that remains unabated or unsatisfied following the period  
36 during which an appeal may be made.

37 (c) “Local educational agency” means a school district, county  
38 office of education, charter school, entity providing services under  
39 a school transportation joint powers agreement, or regional  
40 occupational center or program.

(d) “Pupil transportation” includes, but is not limited to, home-to-school transportation, field trips, after school program-related transportation, preschool and childcare-related transportation, athletic program-related transportation, and any other pupil transportation that is authorized, provided, or directed by the local educational agency.

(e) “Municipally owned transit system” means a transit system owned by a city, or by a district created pursuant to Part 1 (commencing with Section 24501) of Division 10 of the Public Utilities Code.

(f) “Supplementary service” means additional service provided by a municipally owned transit system for the purpose of ensuring the regular transit service is not impacted by large loads associated with pupil passengers traveling to or from schoolsites around school bell times.

SEC. 2. Section 49406 of the Education Code is amended to read:

49406. (a) (1) (A) Except as provided in subdivision (j), a person shall not be initially employed by a school district, or employed under contract, in a certificated or classified position unless the person has submitted to a tuberculosis risk assessment within the past 60 days, and, if tuberculosis risk factors are identified, has been examined to determine that the person is free of infectious tuberculosis by a physician and surgeon licensed under Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, a physician assistant practicing in compliance with Chapter 7.7 (commencing with Section 3500) of Division 2 of the Business and Professions Code, or a nurse practitioner practicing in compliance with Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code. If no risk factors are identified, an examination is not required. A person who is subject to the requirements of this subdivision may submit to an examination that complies with subparagraph (B) instead of submitting to a tuberculosis risk assessment.

(B) The examination required by this subdivision shall consist of either an approved intradermal tuberculin test or any other test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and licensed by the federal Food and Drug Administration (FDA). If the test is

1 positive, the test shall be followed by an X-ray of the lungs in  
2 accordance with subdivision (f) of Section 120115 of the Health  
3 and Safety Code.

4 (2) The X-ray may be taken by a competent and qualified X-ray  
5 technician if the X-ray is subsequently interpreted by a physician  
6 and surgeon licensed under Chapter 5 (commencing with Section  
7 2000) of Division 2 of the Business and Professions Code.

8 (3) The district superintendent of schools or their designee may  
9 exempt, for a period not to exceed 60 days following termination  
10 of the pregnancy, a pregnant employee from the requirement that  
11 a positive test for tuberculosis infection be followed by an X-ray  
12 of the lungs.

13 (b) Thereafter, an employee who has no identified risk factors  
14 or who tests negative for the tuberculosis infection shall be required  
15 to undergo the tuberculosis risk assessment and, if risk factors are  
16 identified, the examination, at least once every four years or more  
17 often if directed by the governing board of the school district upon  
18 recommendation of the local health officer. Once an employee has  
19 a documented positive test for tuberculosis infection conducted  
20 pursuant to this subdivision that has been followed by an X-ray,  
21 the tuberculosis risk assessment is no longer required. A referral  
22 shall be made within 30 days of completion of the examination to  
23 the local health officer to determine the need for followup care.

24 (c) After the tuberculosis risk assessment and, if indicated, the  
25 examination, the employee shall file with the district superintendent  
26 of schools a certificate from the examining physician and surgeon,  
27 physician assistant, or nurse practitioner showing the employee  
28 was examined and found free from infectious tuberculosis. The  
29 county board of education may require, by rule, that the certificates  
30 be filed in the office of the county superintendent of schools or  
31 maintained in the office of the county superintendent of schools  
32 if a majority of the governing boards of the school districts within  
33 the county petition the county board of education. A school district,  
34 or school districts with a common governing board, having an  
35 average daily attendance of 60,000 or more may elect to maintain  
36 the files for its employees in that school district.

37 (d) As used in this section, "certificate" means a certificate  
38 signed by the examining physician and surgeon licensed under  
39 Chapter 5 (commencing with Section 2000) of Division 2 of the  
40 Business and Professions Code, a physician assistant practicing

1 in compliance with Chapter 7.7 (commencing with Section 3500)  
2 of Division 2 of the Business and Professions Code, or a nurse  
3 practitioner practicing in compliance with Chapter 6 (commencing  
4 with Section 2700) of Division 2 of the Business and Professions  
5 Code, or a notice from a public health agency that indicates  
6 freedom from infectious tuberculosis. The latter, regardless of  
7 form, shall constitute evidence of compliance with this section.

8 (e) Nothing in this section shall prevent the governing board of  
9 a school district, upon recommendation of the local health officer,  
10 from establishing a rule requiring a more extensive or more  
11 frequent physical examination than required by this section. The  
12 rule shall provide for reimbursement on the same basis as required  
13 in this section.

14 (f) The tuberculosis risk assessment and, if indicated, the  
15 examination is a condition of initial employment and the expense  
16 shall be borne by the applicant unless otherwise provided by rules  
17 of the governing board of the school district. However, the  
18 governing board of a school district may, if an applicant is accepted  
19 for employment, reimburse that person in a like manner prescribed  
20 in this section for employees.

21 (g) The governing board of a school district shall reimburse the  
22 employee for the cost, if any, of the tuberculosis risk assessment  
23 and the examination. The governing board of a school district may  
24 provide for the tuberculosis risk assessment and examination  
25 required by this section or may establish a reasonable fee for the  
26 examination that is reimbursable to employees of the school district  
27 complying with this section.

28 (h) At the discretion of the governing board of a school district,  
29 this section shall not apply to those employees not requiring  
30 certification qualifications who are employed for any period of  
31 time less than a school year whose functions do not require frequent  
32 or prolonged contact with pupils.

33 (i) If the governing board of a school district determines by  
34 resolution, after hearing, that the health of pupils in the school  
35 district would not be jeopardized, this section shall not apply to  
36 an employee of the school district who files an affidavit stating  
37 that the employee adheres to the faith or teachings of a  
38 well-recognized religious sect, denomination, or organization and,  
39 in accordance with its creed, tenets, or principles, depends for  
40 healing upon prayer in the practice of religion, and that to the best

1 of the employee's knowledge and belief, the employee is free from  
2 infectious tuberculosis. If at any time there is probable cause to  
3 believe that the affiant is afflicted with infectious tuberculosis, the  
4 employee may be excluded from service until the governing board  
5 of the school district is satisfied that the employee is not afflicted.

6 (j) A person who transfers employment from one school or  
7 school district to another school or school district shall be deemed  
8 to meet the requirements of subdivision (a) if that person can  
9 produce a certificate that shows the person was found to be free  
10 of infectious tuberculosis within 60 days of initial hire, or the  
11 school previously employing the person verifies that the person  
12 has a certificate on file showing that the person is free from  
13 infectious tuberculosis.

14 (k) A person who transfers their employment from a private or  
15 parochial elementary school, secondary school, or nursery school  
16 to a school or school district subject to this section shall be deemed  
17 to meet the requirements of subdivision (a) if that person can  
18 produce a certificate as provided for in Section 121525 of the  
19 Health and Safety Code that shows that they were found to be free  
20 of infectious tuberculosis within 60 days of initial hire, or if the  
21 school previously employing the person verifies that the person  
22 has a certificate on file showing that the person is free from  
23 infectious tuberculosis.

24 (l) A governing board or county superintendent of schools  
25 providing for the transportation of pupils under contract authorized  
26 by Section 39800, 39801, or any other provision of law shall  
27 require as a condition of the contract the tuberculosis risk  
28 assessment and, if indicated, the examination for infectious  
29 tuberculosis within 60 days of initial hire, as provided by  
30 subdivision (a), of all drivers transporting pupils.

31 (m) A volunteer in a school shall also be required to have on  
32 file with the school a certificate showing that, upon initial volunteer  
33 assignment, the person submitted to a tuberculosis risk assessment  
34 and, if tuberculosis risk factors were identified, was examined and  
35 found to be free of infectious tuberculosis. If no risk factors are  
36 identified, an examination is not required. At the discretion of the  
37 governing board of a school district, this section shall not apply  
38 to a volunteer whose functions do not require frequent or prolonged  
39 contact with pupils.

(n) The State Department of Public Health, in consultation with the California Tuberculosis Controllers Association, shall develop a risk assessment questionnaire, to be used to conduct tuberculosis risk assessments pursuant to this section. The risk assessment questionnaire shall be administered by a health care provider, which shall be specified on the questionnaire. This risk assessment questionnaire shall be exempt from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 3. Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, “mandated reporter” is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher’s aide or teacher’s assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator, board member, or employee of a public or private organization whose duties require direct contact and supervision of children, including a foster family agency.
- (9) An employee of a county office of education or the State Department of Education whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child daycare facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a childcare institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.

1 (16) An employee of a school district police or security  
2 department.

3 (17) A person who is an administrator or presenter of, or a  
4 counselor in, a child abuse prevention program in a public or  
5 private school.

6 (18) A district attorney investigator, inspector, or local child  
7 support agency caseworker, unless the investigator, inspector, or  
8 caseworker is working with an attorney appointed pursuant to  
9 Section 317 of the Welfare and Institutions Code to represent a  
10 minor.

11 (19) A peace officer, as defined in Chapter 4.5 (commencing  
12 with Section 830) of Title 3 of Part 2, who is not otherwise  
13 described in this section.

14 (20) A firefighter, except for volunteer firefighters.

15 (21) A physician and surgeon, psychiatrist, psychologist, dentist,  
16 resident, intern, podiatrist, chiropractor, licensed nurse, dental  
17 hygienist, optometrist, marriage and family therapist, clinical social  
18 worker, professional clinical counselor, or any other person who  
19 is currently licensed under Division 2 (commencing with Section  
20 500) of the Business and Professions Code.

21 (22) An emergency medical technician I or II, paramedic, or  
22 other person certified pursuant to Division 2.5 (commencing with  
23 Section 1797) of the Health and Safety Code.

24 (23) A psychological assistant registered pursuant to Section  
25 2913 of the Business and Professions Code.

26 (24) A marriage and family therapist trainee, as defined in  
27 subdivision (c) of Section 4980.03 of the Business and Professions  
28 Code.

29 (25) An unlicensed associate marriage and family therapist  
30 registered under Section 4980.44 of the Business and Professions  
31 Code.

32 (26) A state or county public health employee who treats a minor  
33 for venereal disease or any other condition.

34 (27) A coroner.

35 (28) A medical examiner or other person who performs  
36 autopsies.

37 (29) A commercial film and photographic print or image  
38 processor as specified in subdivision (e) of Section 11166. As used  
39 in this article, “commercial film and photographic print or image  
40 processor” means a person who develops exposed photographic

1 film into negatives, slides, or prints, or who makes prints from  
2 negatives or slides, or who prepares, publishes, produces, develops,  
3 duplicates, or prints any representation of information, data, or an  
4 image, including, but not limited to, any film, filmstrip, photograph,  
5 negative, slide, photocopy, videotape, video laser disc, computer  
6 hardware, computer software, computer floppy disk, data storage  
7 medium, CD-ROM, computer-generated equipment, or  
8 computer-generated image, for compensation. The term includes  
9 any employee of that person; it does not include a person who  
10 develops film or makes prints or images for a public agency.

11 (30) A child visitation monitor. As used in this article, “child  
12 visitation monitor” means a person who, for financial  
13 compensation, acts as a monitor of a visit between a child and  
14 another person when the monitoring of that visit has been ordered  
15 by a court of law.

16 (31) An animal control officer or humane society officer. For  
17 the purposes of this article, the following terms have the following  
18 meanings:

19 (A) “Animal control officer” means a person employed by a  
20 city, county, or city and county for the purpose of enforcing animal  
21 control laws or regulations.

22 (B) “Humane society officer” means a person appointed or  
23 employed by a public or private entity as a humane officer who is  
24 qualified pursuant to Section 14502 or 14503 of the Corporations  
25 Code.

26 (32) A clergy member, as specified in subdivision (d) of Section  
27 11166. As used in this article, “clergy member” means a priest,  
28 minister, rabbi, religious practitioner, or similar functionary of a  
29 church, temple, or recognized denomination or organization.

30 (33) Any custodian of records of a clergy member, as specified  
31 in this section and subdivision (d) of Section 11166.

32 (34) An employee of any police department, county sheriff’s  
33 department, county probation department, or county welfare  
34 department.

35 (35) An employee or volunteer of a Court Appointed Special  
36 Advocate program, as defined in Rule 5.655 of the California Rules  
37 of Court.

38 (36) A custodial officer, as defined in Section 831.5.

39 (37) A person providing services to a minor child under Section  
40 12300 or 12300.1 of the Welfare and Institutions Code.



1 (38) An alcohol and drug counselor. As used in this article, an  
2 “alcohol and drug counselor” is a person providing counseling,  
3 therapy, or other clinical services for a state licensed or certified  
4 drug, alcohol, or drug and alcohol treatment program. However,  
5 alcohol or drug abuse, or both alcohol and drug abuse, is not, in  
6 and of itself, a sufficient basis for reporting child abuse or neglect.

7 (39) A clinical counselor trainee, as defined in subdivision (g)  
8 of Section 4999.12 of the Business and Professions Code.

9 (40) An associate professional clinical counselor registered  
10 under Section 4999.42 of the Business and Professions Code.

11 (41) An employee or administrator of a public or private  
12 postsecondary educational institution, whose duties bring the  
13 administrator or employee into contact with children on a regular  
14 basis, or who supervises those whose duties bring the administrator  
15 or employee into contact with children on a regular basis, as to  
16 child abuse or neglect occurring on that institution’s premises or  
17 at an official activity of, or program conducted by, the institution.  
18 Nothing in this paragraph shall be construed as altering the  
19 lawyer-client privilege as set forth in Article 3 (commencing with  
20 Section 950) of Chapter 4 of Division 8 of the Evidence Code.

21 (42) An athletic coach, athletic administrator, or athletic director  
22 employed by any public or private school that provides any  
23 combination of instruction for kindergarten, or grades 1 to 12,  
24 inclusive.

25 (43) (A) A commercial computer technician as specified in  
26 subdivision (e) of Section 11166. As used in this article,  
27 “commercial computer technician” means a person who works for  
28 a company that is in the business of repairing, installing, or  
29 otherwise servicing a computer or computer component, including,  
30 but not limited to, a computer part, device, memory storage or  
31 recording mechanism, auxiliary storage recording or memory  
32 capacity, or any other material relating to the operation and  
33 maintenance of a computer or computer network system, for a fee.  
34 An employer who provides an electronic communications service  
35 or a remote computing service to the public shall be deemed to  
36 comply with this article if that employer complies with Section  
37 2258A of Title 18 of the United States Code.

38 (B) An employer of a commercial computer technician may  
39 implement internal procedures for facilitating reporting consistent  
40 with this article. These procedures may direct employees who are

1 mandated reporters under this paragraph to report materials  
2 described in subdivision (e) of Section 11166 to an employee who  
3 is designated by the employer to receive the reports. An employee  
4 who is designated to receive reports under this subparagraph shall  
5 be a commercial computer technician for purposes of this article.  
6 A commercial computer technician who makes a report to the  
7 designated employee pursuant to this subparagraph shall be deemed  
8 to have complied with the requirements of this article and shall be  
9 subject to the protections afforded to mandated reporters, including,  
10 but not limited to, those protections afforded by Section 11172.

11 (44) Any athletic coach, including, but not limited to, an  
12 assistant coach or a graduate assistant involved in coaching, at  
13 public or private postsecondary educational institutions.

14 (45) An individual certified by a licensed foster family agency  
15 as a certified family home, as defined in Section 1506 of the Health  
16 and Safety Code.

17 (46) An individual approved as a resource family, as defined in  
18 Section 1517 of the Health and Safety Code and Section 16519.5  
19 of the Welfare and Institutions Code.

20 (47) A qualified autism service provider, a qualified autism  
21 service professional, or a qualified autism service paraprofessional,  
22 as defined in Section 1374.73 of the Health and Safety Code and  
23 Section 10144.51 of the Insurance Code.

24 (48) A human resource employee of a business subject to Part  
25 2.8 (commencing with Section 12900) of Division 3 of Title 2 of  
26 the Government Code that employs minors. For purposes of this  
27 section, a “human resource employee” is the employee or  
28 employees designated by the employer to accept any complaints  
29 of misconduct as required by Chapter 6 (commencing with Section  
30 12940) of Part 2.8 of Division 3 of Title 2 of the Government  
31 Code.

32 (49) An adult person whose duties require direct contact with  
33 and supervision of minors in the performance of the minors’ duties  
34 in the workplace of a business subject to Part 2.8 (commencing  
35 with Section 12900) of Division 3 of Title 2 of the Government  
36 Code is a mandated reporter of sexual abuse, as defined in Section  
37 11165.1. Nothing in this paragraph shall be construed to modify  
38 or limit the person’s duty to report known or suspected child abuse  
39 or neglect when the person is acting in some other capacity that  
40 would otherwise make the person a mandated reporter.

1 (50) A driver, whether employed by or contracted with a local  
2 educational agency, providing pupil transportation for  
3 compensation pursuant to Article 5 (commencing with Section  
4 39875) of Chapter 1 of Part 23.5 of Division 3 of Title 2 of the  
5 Education Code.

6 (b) Except as provided in paragraph (35) of subdivision (a),  
7 volunteers of public or private organizations whose duties require  
8 direct contact with and supervision of children are not mandated  
9 reporters but are encouraged to obtain training in the identification  
10 and reporting of child abuse and neglect and are further encouraged  
11 to report known or suspected instances of child abuse or neglect  
12 to an agency specified in Section 11165.9.

13 (c) (1) Except as provided in subdivision (d) and paragraph (2),  
14 employers are strongly encouraged to provide their employees  
15 who are mandated reporters with training in the duties imposed  
16 by this article. This training shall include training in child abuse  
17 and neglect identification and training in child abuse and neglect  
18 reporting. Whether or not employers provide their employees with  
19 training in child abuse and neglect identification and reporting,  
20 the employers shall provide their employees who are mandated  
21 reporters with the statement required pursuant to subdivision (a)  
22 of Section 11166.5.

23 (2) Employers subject to paragraphs (48) and (49) of subdivision  
24 (a) shall provide their employees who are mandated reporters with  
25 training in the duties imposed by this article. This training shall  
26 include training in child abuse and neglect identification and  
27 training in child abuse and neglect reporting. The training  
28 requirement may be met by completing the general online training  
29 for mandated reporters offered by the Office of Child Abuse  
30 Prevention in the State Department of Social Services.

31 (d) Pursuant to Section 44691 of the Education Code, school  
32 districts, county offices of education, state special schools and  
33 diagnostic centers operated by the State Department of Education,  
34 and charter schools shall annually train their employees and persons  
35 working on their behalf specified in subdivision (a) in the duties  
36 of mandated reporters under the child abuse reporting laws. The  
37 training shall include, but not necessarily be limited to, training in  
38 child abuse and neglect identification and child abuse and neglect  
39 reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a childcare licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a childcare administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when that administrator or employee is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child daycare facility shall take renewal mandated reporter training every two years following the date on which that person completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(f) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(g) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.