

CHAPTER 5
RESPONSE TO CHILD ABUSE OR NEGLECT
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CHAPTER 5
RESPONSE TO CHILD ABUSE OR NEGLECT

1. PURPOSE. The purpose of this chapter is to establish procedures for handling child abuse or neglect incidents in a manner consistent with the provisions enumerated in Sections 11164-11174.3 of the California Penal Code (PC), Child Abuse and Neglect Reporting Act. This includes situations where the local law enforcement agency (also considered the Local County Designated Agency [LCDA]) with investigative jurisdiction is unable to respond in a timely manner.

2. GENERAL.

a. Peace officers are required to provide maximum protection to children who are abused, neglected, or exploited, and to take appropriate steps to prevent harm. As mandated reporters (Section 11165.7 PC), CHP uniformed personnel are required to report known or suspected instances of child abuse or neglect to LCDAs.

b. Section 11166.5(a) PC requires a mandated reporter to sign a statement on a form provided by the employer acknowledging the provisions of Section 11166 PC and agreeing to comply with those provisions (refer to paragraph 4. for additional instructions).

c. The potential for CHP personnel to encounter possible child abuse or neglect will most likely occur while investigating offenses of driving under the influence (DUI) or traffic crashes with a child in the vehicle. Additionally, some of these situations may require taking a child into temporary/protective custody due to the lack of provisions for support (e.g., unknown whereabouts of another parent or guardian, delayed response time by an LCDA).

d. In the course of conducting routine business, a CHP officer may encounter a situation where a minor is observed with severe, unexplainable visible injuries or enter a habitat that is disheveled to the point that a possible health hazard exists to a child.

3. POLICY.

a. Officers encountering incidents involving minors must ensure the safekeeping and disposition of a minor, as required by California law. Sections 300 through 313 of the Welfare and Institutions Code (WIC) are applicable to peace officers and define when a minor may be taken into protective custody and the disposition of

such minor (e.g., released to a parent or legal guardian, taken to a hospital facility, released to a county social worker).

b. Generally, incidents of suspected child abuse or neglect should be referred to the LCDA. However, officers shall take the necessary steps to prevent any additional physical injury, abuse, or neglect to the involved parties and remove them from possible harm.

c. Departmental personnel who have knowledge of or observe a child whom they suspect has been the victim of child abuse or neglect shall report the known or suspected instance of child abuse or neglect to an LCDA immediately or as soon as practicably possible by telephone.

d. Department of Justice Form BCIA 8572, Suspected Child Abuse Report

(1) Departmental personnel shall complete the Department of Justice (DOJ) form BCIA 8572, Suspected Child Abuse Report, each time child abuse or neglect is suspected, regardless of whether the case is turned over to the LCDA. This includes each time a charge of child endangerment, as defined in Section 11165.3 PC, is charged with another violation (e.g., DUI, reckless driving). The DOJ BCIA 8572 is available in the online departmental forms directory.

(2) The DOJ report shall be submitted to the LCDA within 36 hours of receiving information regarding an incident of suspected child abuse or neglect.

e. Departmental personnel who have knowledge of or observe a child who they suspect has been the victim of child abuse or neglect may also make a report while acting in their private capacity pursuant to Section 11165.7 PC.

(1) Information regarding possible child abuse or neglect (observed or suspected) during off-duty hours should be processed in a manner consistent with Chapter 1, Arrest Policies, paragraph 10, of this manual.

f. Generally, child abuse reports will be referred to the appropriate LCDA. Area commanders shall coordinate the implementation of this chapter with their LCDAs to develop Standard Operating Procedures (SOP).

4. COMMANDERS' RESPONSIBILITIES.

a. Commanders shall ensure all uniformed personnel have a signed CHP 192, Receipt of Requirement to Report Child Abuse, in their personnel folder. The CHP 192 is available in the online departmental forms directory.

(1) The original CHP 192 shall be maintained in the officer's personnel file and a copy forwarded to Human Resources Section, Attention: Personnel Files.

b. Area Commanders shall obtain local resource information, such as names, addresses, and telephone numbers of shelters, crisis centers, and other community resources that are available in their jurisdictions. This information should be included in local SOP and updated regularly.

c. Commanders shall ensure their Area's SOP contains necessary direction about local procedures for handling protective custody of minors and incidents of child abuse or neglect, including, at a minimum:

(1) Procedures for contacting the LCDA.

(2) Procedures for release of a minor from protective custody.

(3) Procedures for supervisors to ensure the LCDA is contacted, as required, and a DOJ BCIA 8572 is completed and submitted to the LCDA.

5. DEPARTMENTAL RESPONSIBILITIES.

a. Law enforcement agencies have numerous legal requirements placed upon them in the area of child abuse or neglect. The following is a list of those requirements.

(1) Section 11168 PC requires that all written reports be submitted on forms adopted by DOJ, and the written forms shall be available from an LCDA.

(2) Section 300 WIC allows juvenile courts to assume jurisdiction over a minor if the parent or guardian has failed to adequately supervise the child, the child is at substantial risk of harm, or the minor has suffered a severe injury.

(3) When a reasonable condition of Section 300 WIC exists, Section 305 WIC allows a peace officer to take temporary custody of a child without a warrant under the following circumstances:

(a) The child requires immediate medical care, the child is in immediate

danger of physical or sexual abuse, or if the physical environment or the minor being left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parents or guardian to determine if the parent or guardian is able to assume custody of the child. If they cannot be contacted, the officer shall notify a social worker in the county welfare department to assume custody of the child.

(b) The child is in a hospital and the release to a parent would pose an immediate danger to the child's health or safety.

(c) The child has violated an order of the juvenile court or has left any placement ordered by the juvenile court while being a dependent child of the juvenile court.

(d) The child is found in any street or public place suffering from any sickness or injury in which the child would require care, medical treatment, hospitalization, or other remedial care.

6. DEFINITIONS.

a. Child. A person under the age of 18 years. As used in this chapter, "minor" and "child" are synonymous. (See Section 11165 PC.)

b. Sexual Abuse. Refers to both sexual assault and exploitation. (See Section 11165.1 PC.)

(1) Sexual Assault. Rape, statutory rape, rape in concert, incest, sodomy, lewd or lascivious acts upon a child under 14 years of age, oral copulation, sexual penetration, or child molestation.

(2) Sexual Exploitation. Conduct in which a person knowingly promotes, aids, or employs a child to engage in obscene sexual conduct (e.g., preparing, selling, or distributing obscene matter, including child pornography, prostitution, posing or modeling).

(3) Commercial Sexual Exploitation. Refers to either sexual trafficking of a child or providing food, shelter, or payment to a child in exchange for performance of a sexual act.

c. Neglect. The negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and

omissions on the part of the responsible person. (See Section 11165.2 PC.)

(1) Severe Neglect. 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. Also includes placing a child in a situation wherein their health is endangered by the intentional failure to provide adequate food, clothing, shelter, or medical care.

(2) General Neglect. Negligent failure of a person responsible for the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred but the child is at substantial risk of suffering serious physical harm or illness. (See Section 11165.2 PC.)

d. Child Abuse. A physical injury or death inflicted by other than accidental means on a child by another person (Section 11165.6 PC), including sexual abuse of a child (Section 11165.1 PC), neglect (Section 11165.2 PC), and violations of the following:

(1) Section 11165.3 PC, willfully causing harm or injury or endangering the health of a child, including physical pain or mental suffering. This section is commonly referred to as “child endangerment.”

(2) Section 11165.4 PC (also see Section 273d PC.), cruel or inhuman corporal punishment or injury on a child resulting in a traumatic condition. (Also see Section 49001 and Section 44807 of the Education Code [EDC].) Cruel or inhuman corporal punishment does not include the following:

(a) An amount of force that is reasonable and necessary for a person employed in a public school to stop a disturbance threatening physical injury or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects, as authorized by Section 49001 EDC.

(b) The same degree of physical control over a pupil that a parent would be legally privileged to exercise that shall not exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. (See Section 44807 EDC.)

(c) Injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of their employment as a peace officer.

- e. Guardian. The legal authority responsible for the welfare of a minor.
- f. Mandated Reporter. An individual who works in a profession that requires they report known or suspected child abuse. These professions include, but are not limited to, teachers, instructional aides, and peace officers, as defined in Chapter 4.5 (commencing with Section 830 PC) of Title 3 of Part 2 of the PC, who is not otherwise described in Section 11165.7 PC. This includes CHP officers.
- g. Local County Designated Agency. A police or sheriff's department, a county probation department, or a county welfare department. (See Section 11165.9 PC.)

7. PROCEDURES.

a. Child Abuse or Neglect. Officers shall treat all child abuse as criminal conduct and respond accordingly. Refer to the Child Abuse or Neglect Decision Tree in Annex A.

(1) Following contact with a suspected or known child abuse or neglect victim, the officer should determine whether the victim requires medical treatment, even if child abuse injuries are not visible, and arrange for proper treatment.

(a) Annex B contains a listing of general abuse indicators; however, just the presence of an indicator may not necessarily mean the child is being abused.

(b) Contact with a suspected child abuse or neglect victim could occur as a result of a routine traffic enforcement contact or in response to a crime-in-progress call.

(2) The officer shall report the known/suspected child abuse or neglect to the LCDA immediately or as soon as practicably possible by telephone.

(3) Any known/suspected child abuse or neglect observed by an officer shall be documented through the preparation of the DOJ BCIA 8572.

(4) If the CHP's response is limited to "standing by" until the LCDA arrives and assumes responsibility, at a minimum, a DOJ BCIA 8572 must still be prepared and submitted within 36 hours.

(5) When the situation requires immediate action and the LCDA cannot, or will not, respond, the CHP shall take the appropriate enforcement action (e.g., physical arrest, protective custody). Officers shall complete a CHP 216,

Arrest-Investigation Report, or CHP 202, Driving Under the Influence Arrest-Investigation Report, documenting the pertinent information. See Annex C for a list of possible criminal violations.

(a) Sexual Offenses. Sexual abuse is a form of child abuse; however, it requires additional procedures.

(b) Minors Engaging in Commercial Sexual Activity. Pursuant to Section 647(b)(5) PC, minors engaged in commercial sexual activity are considered victims, and shall not be arrested for prostitution. Officers should make every attempt to do what is in the best interest of the child, including taking any minor suspected of commercial sexual activity into protective custody, pursuant to Section 647(b)(5) PC and Section 305 WIC.

(c) Loitering for Purposes of Commercial Sexual Activity or Solicitation of Prostitution. Pursuant to Section 653.22(a)(2) PC, a commercially exploited child engaged in loitering may be considered a dependent of the court and taken into temporary custody, as stated in Section 300 WIC and 305 WIC, if the conditions allowing temporary custody without a warrant are met.

(d) CHP 174, Right to Privacy Acknowledgement to Victim. Pursuant to Section 293(a) PC, victims of crimes listed in Section 7923.615(b)(1) of the California Government Code shall be advised of their right to privacy. The victim's name and address may be withheld from the report at their request or at the request of their parent or guardian. If confidentiality is requested, a CHP 174, Right to Privacy Acknowledgment, must be completed, and the victim's name and address shall only be recorded at the bottom of this form. The victim or parent or guardian must then sign the report for confidentiality to apply. Insert "John/Jane Doe" in place of the victim's name and exclude the victim's address on all other associated forms.

1 The offer of confidentiality shall be made prior to the initiation of a report and completion of a CHP 174 with the victim's parent/guardian name and address.

2 If confidentiality is not invoked, the CHP 174 shall become an attachment to the CHP 216 or CHP 202.

3 If confidentiality is invoked, the CHP 174 shall become the face page to the report, and the victim's name and address will only appear on this form. The CHP 174 must be signed by the victim for confidentiality to apply. "John/Jane Doe" shall be inserted in the place

of the victim's name on the CHP 216 or CHP 202, and the address shall be excluded. The CHP 174 shall remain confidential and only be released with the report when it is provided to the district attorney's office for purposes of prosecution, or to an allied law enforcement agency for follow-up investigation.

4 Refer to local jurisdiction protocol for handling sexual offenses and, if appropriate, provide a "Victims of Domestic Violence" card obtained from an allied agency.

5 Pursuant to Section 264.2(b)(1), an officer shall immediately notify the local rape victim counseling center whenever a victim is presented to the hospital for medical or evidentiary physical examination, if a sexual offense involves a violation or alleged violation of one of the following sections:

a Section 261 PC, rape.

b Section 261.5 PC, unlawful intercourse with person under age 18.

c Section 286 PC, sodomy.

d Section 287 PC, oral copulation

e Section 289 PC, penetration of genital or anal openings by foreign or unknown objects.

(e) "Victims of Domestic Violence" Card. Pursuant to Section 264.2(a) PC, an officer who handles an incident involving a violation, or alleged violation, of section 261 PC, 261.5 PC, 286 PC, 287 PC, or 289 PC, shall immediately provide a "Victims of Domestic Violence" card to the victim. Section 13701 PC states that a "Victims of Domestic Violence" card shall include, but is not limited to, the following information:

1 The names and phone numbers of county hotlines for local shelters, rape victim counseling centers, and 24-hour counseling service phone numbers.

2 The names and phone numbers of county hotlines for local shelters, rape victim counseling centers, and 24-hour counseling service phone numbers.

3 A statement on the proper procedures a victim should follow after

a sexual assault.

4 A statement stating sexual assault by a person who is known to the victim, including sexual assault by the spouse of the victim, is a crime.

5 A statement explaining domestic violence or assault by a person who is known to the victim, including domestic violence or assault by the spouse of the victim, is a crime.

6 A statement informing the victim that strangulation may cause internal injuries and encouraging the victim to seek medical attention.

7 Most of the information required to be provided to victims of domestic violence can be located on the CHP 182, Domestic Violence Resource Information, and CHP 173, Domestic Violence Referral, cards. The CHP 173 can be requisitioned from Supply Services. Area commanders should reach out to local allied agencies, district/city attorneys, and nonprofit organizations to identify the remaining local resources.

8 The required Marsy's Card and Resources is available on the California Attorney General's Office website at <https://oag.ca.gov/victimservices/marsy>. This card is available in several different languages. Some local district attorneys have developed their own Marsy's Law cards with local information, which may also be provided. These cards contain telephone numbers which victims and witnesses can call to report additional information about the case. Refer to General Order 100.94, "Marsy's Law" the Victims' Bill of Rights Act of 2008, for more information.

b. Protective Custody.

(1) Officers shall be responsible for the safety and welfare of any minor(s). Pursuant to Section 307 WIC, when an officer takes a child into temporary custody under the provisions of Section 305 WIC, the following procedures shall be followed:

(a) The officer may arrange for the minor to be delivered into the custody of the appropriate social services agency for that county.

(b) The officer may prepare a written notice in duplicate for the parent(s) of the child to appear with the child before a social services officer of the county in which the minor was taken into custody. The notice shall contain

a statement of the reasons the minor was taken into custody. One copy shall be given to the minor and parent, guardian, or responsible relative of the minor, and the other copy filed with the county agency as soon as practicable. Upon execution of promise to appear, the officer shall immediately release the minor.

(c) The officer may release the minor.

Note: A child exploited through commercial sexual activity should be taken into protective custody (Section 647[b][5] PC and Section 305 WIC).

c. Child Found Unattended.

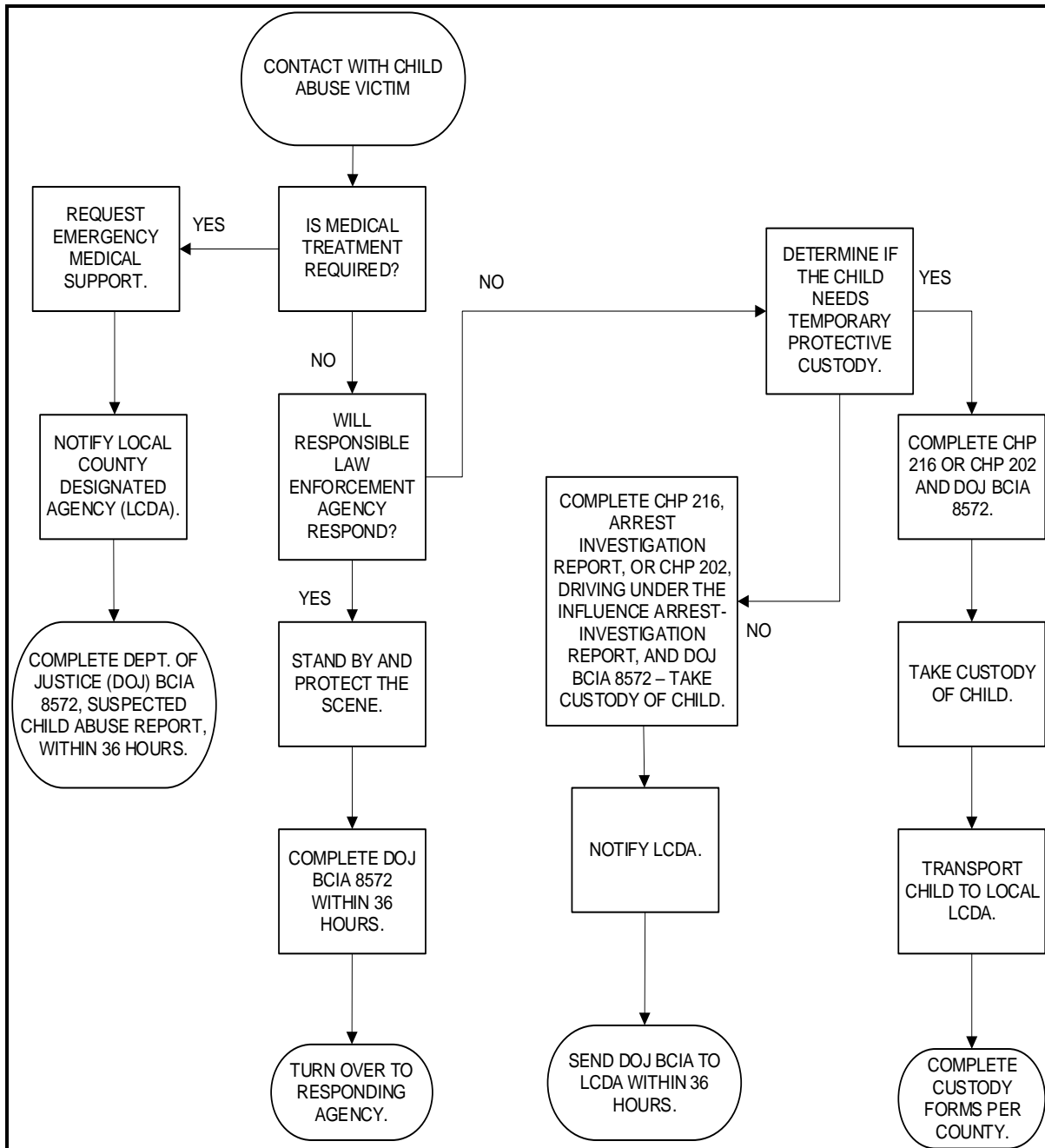
(1) If a child is found unattended, the officer shall first determine if medical treatment is necessary.

(2) Officers should determine why the child is unattended. If child abuse or neglect is suspected, follow the procedures listed in paragraph 7.b. if no child abuse or neglect is suspected, officers shall attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child.

(3) If a parent/guardian or responsible adult cannot be located, or if a parent/guardian or responsible adult is not able to assume custody of the child, the officer shall notify the appropriate social services agency for that agency to assume custody of the child.

ANNEX A

RESPONSE TO CHILD ABUSE OR NEGLECT
CHILD ABUSE DECISION TREE



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ANNEX B

RESPONSE TO CHILD ABUSE OR NEGLECT CHILD ABUSE INDICATORS

Physical Abuse Indicators. Abused children, like abused adults, can be expected to display a wide range of behaviors, emotional reactions, and physical symptoms. Some basic indicators of physical child abuse include:

Bruises and Other Marks. Bruises on body surfaces, abrasions and lacerations, welts and swelling resulting from physical force, burns, etc.

Fractures. Rib fractures (caused by blunt force or compression) are the most common fractures. Spiral fractures of long bones, resulting from pulling or twisting, are almost always the result of abuse when present before a child starts walking. Fractures are most suspicious when there are multiple fractures, fractures in different stages of healing, skull or clavicle fractures, and unexplained fractures revealed by x-ray.

Internal Injuries. Injuries to the liver, spleen, pancreas, kidneys, or other vital organs may be caused by blunt trauma to the body and are the second leading cause of death for a child abuse victim.

Whiplash. Shaken Baby Syndrome is the classic result of excessive force and is indicated when intracranial and intraocular hemorrhages occur in the absence of signs of external injury to the head; such shaking may also produce lesions on the long bones. Whiplash is also indicated by vomiting, a rapidly enlarging head, and subtle neurological signs. It may result in permanent neurological deficits, learning problems, or even death.

Behavioral traits that include:

- Fear of going home.
- Wariness of adult contacts.
- Fear of parent/guardian/abuser.
- Inappropriate dressing (to cover abuse marks).

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ANNEX C

RESPONSE TO CHILD ABUSE OR NEGLECT POSSIBLE CRIMES AT CHILD ABUSE INCIDENT

FELONIES.

- Section 261(a) Penal Code (PC) — Rape.
- Section 261.5 PC — Unlawful sexual intercourse with person under age 18.
- Section 266h(a) and (b) PC — Pimping: Deriving income from the earnings of a prostitute, deriving income from a place of prostitution, or receiving compensation for soliciting a prostitute or minor.
- Section 266i(a) PC — Pandering: Procuring another for prostitution; persuading another to become a prostitute; procuring another person to be placed in a house of prostitution; persuading a person to remain in a house of prostitution; procuring another for prostitution by fraud, duress, or abuse of authority; and receiving or giving money or thing of value for acquiring another person for the purpose of prostitution.
- Section 266j PC — Transporting or providing a child under 16 to another person for purposes of any lewd or lascivious act.
- Section 267 PC — Taking a minor from their parents or guardian for purposes of prostitution.
- Section 269(a)(4) PC — Oral copulation with a child under 14 years of age.
- Section 273ab PC — Assault resulting in death or coma of a child under eight. Also refer to Section 187 PC and 189 PC.
- Section 285 PC — Incest.
- Section 286 PC — Sodomy.
- Section 287(b)(2) — Oral copulation with a person under 16 years of age when the perpetrator is over 21 years of age.
- Section 288 PC — Lewd or lascivious acts with a child under age 14.

ANNEX C

RESPONSE TO CHILD ABUSE OR NEGLECT POSSIBLE CRIMES AT CHILD ABUSE INCIDENT (*continued*)

- Section 288(c)PC — Lewd or lascivious acts with a child 14 or 15 years old when the perpetrator is at least 10 years older than the child.
- Section 289 PC — Penetration of genital or anal openings by foreign or unknown objects.
- Section 11165.3 PC — Willful harm or injury to child; endangering person or health of a child. Also refer to Section 273a(b).
- Section 11165.4 PC — Cruel and inhuman corporal punishment or injury of child. Also refer to Section 273d PC.

MISDEMEANORS.

- Section 240 PC — Assault.
- Section 242 PC — Battery.
- Section 270 PC — Failure to provide.
- Section 273g PC — Degrading, immoral, or vicious practices or habitual drunkenness in presence of children.
- Section 311.2(a) PC — Sending or bringing obscene matter into state for sale or distribution; printing, exhibiting, distributing, exchanging, or possessing within this state matter depicting sexual conduct by a minor.
- Section 647.6 PC — Annoying or molesting child under 18.
- Section 11165.3 PC — Child endangerment. Also refer to Section 273a(a) PC.
- Section 11414 PC — Intentionally harassing a child or ward because of a person's employment.