

## RESOLUTION 01-01-2023

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Business and Professions Code section 18975, to read as follows:

1 § 18975

2 (a) An administrator, employee, or regular volunteer of a youth service organization shall  
3 complete training in child abuse and neglect identification and training in child abuse and neglect  
4 reporting. The training requirement may be met by completing the online mandated reporter  
5 training provided by the Office of Child Abuse Prevention in the State Department of Social  
6 Services.

7 (b) (1) An administrator, employee, or regular volunteer of a youth service organization  
8 shall undergo a background check pursuant to Section 11105.3 of the Penal Code to identify and  
9 exclude any persons with a history of child abuse.

10 (2) Until January 1, 2024, paragraph (1) shall not apply to a youth service organization  
11 that, prior to January 1, 2022, did not require administrators, employees, or regular volunteers to  
12 undergo background checks pursuant to Section 11105.3 of the Penal Code.

13 (3) The requirements of subdivision (b)(1) shall not apply to volunteers who are currently  
14 employed by a governmental entity, who are currently serving as active duty military, or who are  
15 serving in the California National Guard, and who had a criminal background check as a  
16 condition of their employment, current position, or security clearance.

17 (c) A youth service organization shall develop and implement child abuse prevention  
18 policies and procedures, including, but not limited to, both of the following:

19 (1) Policies to ensure reporting of suspected incidents of child abuse to persons or entities  
20 outside of the organization, including the reporting required pursuant to Section 11165.9 of the  
21 Penal Code.

22 (2) (A) Policies requiring, to the greatest extent possible, the presence of at least two  
23 mandated reporters whenever administrators, employees, or volunteers are in contact with, or  
24 supervising, children.

25 (B) This paragraph shall not apply to an organization that provides one-to-one mentoring  
26 to youth that has adopted and implemented the policies described in paragraph (1) and has  
27 adopted and implemented policies to ensure comprehensive screening of volunteers, training of  
28 volunteers and parents or guardians, and regular contact with volunteers and parents or  
29 guardians.

30 (d) Before writing liability insurance for a youth service organization in this state, an  
31 insurer may request information demonstrating compliance with this section from the youth  
32 service organization as a part of the insurer's loss control program.

33 (e) For purposes of this section:

34 (1) "Regular volunteer" means a volunteer with the youth service organization who is 18  
35 years of age or older and who has direct contact with, or supervision of, children for more than  
36 16 hours per month or 32 hours per year.

37 (2) "Youth service organization" means an organization that employs or utilizes the  
38 services of persons who, due to their relationship with the organization, are mandated reporters  
39 pursuant to paragraph (7) of subdivision (a) of Section 11165.7 of the Penal Code.

(Proposed new language underlined; language to be deleted stricken)

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## **STATEMENT OF REASONS**

The Problem: In 2021, Business and Professions Code section 18975 was added to require youth service organizations, like the Boy Scouts and Girl Scouts, obtain criminal background checks on administrators, employees and regular volunteers, in addition to developing and implementing child abuse prevention policies. However, there have been several unintended consequences from the addition of this section.

Recognizing the unanticipated impact that the background check requirement was having on youth service organizations, the Legislature acted in 2022 to adopt urgency legislation to provide an extended deadline for compliance. That action only deferred a portion of the unintended consequences of the adoption of section 18975.

One of the critical unintended consequences of the background check requirement is that public sector volunteers and active military personnel who often volunteer and team up with youth service organizations, and who have already had background checks as a condition of their employment, position, or security clearance must now pay around \$70 to have yet another background check performed. This is an unnecessary requirement because it does not improve public safety for the youth served by youth service organizations and adversely impacts those who have already completed background checks as a condition of their employment or position and who would otherwise be willing to serve as volunteers. In addition, certain active duty military and federal employees, whose identities need to be protected, are being instructed that they may not submit to this separate fingerprinting and background check. This is impacting ongoing relationships between youth service organizations and governmental organizations, like the U.S. Navy Seals.

The Solution: This resolution amends Business and Professions Code sections 18975, to exempt from the background check requirements, those governmental employees, active-duty military, and California National Guard service members who, as a condition of their employment, position or security clearance, have had a criminal background check.

## **IMPACT STATEMENT**

This resolution does not affect any other law, statute, or rule.

## **CURRENT OR PRIOR RELATED LEGISLATION**

Business and Professions Code section 18975, was added by Stats. 2021, ch. 169, section 1 (2021-2022 Reg. Sess.) (Assem. Bill No. 506), and amended by Stats. 2022, ch. 261, section 1 (2021-2022 Reg. Sess.) (Assem. Bill No. 2669).

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