

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

HOUSE BILL NO. 2272

By: Bryant

AS INTRODUCED

An Act relating to children; amending 21 O.S. 1991, Section 846, as last amended by Section 3, Chapter 353, O.S.L. 1995, and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7103), which relates to the Oklahoma Child Abuse Reporting and Prevention Act; clarifying language; requiring that certain internal procedures shall not relieve individual reporting obligations; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 846, as last amended by Section 3, Chapter 353, O.S.L. 1995 and as renumbered by Section 20, Chapter 353, O.S.L. 1995 (10 O.S. Supp. 1995, Section 7103), is amended to read as follows:

Section 7103. A. 1. Every:

- a. physician or surgeon, including doctors of medicine and dentistry, licensed osteopathic physicians, residents and interns, examining, attending or treating a child under the age of eighteen (18) years,

- b. registered nurse examining, attending or treating such a child in the absence of a physician or surgeon,
- c. teacher of any child under the age of eighteen (18) years, and
- d. other person

having reason to believe that a child under the age of eighteen (18) years has had physical injury or injuries inflicted upon the child by other than accidental means where the injury appears to have been caused as a result of physical abuse, sexual abuse, or neglect, shall report the matter promptly to the county office of the Department of Human Services in the county wherein the suspected injury occurred. ~~Such~~ The reports may be made by telephone, in writing, personally or by any other method prescribed by the Department. Any report of abuse or neglect made pursuant to this section shall be made in good faith.

2. Every physician or surgeon, including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who appears to be a child born in a condition of dependence on a controlled dangerous substance shall promptly report the matter to the county office of the Department of Human Services in the county in which ~~such~~ the birth occurred.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor or administrator shall impede or inhibit the reporting obligations of any employee or other person. ~~No~~ The employer, supervisor or administrator of a any employee or other person required to provide information pursuant to this section shall not discharge, or in any manner discriminate or retaliate against, any ~~such~~ employee or other person who in good faith provides ~~such~~ the child abuse reports or information, testifies, or

is about to testify in any proceeding involving child abuse or neglect; provided, that ~~such~~ the employee or other person did not perpetrate or inflict ~~such~~ the abuse or neglect. Any ~~such~~ employer, supervisor or administrator who discharges, discriminates or retaliates against ~~such~~ the employee or other person shall be liable for damages, costs and attorney fees. Internal procedures to facilitate child abuse reporting and ~~apprise~~ inform employers, supervisors and administrators of ~~reports~~ any reported suspected child abuse may be established provided that they are not inconsistent with the provisions of this section and that such procedures shall not relieve the employee or such other person from the individual reporting obligations required by this section.

5. Every physician or surgeon making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse, sexual abuse, or neglect and every hospital or related institution in which the child was examined or treated shall provide copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, or other records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

B. If the report is not made in writing in the first instance, it shall be reduced to writing by the Department of Human Services, in accordance with rules promulgated by the Commission for Human Services, as soon as may be after it is initially made by telephone or otherwise and shall contain the following information:

1. The names and addresses of the child and the child's parents or other persons responsible for the child's care;
2. The child's age;

3. The nature and extent of the child's injuries, including any evidence of previous injuries;

4. The nature and extent of the child's dependence on a controlled dangerous substance; and

5. Any other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person or persons responsible therefor if such information or any part thereof is known to the person making the report.

C. Any person who knowingly and willfully fails to promptly report any incident as provided in this section may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported by the Department of Human Services to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. 1. Nothing in this section shall be construed to mean a child is abused or neglected for the sole reason the parent, guardian or person having custody or control of a child, in good

faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

2. Nothing contained in this subsection shall prevent a court from immediately assuming custody of a child, pursuant to the Oklahoma Children's Code, and ordering whatever action may be necessary, including medical treatment, to protect the child's health or welfare.

F. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection A of this section.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

45-2-8435

KSM