

THE HOUSE OF REPRESENTATIVES
Wednesday, February 11, 2009

House Bill No. 1738

HOUSE BILL NO. 1738 - By: PETERS AND SHERRER of the House.

An Act relating to children; amending 10 O.S. 2001, Section 7103, which relates to the reporting of abuse or neglect; expanding scope of persons required to report abuse and release records to law enforcement; and providing an effective date.

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

1 SECTION 1. AMENDATORY 10 O.S. 2001, Section 7103, is amended to read
2 as follows:

- 3 Section 7103 A. 1. Every:
 - 4 a. physician, ~~or~~ surgeon, or other health care professional including
 - 5 doctors of medicine and dentistry, licensed osteopathic physicians,
 - 6 residents and interns, examining, attending or treating a child under
 - 7 the age of eighteen (18) years,
 - 8 b. registered nurse examining, attending or treating such a child in the
 - 9 absence of a physician or surgeon,
 - 10 c. teacher of any child under the age of eighteen (18) years, and
 - 11 d. other person

12 having reason to believe that a child under the age of eighteen (18) years is a victim of
13 abuse or neglect, shall report the matter promptly to the Department of Human Services.

1 Such reports may be made by telephone, in writing, personally or by any other method
2 prescribed by the Department. Any report of abuse or neglect made pursuant to this
3 section shall be made in good faith.

4 2. Every physician, ~~or~~ surgeon, or other health care professional including doctors
5 of medicine, licensed osteopathic physicians, residents and interns, or any other health
6 care professional attending the birth of a child who tests positive for alcohol or a
7 controlled dangerous substance shall promptly report the matter to the Department of
8 Human Services.

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

11 4. The reporting obligations under this section are individual, and no employer,
12 supervisor, or administrator shall impede or inhibit the reporting obligations of any
13 employee or other person. No employer, supervisor or administrator of any employee or
14 other person required to provide information pursuant to this section shall discharge, or
15 in any manner discriminate or retaliate against, the employee or other person who in
16 good faith provides such child abuse reports or information, testifies, or is about to testify
17 in any proceeding involving child abuse or neglect; provided, that the person did not
18 perpetrate or inflict such abuse or neglect. Any employer, supervisor, or administrator
19 who discharges, discriminates or retaliates against the employee or other person shall be
20 liable for damages, costs and attorney fees. Internal procedures to facilitate child abuse
21 or neglect reporting and inform employers, supervisors, and administrators of reported
22 suspected child abuse or neglect may be established provided that they are not

1 inconsistent with the provisions of this section and that such procedures shall not relieve
2 the employee or such other person from the individual reporting obligations required by
3 this section.

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

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

- 17 1. The names and addresses of the child and the child's parents or other persons
18 responsible for the child's health, safety, ~~or~~ welfare;
- 19 2. The child's age;
- 20 3. The nature and extent of the abuse or neglect, including any evidence of previous
21 injuries;

1 4. If the child has tested positive for alcohol or a controlled dangerous substance;
2 and

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

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

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

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

1 E. 1. Nothing in this section shall be construed to mean a child is abused or
2 neglected for the sole reason the parent, legal guardian or person having custody or
3 control of a child, in good faith, selects and depends upon spiritual means alone through
4 prayer, in accordance with the tenets and practice of a recognized church or religious
5 denomination, for the treatment or cure of disease or remedial care of such child.

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

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

13 SECTION 2. This act shall become effective November 1, 2009.

14 COMMITTEE REPORT BY: COMMITTEE ON HUMAN SERVICES, dated 02-10-09 -
15 DO PASS, As Coauthored.