

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2803

By: Biggs

7
8 COMMITTEE SUBSTITUTE

9 An Act relating to crimes and punishments;
10 establishing certain reporting requirement;
11 prohibiting retaliation or interference with
12 reporting obligation; providing for damages, costs
13 and attorney fees; directing health care
14 professionals to provide certain records to law
15 enforcement; making certain acts unlawful; providing
16 penalties; defining terms; providing for
17 codification; and providing an effective date.

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

19 SECTION 1. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 593 of Title 21, unless there is
21 created a duplication in numbering, reads as follows:

22 A. Every person that has had contact with a victim of abuse or
23 neglect and has a reasonable suspicion to believe that an act of
24 abuse or neglect has occurred shall report the matter promptly to
 any local law enforcement agency or the Department of Human
 Services. Reports to the Department of Human Services shall be made

1 to the hotline provided for in Section 1-2-101 of Title 10A of the
2 Oklahoma Statutes.

3 B. No privilege or contract shall relieve any person from the
4 requirement of reporting suspected abuse or neglect pursuant to this
5 section.

6 C. The reporting obligations under this section are individual,
7 and no employer, supervisor or administrator shall interfere with
8 the reporting obligations of any employee or other person or in any
9 manner discriminate or retaliate against the employee or other
10 person who in good faith reports suspected abuse or neglect, or who
11 provides testimony in any proceeding involving abuse or neglect.
12 Any employer, supervisor or administrator who discharges,
13 discriminates or retaliates against the employee or other person
14 shall be liable for damages, costs and attorney fees.

15 D. Every physician, surgeon or other health care professional
16 making a report of abuse or neglect as required by this section or
17 examining a person to determine the likelihood of abuse or neglect
18 and every hospital or related institution in which the person was
19 examined or treated shall provide, upon request, copies of the
20 results of the examination or copies of the examination on which the
21 report was based and any other clinical notes, x-rays, photographs
22 and other previous or current records relevant to the case to law
23 enforcement officers conducting a criminal investigation into the
24 case.

1 E. Any person who knowingly and willfully fails to promptly
2 report suspected abuse or neglect or who interferes with the prompt
3 reporting of suspected abuse or neglect may be reported to local law
4 enforcement for criminal investigation and, upon conviction, shall
5 be guilty of a misdemeanor. Any person with prolonged knowledge of
6 ongoing abuse or neglect who knowingly and willfully fails to
7 promptly report such knowledge may be reported to local law
8 enforcement for criminal investigation and, upon conviction, shall
9 be guilty of a felony. For the purposes of this subsection,
10 "prolonged knowledge" shall mean knowledge of at least six (6)
11 months of abuse or neglect.

12 F. Any person who knowingly and willfully makes a false report
13 pursuant to the provisions of this section or makes a report that
14 the person knows lacks factual foundation, may be reported to local
15 law enforcement for criminal investigation and, upon conviction,
16 shall be guilty of a misdemeanor.

17 G. As used in this section:

18 1. "Abuse" means harm or threatened harm or failure to protect
19 from harm or threatened harm to the health, safety, or welfare of an
20 adult or child by a person responsible for the health, safety, or
21 welfare of the adult or child including, but not limited to,
22 nonaccidental physical or mental injury, sexual abuse, or sexual
23 exploitation.

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1 a. "Harm or threatened harm to the health or safety of an
2 adult or child" means any real or threatened physical,
3 mental, or emotional injury or damage to the body or
4 mind that is not accidental including, but not limited
5 to, sexual abuse, sexual exploitation, neglect, or
6 dependency.

7 b. "Sexual abuse" includes but is not limited to rape,
8 incest, and lewd or indecent acts or proposals made to
9 an adult or child by a person responsible for the
10 health, safety, or welfare of the adult or child.

11 c. "Sexual exploitation" includes but is not limited to
12 allowing, permitting, or encouraging an adult or child
13 to engage in prostitution, as defined by law, by a
14 person responsible for the health, safety, or welfare
15 of the adult or child, or allowing, permitting,
16 encouraging, or engaging in the lewd, obscene, or
17 pornographic, as defined by law, photographing,
18 filming, or depicting of an adult or child in those
19 acts by a person responsible for the health, safety,
20 and welfare of the child;

21 2. "Neglect" means:

22 a. the failure or omission to provide any of the
23 following:
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- (1) adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,
- (2) medical, dental, or behavioral health care,
- (3) supervision or appropriate caretakers, or
- (4) special care made necessary by the physical or mental condition of the adult or child,

b. the failure or omission to protect an adult or child from exposure to any of the following:

- (1) the use, possession, sale, or manufacture of illegal drugs,
- (2) illegal activities, or
- (3) sexual acts or materials that are not age-appropriate, or

c. abandonment; and

3. "Victim" shall include, but not be limited to, any child, elderly adult, person adjudicated as incompetent or any vulnerable adult.

SECTION 2. This act shall become effective November 1, 2014.

COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/12/2014 - DO PASS, As Amended.