

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 HOUSE BILL 1326

By: Biggs

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5  
6 AS INTRODUCED

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

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

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

18 A. As used in this section:

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

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.

B. Every person that has had contact with a victim of abuse or neglect and has a reasonable suspicion to believe that an act of 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 C. No privilege or contract shall relieve any person from the  
4 requirement of reporting suspected abuse or neglect pursuant to this  
5 section.

6 D. 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 E. 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 F. 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 G. 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 shall, upon  
16 conviction, be guilty of a misdemeanor.

17 SECTION 2. This act shall become effective November 1, 2015.  
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19 55-1-5199 GRS 12/04/14  
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