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STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3686 By: Calvey and Murphey of the

HOUSE BILL 3686

By: Calvey and Murphey of the House

and

Dahm of the Senate

AS INTRODUCED

An Act relating to child welfare; amending 10A O.S. 2011, Sections 1-2-101, as last amended by Section 1, Chapter 62, O.S.L. 2016 and 1-2-106 (10A O.S. Supp. 2017, Section 1-2-101), which relate to the Oklahoma Children's Code; requiring person reporting child abuse or neglect to disclose name, telephone number and address; directing transfer of certain call to emergency number; striking reference to anonymous reporter; and providing an effective date.

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

SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-101, as last amended by Section 1, Chapter 62, O.S.L. 2016 (10A O.S. Supp. 2017, Section 1-2-101), is amended to read as follows:

Section 1-2-101. A. 1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.

1 2. The Department shall provide hotline-specific training
2 including, but not limited to, interviewing skills, customer service
3 skills, narrative writing, necessary computer systems, making case
4 determinations, and identifying priority situations.

5 3. The Department is authorized to contract with third parties
6 in order to train hotline workers.

7 4. The Department shall develop a system to track the number of
8 calls received, and of that number:

- 9 a. the number of calls screened out,
- 10 b. the number of referrals assigned,
- 11 c. the number of calls received by persons unwilling to
12 disclose basic personal information including, but not
13 limited to, first and last name, and
- 14 d. the number of calls in which the allegations were
15 later found to be unsubstantiated or ruled out.

16 5. The Department shall electronically record each referral
17 received by the hotline and establish a secure means of retaining
18 the recordings for twelve (12) months. The recordings shall include
19 the name, telephone number and address of the person making the
20 referral. If the person making the referral is unwilling to provide
21 this information, the call shall be transferred to emergency
22 telephone number nine-one-one (911). The recordings shall be
23 confidential and subject to disclosure only if a court orders the
24 disclosure of the referral. The Department shall redact any

1 information identifying the reporting party unless otherwise ordered
2 by the court.

3 B. 1. Every person having reason to believe that a child under
4 the age of eighteen (18) years is a victim of abuse or neglect shall
5 report the matter promptly to the Department of Human Services.
6 Reports shall be made to the hotline provided for in subsection A of
7 this section. Any allegation of abuse or neglect reported in any
8 manner to a county office shall immediately be referred to the
9 hotline by the Department. Provided, however, that in actions for
10 custody by abandonment, provided for in Section 2-117 of Title 30 of
11 the Oklahoma Statutes, there shall be no reporting requirement.

12 2. Every physician, surgeon, or other health care professional
13 including doctors of medicine, licensed osteopathic physicians,
14 residents and interns, or any other health care professional
15 attending the birth of a child who tests positive for alcohol or a
16 controlled dangerous substance shall promptly report the matter to
17 the Department.

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

20 4. The reporting obligations under this section are individual,
21 and no employer, supervisor, administrator, governing body or entity
22 shall interfere with the reporting obligations of any employee or
23 other person or in any manner discriminate or retaliate against the
24 employee or other person who in good faith reports suspected child

1 abuse or neglect, or who provides testimony in any proceeding
2 involving child abuse or neglect. Any employer, supervisor,
3 administrator, governing body or entity who discharges,
4 discriminates or retaliates against the employee or other person
5 shall be liable for damages, costs and attorney fees. If a child
6 who is the subject of the report or other child is harmed by the
7 discharge, discrimination or retaliation described in this
8 paragraph, the party harmed may file an action to recover damages,
9 costs and attorney fees.

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

21 C. Any person who knowingly and willfully fails to promptly
22 report suspected child abuse or neglect or who interferes with the
23 prompt reporting of suspected child abuse or neglect may be reported
24 to local law enforcement for criminal investigation and, upon

conviction thereof, shall be guilty of a misdemeanor. Any person with prolonged knowledge of ongoing child abuse or neglect who knowingly and willfully fails to promptly report such knowledge may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a felony. For the purposes of this paragraph, "prolonged knowledge" shall mean knowledge of at least six (6) months of child abuse or neglect.

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 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. 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 B of this section.

1 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-106, is
2 amended to read as follows:

3 Section 1-2-106. At the initial time of contact with a person
4 responsible for the health, safety, or welfare of a child who is the
5 subject of an investigation pursuant to the Oklahoma Children's
6 Code, the Department of Human Services shall advise the person of
7 the specific complaint or allegation made against the person. If
8 the Department is unable to locate the person, as soon as possible
9 after initiating the investigation of the person, the Department
10 shall provide to the person a brief and easily understood written
11 description of the investigation process. Notice shall include:

12 1. A statement that the investigation is being undertaken by
13 the Department pursuant to the requirements of the Oklahoma
14 Children's Code in response to a report of child abuse or neglect;

15 2. A statement that the identity of the person who reported the
16 incident of abuse is confidential ~~and may not even be known to the~~
17 ~~Department since the report could have been made anonymously;~~

18 3. A statement that the investigation is required by law to be
19 conducted in order to enable the Department to identify incidents of
20 abuse or neglect in order to provide protective or preventive social
21 services to families who are in need of such services;

22 4. A statement that, upon completion of the investigation, a
23 letter will be sent from the Department which will inform the
24 person:

- a. that the Department has found insufficient evidence of abuse or neglect, or
- b. that there appears to be probable cause to suspect the existence of child abuse or neglect in the judgment of the Department;

5. An explanation of the procedures of the Department for conducting an investigation of alleged child abuse or neglect, including:

- a. a description of the circumstances under which the Department would seek to remove the child from the home through the judicial system, and
- b. an explanation that the law requires the Department to refer all reports of child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

6. The procedures to follow if there is a complaint regarding the actions of the Department or to request a review of the findings made by the Department during or at the conclusion of the investigation;

7. The right of the person to review records filed with the court in the event an action is filed;

8. The right of the person to seek legal counsel;

1 9. References to the statutory and regulatory provisions
2 governing child abuse and neglect and how the person may obtain
3 copies of those provisions;

4 10. The process the person may use to acquire visitation with
5 the child if the child is removed from the home; and

6 11. A statement that a failure to appear for court proceedings
7 may result in the termination of the person's parental rights to the
8 child.

9 SECTION 3. This act shall become effective November 1, 2018.

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11 COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 03/01/2018 - DO PASS,
12 As Coauthored.

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