

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

HOUSE BILL 3686

By: Calvey

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.

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

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

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

5            a. the number of calls screened out,

6            b. the number of referrals assigned,

7            c. the number of calls received by persons unwilling to  
8 disclose basic personal information including, but not  
9 limited to, first and last name, and

10           d. the number of calls in which the allegations were  
11 later found to be unsubstantiated or ruled out.

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

23        B. 1. Every person having reason to believe that a child under  
24 the age of eighteen (18) years is a victim of abuse or neglect shall

1 report the matter promptly to the Department of Human Services.  
2 Reports shall be made to the hotline provided for in subsection A of  
3 this section. Any allegation of abuse or neglect reported in any  
4 manner to a county office shall immediately be referred to the  
5 hotline by the Department. Provided, however, that in actions for  
6 custody by abandonment, provided for in Section 2-117 of Title 30 of  
7 the Oklahoma Statutes, there shall be no reporting requirement.

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

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

16 4. The reporting obligations under this section are individual,  
17 and no employer, supervisor, administrator, governing body or entity  
18 shall interfere with the reporting obligations of any employee or  
19 other person or in any manner discriminate or retaliate against the  
20 employee or other person who in good faith reports suspected child  
21 abuse or neglect, or who provides testimony in any proceeding  
22 involving child abuse or neglect. Any employer, supervisor,  
23 administrator, governing body or entity who discharges,  
24 discriminates or retaliates against the employee or other person

1 shall be liable for damages, costs and attorney fees. If a child  
2 who is the subject of the report or other child is harmed by the  
3 discharge, discrimination or retaliation described in this  
4 paragraph, the party harmed may file an action to recover damages,  
5 costs and attorney fees.

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

17 C. Any person who knowingly and willfully fails to promptly  
18 report suspected child abuse or neglect or who interferes with the  
19 prompt reporting of suspected child abuse or neglect may be reported  
20 to local law enforcement for criminal investigation and, upon  
21 conviction thereof, shall be guilty of a misdemeanor. Any person  
22 with prolonged knowledge of ongoing child abuse or neglect who  
23 knowingly and willfully fails to promptly report such knowledge may  
24 be reported to local law enforcement for criminal investigation and,

1 upon conviction thereof, shall be guilty of a felony. For the  
2 purposes of this paragraph, "prolonged knowledge" shall mean  
3 knowledge of at least six (6) months of child abuse or neglect.

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

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

18 E. Nothing contained in this section shall be construed to  
19 exempt or prohibit any person from reporting any suspected child  
20 abuse or neglect pursuant to subsection B of this section.

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

23 Section 1-2-106. At the initial time of contact with a person  
24 responsible for the health, safety, or welfare of a child who is the

1 subject of an investigation pursuant to the Oklahoma Children's  
2 Code, the Department of Human Services shall advise the person of  
3 the specific complaint or allegation made against the person. If  
4 the Department is unable to locate the person, as soon as possible  
5 after initiating the investigation of the person, the Department  
6 shall provide to the person a brief and easily understood written  
7 description of the investigation process. Notice shall include:

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

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

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

18 4. A statement that, upon completion of the investigation, a  
19 letter will be sent from the Department which will inform the  
20 person:

21 a. that the Department has found insufficient evidence of  
22 abuse or neglect, or  
23  
24

1           b.     that there appears to be probable cause to suspect the  
2                 existence of child abuse or neglect in the judgment of  
3                 the Department;

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

7           a.    a description of the circumstances under which the  
8                 Department would seek to remove the child from the  
9                 home through the judicial system, and

10          b.    an explanation that the law requires the Department to  
11                 refer all reports of child abuse or neglect to a law  
12                 enforcement agency for a separate determination of  
13                 whether a criminal violation occurred;

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

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

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

21          9.    References to the statutory and regulatory provisions  
22   governing child abuse and neglect and how the person may obtain  
23   copies of those provisions;

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

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

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

7

8        56-2-8138        EK        01/08/18

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24