

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 57th Legislature (2019)

4 HOUSE BILL 2329

 By: McDugle

7 AS INTRODUCED

8 An Act relating to child welfare; amending 10A O.S.
9 2011, Sections 1-2-101, as last amended by Section 1,
10 Chapter 277, O.S.L. 2018 and 1-2-106 (10A O.S. Supp.
11 2018, Section 1-2-101), which relate to the Oklahoma
12 Children's Code; requiring person reporting child
13 abuse or neglect to disclose name, telephone number
14 and address; declaring information is confidential
15 and disclosed only upon a court order; directing
16 transfer of certain call to emergency number;
17 modifying information included in notice of
18 investigation; and providing an effective date.

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

17 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-101, as
18 last amended by Section 1, Chapter 277, O.S.L. 2018 (10A O.S. Supp.
19 2018, Section 1-2-101), is amended to read as follows:

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

23 2. The Department shall provide hotline-specific training
24 including, but not limited to, interviewing skills, customer service

1 skills, narrative writing, necessary computer systems, making case
2 determinations, and identifying priority situations.

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

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

7 a. the number of calls screened out,

8 b. the number of referrals assigned,

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

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

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

1 orders the disclosure of the referral. The Department shall redact
2 any information identifying the reporting party unless otherwise
3 ordered by the court.

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

13 2. a. Every teacher of any child under the age of eighteen
14 (18) years having reason to believe that a child under
15 the age of eighteen (18) years is a victim of abuse or
16 neglect shall report the matter immediately to the
17 Department of Human Services. Reports shall be made
18 to the hotline provided for in subsection A of this
19 section. Any allegation of abuse or neglect reported
20 in any manner to a county office shall immediately be
21 referred to the hotline by the Department. Provided,
22 however, that in actions for custody by abandonment,
23 provided for in Section 2-117 of Title 30 of the
24

1 Oklahoma Statutes, there shall be no reporting
2 requirement, and

3 b. every teacher of a student age eighteen (18) years or
4 older having reason to believe that a student age
5 eighteen (18) years or older is a victim of abuse or
6 neglect shall report the matter immediately to local
7 law enforcement.

8 3. 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 4. No privilege or contract shall relieve any person from the
15 requirement of reporting pursuant to this section.

16 5. 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 6. 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 or neglect is confidential and ~~may not even be~~
13 ~~known to the Department since the report could have been made~~
14 ~~anonymously~~ shall only be disclosed upon a court order;

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

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

22 a. that the Department has found insufficient evidence of
23 abuse or neglect, or
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, 2019.

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8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02/27/2019 - DO
9 PASS.

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