

An Act

ENROLLED SENATE
BILL NO. 576

By: Kidd and Ikley-Freeman of
the Senate

and

Conley and Branham of the
House

An Act relating to school employees; amending 10A O.S. 2011, Section 1-2-101, as last amended by Section 5 of Enrolled Senate Bill No. 1041 of the 1st Session of the 57th Oklahoma Legislature, which relates to child abuse or neglect reporting; modifying reporting requirements for school employee; requiring confidentiality for reports; amending Section 2, Chapter 323, O.S.L. 2018 (70 O.S. Supp. 2018, Section 1210.163), which relates to reporting potential abuse or neglect; directing school employee to report suspected child abuse or neglect to Department of Human Services and local law enforcement; requiring allegations reported to a county office be referred to Department hotline; mandating report involving a student who is not a minor to be made to local law enforcement; directing law enforcement and school employee to keep identifying information of reporter confidential; providing an effective date; and declaring an emergency.

SUBJECT: Student abuse or neglect reports by school employees

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 5 of Enrolled Senate Bill No. 1041 of the 1st Session of the 57th Oklahoma Legislature, 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.

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

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

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

5. The Department shall electronically record each referral received by the hotline and establish a secure means of retaining the recordings for twelve (12) months. The recordings shall be confidential and subject to disclosure only if a court orders the disclosure of the referral. The Department shall redact any information identifying the reporting party unless otherwise ordered by the court.

B. 1. Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services.

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

2. a. ~~Every teacher of any child under the age of eighteen (18) years~~ school employee having reason to believe that a ~~child~~ student under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services and local law enforcement. Reports to the Department shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 2-117 of Title 30 of the Oklahoma Statutes, there shall be no reporting requirement, and.
- b. ~~every teacher of a student age eighteen (18) years or older~~ Every school employee having reason to believe that a student age eighteen (18) years or older is a victim of abuse or neglect shall report the matter immediately to local law enforcement.
- c. In reports required by subparagraph a or b of this paragraph, local law enforcement shall keep confidential and redact any information identifying the reporting school employee unless otherwise ordered by the court. A school employee with knowledge of a report required by subparagraph a or b of this paragraph shall not disclose information identifying the reporting school employee unless otherwise ordered by the court or as part of an investigation by local law enforcement or the Department.

3. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional or

midwife involved in the prenatal care of expectant mothers or the delivery or care of infants shall promptly report to the Department instances in which an infant tests positive for alcohol or a controlled dangerous substance. This shall include infants who are diagnosed with Neonatal Abstinence Syndrome or Fetal Alcohol Spectrum Disorder.

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

5. The reporting obligations under this section are individual, and no employer, supervisor, administrator, governing body or entity shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, administrator, governing body or entity who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees. If a child who is the subject of the report or other child is harmed by the discharge, discrimination or retaliation described in this paragraph, the party harmed may file an action to recover damages, costs and attorney fees.

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

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported 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.

SECTION 2. AMENDATORY Section 2, Chapter 323, O.S.L. 2018 (70 O.S. Supp. 2018, Section 1210.163), is amended to read as follows:

Section 1210.163 A. ~~A school employee who has reason to believe that a student is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services and to local law enforcement. Reports to the Department of Human Services shall be made via the hotline provided for in subsection A of Section 1-2-101 of Title 10A of the Oklahoma Statutes~~ Every school employee having reason to believe that a student under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter immediately to the Department of Human Services and local law enforcement. Reports to the Department shall be made to the hotline provided for in Section 1-2-101 of Title 10A of the Oklahoma

Statutes. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department.

B. Every school employee having reason to believe that a student age eighteen (18) years or older is a victim of abuse or neglect shall report the matter immediately to local law enforcement.

C. In reports required by subsection A or B of this section, local law enforcement shall keep confidential and redact any information identifying the reporting school employee unless otherwise ordered by the court. A school employee with knowledge of a report required by subsection A or B of this section shall not disclose information identifying the reporting school employee unless otherwise ordered by the court or as part of an investigation by local law enforcement or the Department.

D. For the purposes of this section, "child abuse and neglect" shall include, but not be limited to:

1. Child abuse as defined in Section 843.5 of Title 21 of the Oklahoma Statutes;

2. Sexual abuse or sexual exploitation as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes;

3. Contributing to the delinquency of a minor as defined in Section 856 of Title 21 of the Oklahoma Statutes;

4. Trafficking in children, as defined in Section 866 of Title 21 of the Oklahoma Statutes;

5. Incest as described in Section 885 of Title 21 of the Oklahoma Statutes;

6. Forcible sodomy, as described in Section 888 of Title 21 of the Oklahoma Statutes;

7. Maliciously, forcibly or fraudulently taking or enticing a child away, as described in Section 891 of Title 21 of the Oklahoma Statutes;

8. Soliciting or aiding a minor child to perform or showing, exhibiting, loaning or distributing obscene material or child pornography, as described in Section 1021 of Title 21 of the Oklahoma Statutes;

9. Procuring or causing the participation of any minor child in any child pornography or knowingly possessing, procuring or manufacturing child pornography, as described in Section 1021.2 of Title 21 of the Oklahoma Statutes;

10. Permitting or consenting to the participation of a minor child in any child pornography, as described in Section 1021.3 of Title 21 of the Oklahoma Statutes;

11. Facilitating, encouraging, offering or soliciting sexual conduct with a minor, as described in Section 1040.13a of Title 21 of the Oklahoma Statutes;

12. Offering or offering to secure a minor child for the purposes of prostitution or any other lewd or indecent act, as described in Section 1087 of Title 21 of the Oklahoma Statutes;

13. Causing, inducing, persuading or encouraging a minor child to engage or continue to engage in prostitution, as described in Section 1088 of Title 21 of the Oklahoma Statutes;

14. Rape or rape by instrumentation, as described in Sections 1111.1 and 1114 of Title 21 of the Oklahoma Statutes; and

15. Making any oral, written or electronically or computer-generated lewd or indecent proposals to a minor child under the age of sixteen (16) as described in Section 1123 of Title 21 of the Oklahoma Statutes.

SECTION 3. This act shall become effective July 1, 2019.

SECTION 4. It being immediately necessary for the preservation of the public peace, health or safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval."

Passed the Senate the 9th day of May, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 25th day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____