

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 1450

By: Virgin

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6 AS INTRODUCED

7 An Act relating to child abuse and neglect reporting;  
8 amending 10A O.S. 2011, Sections 1-2-101, as last  
9 amended by Section 2, Chapter 256, O.S.L. 2018 and 1-  
10 2-102, as last amended by Section 1, Chapter 130,  
11 O.S.L. 2016 (10A O.S. Supp. 2018, Sections 1-2-101  
12 and 1-2-102), which relate to the Oklahoma Children's  
13 Code; prohibiting disclosure of identifying  
14 information about reporting party; providing  
15 exception for court order; prohibiting disclosure of  
16 identifying information by law enforcement; excepting  
17 specific court order; amending Section 2, Chapter  
18 323, O.S.L. 2018 (70 O.S. Supp. 2018, Section  
19 1210.163), which relates to school employee duty to  
20 report; proscribing disclosure of reporter identity  
21 to parent or legal guardian; providing exception; and  
22 providing an effective date.

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

24 SECTION 1. AMENDATORY 10A O.S. 2011, Section 1-2-101, as  
last amended by Section 2, Chapter 256, O.S.L. 2018 (10A O.S. Supp.  
2018, 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 and any  
19 identifying information about the person reporting suspected child  
20 abuse or neglect shall be confidential and subject to disclosure  
21 only if a court orders the disclosure of the ~~referral~~ information.  
22 The Department shall redact any information identifying the  
23 reporting party unless otherwise ordered by the court.

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

10 2. Every physician, surgeon, or other health care professional  
11 including doctors of medicine, licensed osteopathic physicians,  
12 residents and interns, or any other health care professional or  
13 midwife involved in the prenatal care of expectant mothers or the  
14 delivery or care of infants shall promptly report to the Department  
15 instances in which an infant tests positive for alcohol or a  
16 controlled dangerous substance. This shall include infants who are  
17 diagnosed with Neonatal Abstinence Syndrome or Fetal Alcohol  
18 Spectrum Disorder.

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

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

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

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

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

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

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

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

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

4 SECTION 2. AMENDATORY 10A O.S. 2011, Section 1-2-102, as  
5 last amended by Section 1, Chapter 130, O.S.L. 2016 (10A O.S. Supp.  
6 2018, Section 1-2-102), is amended to read as follows:

7 Section 1-2-102. A. 1. Upon receipt of a report that a child  
8 may be abused, neglected or drug-endangered, the Department of Human  
9 Services shall conduct a safety analysis.

10 2. The Department may employ or contract with active or retired  
11 social work, medical and law enforcement professionals who shall be  
12 strategically placed throughout the state to:

- 13 a. provide investigation support and to assist  
14 caseworkers with assessment decisions and intervention  
15 activities,
- 16 b. serve as consultants to caseworkers in all aspects of  
17 their duties, and
- 18 c. designate persons who shall act as liaisons within the  
19 Department whose primary functions are to develop  
20 relationships with local law enforcement agencies and  
21 courts.

22 3. The Department shall forward a report of its assessment or  
23 investigation and findings to any district attorney's office which  
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1 may have jurisdiction to file a petition pursuant to Section 1-4-101  
2 of this title.

3 4. If the child is a member of an active duty military family,  
4 the Department shall notify the designated federal authorities at  
5 the federal military installation where the active duty service  
6 member is assigned that the Department has received a report that  
7 such child may be abused, neglected or drug-endangered.

8 5. Whenever the Department determines there is a child that  
9 meets the definition of a "drug-endangered child", as defined in  
10 Section 1-1-105 of this title, or a child has been diagnosed with  
11 fetal alcohol syndrome, the Department shall conduct an  
12 investigation of the allegations and shall not limit the evaluation  
13 of the circumstances to an assessment.

14 B. 1. If, upon receipt of a report alleging abuse or neglect  
15 or during the assessment or investigation, the Department determines  
16 that:

- 17 a. the alleged perpetrator is someone other than a person  
18 responsible for the child's health, safety, or  
19 welfare, and
- 20 b. the alleged abuse or neglect of the child does not  
21 appear to be attributable to failure on the part of a  
22 person responsible for the child's health, safety, or  
23 welfare to provide protection for the child,

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1 the Department shall immediately make a referral, either verbally or  
2 in writing, to the appropriate local law enforcement agency for the  
3 purpose of conducting a possible criminal investigation.

4 2. After making the referral to the law enforcement agency, the  
5 Department shall not be responsible for further investigation  
6 unless:

7 a. the Department has reason to believe the alleged  
8 perpetrator is a parent of another child, not the  
9 subject of the criminal investigation, or is otherwise  
10 a person responsible for the health, safety, or  
11 welfare of another child,

12 b. notice is received from a law enforcement agency that  
13 it has determined the alleged perpetrator is a parent  
14 of or a person responsible for the health, safety, or  
15 welfare of another child not the subject of the  
16 criminal investigation, or

17 c. the appropriate law enforcement agency requests the  
18 Department to assist in the investigation. If funds  
19 and personnel are available, as determined by the  
20 Director of the Department or a designee, the  
21 Department may assist law enforcement in interviewing  
22 children alleged to be victims of physical or sexual  
23 abuse.

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1 3. If, upon receipt of a report alleging abuse or neglect or  
2 during the assessment or investigation, the Department determines  
3 that the alleged abuse or neglect of the child involves:

4 a. a child in the custody of the Office of Juvenile  
5 Affairs, and

6 b. at the time of the alleged abuse or neglect, such  
7 child was placed in a secure facility operated by the  
8 Office of Juvenile Affairs, as defined by Section 2-1-  
9 103 of this title,

10 the Department shall immediately make a referral, either verbally or  
11 in writing, to the appropriate law enforcement agency for the  
12 purpose of conducting a possible criminal investigation. After  
13 making the referral to the law enforcement agency, the Department  
14 shall not be responsible for further investigation.

15 C. 1. Any law enforcement agency receiving a referral as  
16 provided in this section shall provide the Department with a copy of  
17 the report of any investigation resulting from a referral from the  
18 Department.

19 2. Whenever, in the course of any criminal investigation, a law  
20 enforcement agency determines that there is cause to believe that a  
21 child, other than a child in the custody of the Office of Juvenile  
22 Affairs and placed in an Office of Juvenile Affairs secure juvenile  
23 facility, may be abused or neglected by reason of the acts,  
24 omissions, or failures on the part of a person responsible for the

1 health, safety, or welfare of the child, the law enforcement agency  
2 shall immediately contact the Department for the purpose of an  
3 investigation.

4 D. If, upon receipt of a report alleging abuse or neglect, the  
5 Department determines that the family has been the subject of a  
6 deprived petition, the Department shall conduct a thorough  
7 investigation of the allegations and shall not limit the evaluation  
8 of the circumstances to an assessment. In addition, if the family  
9 has been the subject of three (3) or more referrals, the Department  
10 shall conduct a thorough investigation of the allegations and shall  
11 not limit the evaluation of the circumstances to an assessment.

12 E. Any law enforcement agency receiving a referral as provided  
13 in this section shall not disclose identifying information about any  
14 person reporting allegations of child abuse or neglect unless  
15 disclosure is specifically ordered by the court.

16 SECTION 3. AMENDATORY Section 2, Chapter 323, O.S.L.  
17 2018 (70 O.S. Supp. 2018, Section 1210.163), is amended to read as  
18 follows:

19 Section 1210.163 A. A school employee who has reason to  
20 believe that a student is a victim of abuse or neglect shall report  
21 the matter promptly to the Department of Human Services and to local  
22 law enforcement. Reports to the Department of Human Services shall  
23 be made via the hotline provided for in subsection A of Section 1-2-  
24 101 of Title 10A of the Oklahoma Statutes.

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

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

5 2. Sexual abuse or sexual exploitation as defined in Section 1-  
6 1-105 of Title 10A of the Oklahoma Statutes;

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

9 4. Trafficking in children, as defined in Section 866 of Title  
10 21 of the Oklahoma Statutes;

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

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

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

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

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

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

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

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

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

15 14. Rape or rape by instrumentation, as described in Sections  
16 1111.1 and 1114 of Title 21 of the Oklahoma Statutes; and

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

21 C. The identity of any person making a report to the Department  
22 of Human Services or local law enforcement pursuant to this section  
23 shall be confidential and shall not be disclosed to the parent,  
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1 legal guardian or to any person responsible for the health, safety  
2 or welfare of a child unless otherwise ordered by the court.

3 SECTION 4. This act shall become effective November 1, 2019.

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