



March 8, 2024

SUMMARY OF BILL AS AMENDED (014698): Prohibits the Department of Children’s Services (DCS) from accepting anonymous reports of child abuse or neglect, and requires a DCS representative receiving a report in which an individual refuses to give their identity to refer that individual to a law enforcement agency. Requires an individual receiving an oral report of child abuse or neglect to record the report, and notify the reporting individual that they are being recorded and that making a false report is a Class E felony. Prohibits the use of a report of child abuse or neglect to be the sole basis for obtaining or issuing a search warrant unless the person making the report issues a sworn oath supporting the allegations of abuse or neglect, but establishes that a search warrant may be issued if an investigation of an initial report provides sufficient evidence to establish probable cause.

Requires an individual who receives a false report of child abuse or neglect to provide a copy of the report, along with any evidence, to the District Attorney General with a recommendation of criminal charges. Requires DCS to conduct a preliminary investigation to determine if there is any evidence to corroborate an anonymous report that is made to law enforcement and referred to DCS, and to provide a parent or legal guardian with information regarding the investigation prior to taking any action. Requires an investigator to provide, within 60 days of a request from a parent or custodian of a child, any audio or video recording of the investigation, a written summary of the findings, and the recommendation on if the child should be removed from the home. Restricts who may be given access to the name of a person reporting child abuse, without the written consent of that person, or without order by the juvenile court.

FISCAL IMPACT OF BILL AS AMENDED:

Other Fiscal Impact – The provisions of the proposed legislation may put the Department of Children’s Services out of compliance with federal requirements of the Child Abuse Prevention and Treatment Act and the Child and Family Services Review, which may jeopardize federal funding.

Assumptions for the bill as amended:

- Tennessee Code Annotated § 37-1-413 currently states that it is a Class E felony to knowingly make, encourage, or aid in a false accusation of child abuse. Notifying an individual who is making an oral report of child abuse or neglect of this felony, and requiring individuals to report to the District Attorney General any false report of child abuse, is not anticipated to significantly impact the number of individuals charged with this felony.

- Pursuant to Tenn. Code Ann. § 37-1-403(a), any person who has knowledge of potential child brutality, abuse, or neglect is required to report the knowledge to either the judge who has juvenile jurisdiction over the child, DCS, the sheriff or the chief law enforcement official where the child resides.
- The proposed legislation prohibits DCS from accepting anonymous reports of abuse or neglect, but requires DCS to notify the reporting individual that they may report to any law enforcement agency. However, the proposed legislation does create the requirement that this individual subsequently make their report to another agency.
- Therefore, it is possible that a mandated reporter of child abuse may make their only report to DCS who, under the proposed legislation, cannot accept and subsequently investigate the report.
- The Child Abuse Prevention and Treatment Act (CAPTA) requires states to receive approval from the federal Children’s Bureau for their child abuse prevention plans in order to received federal CAPTA funds.
- By authorizing DCS to not investigate a child abuse report made by a mandated reporter, the state would be out of compliance with CAPTA funding regulations, which could result in a decrease of federal grants of \$2,140,186 annually.
- Assuming a reporting individual who wishes to remain anonymous does report to a judge, sheriff, or law enforcement agency, under Tenn. Code Ann. § 37-1-403(c) the claim must be immediately reported to DCS.
- Under the proposed legislation, DCS must first conduct a preliminary investigation to determine if there is evidence to corroborate the anonymous report before launching a child abuse investigation.
- This delay in the investigation may put DCS out of compliance with the statutes of the Child and Family Service Review, which is linked to 42 U.S.C. IV-B and IV-E funding, and may result in a penalty of \$163,912 annually.
- It is not anticipated that the proposed legislation will result in a significant increase the workload of law enforcement agencies and can therefore be accomplished without any increase in state or local expenditures.
- Pursuant to Tenn. Code Ann. § 37-5-107(c)(7), a child’s parent or legal guardian may submit a written request for records relating to their child only so long as the parent or guardian is not the alleged perpetrator or in any way responsible for the abuse against the child. Providing a parent or custodian with investigation records regardless of their status as perpetrator, as provided in the proposed legislation, would be in conflict with this current provision of law.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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