

SENATE BILL 1797

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 37
and Title 39, relative to reports of child abuse or
neglect.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 37-1-406(a), is amended by redesignating the existing language as subdivision (a)(1) and adding the following new subdivisions:

(2) The department shall not accept an anonymous report of child abuse or neglect. An individual making a report of child abuse or neglect must identify, if known:

(A) The name and address of the child;

(B) The name and address of the person responsible for the care, custody, or welfare of the child;

(C) The facts that caused the individual to believe the child has been abused or neglected and the source of the information;

(D) The individual's name and telephone number;

(E) The individual's:

(i) Home address; or

(ii) If the individual has a medical, educational, or other professional relationship with the child, the individual's business address and profession; and

(F) Any other pertinent information concerning the alleged or suspected abuse or neglect.

(3) If the individual makes a report of child abuse or neglect by telephone call to the department and the individual is unwilling to provide the information described in subdivision (a)(2), then the department representative receiving the report must notify the individual that:

(A) The department is not authorized to accept an anonymous report of abuse or neglect;

(B) The individual may report the abuse or neglect by making a report to any law enforcement agency; and

(C) The identity of an individual making a report under this section is confidential and may be disclosed only:

(A) As provided in § 37-1-409, § 37-1-612, or § 37-5-107; or

(B) To a law enforcement officer for the purposes of conducting a criminal investigation of the report.

(4) The department representative or other person receiving a report of child abuse or neglect shall use the person's best efforts to obtain the information described by subdivision (a)(2).

(5) If a report of abuse or neglect is made orally, the department or law enforcement agency receiving the report shall:

(1) Notify the individual making the report that:

(A) The report is being recorded; and

(B) Making a false report is a criminal offense under § 37-1-413 punishable as a Class E felony; and

(2) Make an audio recording of the report.

SECTION 2. Tennessee Code Annotated, Section 37-1-409(a)(2), is amended by deleting the subdivision and substituting:

(A) Except as may be ordered by the juvenile court, the name of any person reporting child abuse shall only be released without the written consent of the person reporting to:

(i) An employee of the department or other child protection team members responsible for child protective services who is directly involved with an investigation, case, or other process involving the child who is the subject of the report or the child's parent or other person having legal custody of the child;

(ii) An employee of the department who supervises, directly or indirectly, an employee described in subdivision (a)(2)(A)(i);

(iii) An employee of the department who has any other legitimate professional interest in an investigation, case, or other process involving the child who is the subject of the report or the child's parent or other person having legal custody of the child that necessitates access to the identity of the person who made the report;

(iv) The abuse registry; or

(v) The appropriate district attorney general upon subpoena of the Tennessee bureau of investigation.

(B) The person's identity is irrelevant to any civil proceeding and shall not be subject to disclosure by order of any court. This subdivision (a)(2)(B) does not prohibit the subpoenaing of a person reporting child abuse when deemed necessary by the district attorney general or the department to protect a child who is the subject of a report; provided, that the fact that such person made the report is not disclosed.

(C) The department is authorized to promulgate rules to effectuate this subdivision (a)(2). The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 3. Tennessee Code Annotated, Section 37-1-406(e)(2), is amended by deleting the subdivision and substituting:

(2) Notwithstanding subdivision (e)(1), if an individual makes an anonymous report of child abuse or neglect by a person responsible for a child's care, custody, or welfare to a judge, sheriff, or law enforcement agency that refers the report to the department, then:

(A) The department shall conduct a preliminary investigation to determine whether there is any evidence to corroborate the report; and

(B) The juvenile court shall not order the person responsible for the care, custody, or welfare of the child or the person in charge of any place where the child may be, to allow the department entrance for purposes of interview, examination, and investigation unless the department has presented evidence corroborating the anonymous report of harm.

(3) Before taking any action under subdivision (e)(1), an investigator must provide to a parent or other person having legal custody of a child who is under investigation:

(A) Information regarding the investigator's identity;

(B) A written summary that:

(i) Is brief and easily understood;

(ii) Is written in a language that the person understands, or if the person is illiterate, is read to the person in a language that the person understands; and

(iii) Contains the following information:

(a) The department's procedures for conducting an investigation of alleged child abuse or neglect;

(b) A description of the circumstances under which the department would request to remove the child from the home through the judicial system;

(c) An explanation that the law requires the department to refer all reports of alleged child abuse or neglect to a law enforcement agency for a separate determination of whether a criminal violation occurred;

(d) An explanation that any statement or admission made by the person to anyone may be used against the person in a criminal case, as a basis to remove the child who is the subject of the investigation or any other child from the person's care, custody, and control either temporarily or permanently, or as a basis to terminate the person's relationship with the child who is the subject of the investigation or any other child;

(e) The person's right to file a complaint with the department or to request a review of the findings made by the department in the investigation;

(f) The person's right to review all records of the investigation unless the review would jeopardize an ongoing criminal investigation or the child's safety;

(g) The person's right to seek legal counsel;

(h) References to the statutory and regulatory provisions governing child abuse and neglect and how the person may obtain copies of those provisions;

(i) The process the person may use to acquire access to the child if the child is removed from the home;

(j) The person's rights; and

(k) The known allegations the department is investigating;

and

(C) A reasonable amount of time to read or review the summary.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.