



Senate Aging & Youth Committee

Senator Bob Mensch

Chairman

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Analysis Senate Bill 21, P.N. 680

Prime Sponsor: Senator Kim Ward

Overview

Amends Title 23 (Domestic Relations) and persons required to report child abuse.

Summary

Amends the Child Protective Services Law and the mandated reporter provisions by:

- Basis to file a report:
 - Provide that a person required to report suspected child abuse, or causing a report of suspected child abuse to be made must do if the person has reasonable cause to suspect that a child is a victim of abuse, and
 - in the course of employment, occupation or practice of a profession, the person comes in contact with the child, or
 - the person is directly responsible for the care, supervision, guidance or training of the child.
 - The child does not need to come before the mandated reporter himself for the person to make a report.
 - The identity of the perpetrator does not need to be known by the mandated reporter prior to making or causing a report to be made, nor will the person be required to make any attempt to identify the perpetrator.
- Enumerated mandated reporters:
 - Requires the following persons to make a report of suspected child abuse, or cause a report of suspected child abuse to be made:
 - Anyone licensed in any health-related field under the Department of State
 - A medical examiner, coroner or funeral director

- A health care facility or provider licensed by the Department of Health and its employees engaged in admission, examination, care or treatment of individuals.
 - A school administrator, teacher, nurse, guidance counselor, coach or other school employee or an independent contractor of the school with direct responsibility for children.
 - A child-care services provider and employees with direct responsibility for children.
 - A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
 - An individual, paid or unpaid, who, on the basis of the individual's direct responsibility for children, accepts responsibility for a child.
 - A social services worker.
 - A peace officer or law enforcement official.
 - An emergency medical services provider certified by the Department of Health.
- Disclosure of child abuse by individual:
 - A mandated reporter shall make a report of suspected child abuse or cause a report of suspected child abuse if:
 - a child makes a specific disclosure to the mandated reporter that the child or a relative or friend of the child is the victim of child abuse, and
 - the mandated reporter has reasonable cause to suspect that the child abuse has occurred.
- Reports by employees:
 - A mandated reporter must immediately report the suspected child abuse directly to the department by telephone or electronically. A mandated reporter may delegate the direct reporting to the department by telephone to an employee. The employee of a mandated reporter must notify the mandated reporter of the completion of the report.
 - A mandated reporter or his employee may not:
 - obstruct, prevent or delay the forwarding of a report of suspected child abuse, or
 - modify, edit or otherwise change the substance of a report of suspected child abuse.
 - Delegation to an employee does not relieve the mandatory reporter of the obligation as a mandated reporter.
 - Confirmation for the department that a report of suspected child abuse has been filed shall relieve other employees and independent

contractors of the obligation to make a report of suspected child abuse or cause a report of suspected child abuse to be made.

- Privileged communications:
 - The privileged communication between a mandated reporter and a patient or client of the mandated reporter will not:
 - apply to a situation involving child abuse, and
 - constitute grounds for failure to make a report of suspected child abuse or cause a report of suspected child abuse to be made.
 - Confidential communications made to a member of the clergy, but only to the extent that the member of the clergy is authorized to hear the communication under the disciplines, tenets or traditions of the religion of the member of the clergy.
 - Confidential communications made to an attorney are privileged.
 - Confidential communications between spouses are not privileged.
- A limited exemption from mandated reporting is granted to sexual assault counselors at rape crisis centers in that they are not required to report a statutory sexual assault as child abuse when the child is 14 years of age or older.

Title 18 § 3122.1. Statutory sexual assault.

(a) Felony of the second degree.--Except as provided in section 3121 (relating to rape), a person commits a felony of the second degree when that person engages in sexual intercourse with a complainant to whom the person is not married who is under the age of 16 years and that person is either:

(1) four years older but less than eight years older than the complainant; or

(2) eight years older but less than 11 years older than the complainant.

(b) Felony of the first degree.--A person commits a felony of the first degree when that person engages in sexual intercourse with a complainant under the age of 16 years and that person is 11 or more years older than the complainant and the complainant and the person are not married to each other.

- Persons encouraged to report
 - Any person may make an oral or electronic report of suspected child abuse, or cause an oral or electronic report of suspected child abuse to be made to the department, county or law enforcement, if they have reasonable cause to suspect that a child is an abused child.
- Report by mandated reporter:

- Reports of suspected child abuse by or on behalf of a mandated report must be made immediately to the department by telephone or electronically.
 - Mandated reporters must also make a report to the county agency assigned to the case within 48 hours of reporting it to the department, in a manner and format prescribed in regulations by the Department.
 - If the mandated reporter fails to file the report to the county agency, the county agency shall proceed as if they did.
- Contents of a report of suspected child abuse must include the following, if known:
 - Names and address of the child, the child's parents and any other person responsible for the child's welfare
 - Where the suspected abuse occurred
 - The age and sex of each subject of the report
 - The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child
 - The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual
 - Family composition
 - The source of the report
 - The person making the report and where that person can be reached
 - The actions taken by the person making the report, including any relevant medical treatment
 - Any other information required by the department through regulation
- Photographs, medical tests and x-rays must be sent to the county agency either at the time the written report is sent or within 48 hours after a report is made by advanced communication technologies.
- Taking a child into protective custody
 - The county agency must take a child into protective custody after receipt of a court order. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.

Effective Date

60 days