



H.B. 189

124th General Assembly
(As Introduced)

Reps. Lendrum, Seitz, Patton, Allen, Husted, Webster, Schaffer, Williams

BILL SUMMARY

- Increases the penalty for making or causing a false report of child abuse or child neglect to a felony of the fifth degree.
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CONTENT AND OPERATION

Making or causing a false report of child abuse or child neglect

Existing law

Existing law prohibits a person from knowingly making or causing another person to make a false report under R.C. 2151.421(B) alleging that any person has committed an act or omission that resulted in a child being an abused child or a neglected child (see "**Background**," below). A person who violates this prohibition is guilty of "making or causing a false report of child abuse or child neglect," a misdemeanor of the first degree. (R.C. 2921.14.)

Operation of the bill

The bill increases the penalty for "making or causing a false report of child abuse or child neglect" to a felony of the fifth degree (R.C. 2921.14(B)).

Background

R.C. 2151.421(B) reports

R.C. 2151.421(B) authorizes anyone, who knows or suspects that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired person under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child, to report or cause

reports to be made of that knowledge or suspicion to the public children services agency (hereafter PCSA) or to a municipal or county peace officer.

The report must be made immediately either by telephone or in person and must be followed by a written report, if requested by the receiving PCSA or officer. The written report must contain: (1) the names and addresses of the child and the child's parents or the person or persons having custody of the child, if known, (2) the child's age and the nature and extent of the child's known or suspected injuries, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect, including any evidence of previous injuries, abuse, or neglect, and (3) any other information that might be helpful in establishing the cause of the known or suspected injury, abuse, or neglect or of the known or suspected threat of injury, abuse, or neglect. (R.C. 2151.421(C).)

Good faith and bad faith reports

Except for the offense of making or causing a false report of child abuse or child neglect, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of the report, and anyone participating in good faith in a judicial proceeding resulting from the report, is immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the report or the participation in the judicial proceeding.

In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of the report was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court must award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought. (R.C. 2151.412(G)(1)(a) and (2) and (H)(3).)

Confidentiality

Generally the report is confidential, and the information provided in the report and the name of the person who made the report may not be released for use, and may not be used, as evidence in any civil action or proceeding brought against the person who made the report. But in a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure. (R.C. 2151.421(H)(1).)

Definitions

Neglected child

As used in the Juvenile Code, "neglected child" includes any child (R.C. 2151.03(A)):¹

- (1) Who is abandoned by the child's parents, guardian, or custodian;
- (2) Who lacks adequate parental care because of the faults or habits of the child's parents, guardian, or custodian;
- (3) Whose parents, guardian, or custodian neglects the child or refuses to provide proper or necessary subsistence, education, medical or surgical care or treatment, or other care necessary for the child's health, morals, or well being;
- (4) Whose parents, guardian, or custodian neglects the child or refuses to provide the special care made necessary by the child's mental condition;
- (5) Whose parents, legal guardian, or custodian have illegally placed or illegally attempted to place the child;
- (6) Who, because of the omission of the child's parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare;
- (7) Who is subjected to out-of-home care child neglect.

Abused child

For the purposes of the Juvenile Code, an "abused child" includes any child who (R.C. 2151.031):

¹ *The Juvenile Law provides that nothing in that Law is to be construed as subjecting a parent, guardian, or custodian of a child to criminal liability when, solely in the practice of religious beliefs, the parent, guardian, or custodian fails to provide adequate medical or surgical care or treatment for the child. But this provision does not abrogate or limit any person's responsibility to report known or suspected child abuse, known or suspected child neglect, and children who are known to face or are suspected of facing a threat of suffering abuse or neglect. Nor does it preclude any exercise of the authority of the state, any political subdivision, or any court to ensure that medical or surgical care or treatment is provided to a child when the child's health requires the provision of medical or surgical care or treatment. (R.C. 2151.03(B).)*

(1) Is the victim of "sexual activity," where the activity would constitute an offense under the Sex Offenses Law, except that the court need not find that any person has been convicted of the offense in order to find that the child is an abused child;

(2) Is endangered as defined in the offense of endangering children, except that the court need not find that any person has been convicted of that offense in order to find that the child is an abused child;

(3) Exhibits evidence of any physical or mental injury or death, inflicted other than by accidental means, or an injury or death that is at variance with the history given of it. Except as provided in the following paragraph, a child exhibiting evidence of corporal punishment or other physical disciplinary measure by a parent, guardian, custodian, person having custody or control, or person in loco parentis of a child is not an abused child under this paragraph if the measure is not prohibited by the offense of endangering children.

(4) Because of the acts of his parents, guardian, or custodian, suffers physical or mental injury that harms or threatens to harm the child's health or welfare.

(5) Is subjected to out-of-home care child abuse.

HISTORY

ACTION	DATE	JOURNAL ENTRY
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