



Aida S. Montano

Bill Analysis

Legislative Service Commission

H.B. 591

124th General Assembly
(As Introduced)

Reps. Mason, Jolivette, Sykes, Beatty, Key, Lendrum, Carano, Redfern, Jerse, Britton, Patton, Fedor, Barrett

BILL SUMMARY

- Requires a member of the clergy, rabbi, priest, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect, or any person or layperson in any church, religious society, or faith acting as a leader, official, delegate, or other designated function on behalf of the church, religious society, or faith to report known or suspected abuse or neglect of a child.
- Generally prohibits any person or layperson in any church, religious society, or faith acting as a leader, official, delegate, or other designated function on behalf of the church, religious society, or faith from testifying in matters concerning a confession made, or any information confidentially communicated, to the person or layperson while acting as a leader, official, delegate, or other designated function of the church, religious society, or faith.

CONTENT AND OPERATION

Persons required to report injury or neglect

Current law requires certain individuals who are acting in an official or professional capacity and know or suspect that a child under 18 years of age or a mentally retarded, developmentally disabled, or physically impaired child under 21 years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child to immediately report that knowledge or suspicion to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. Included among these individuals are attorneys, physicians, nurses, dentists, and persons rendering spiritual treatment through prayer in accordance

with the tenets of a well-recognized religion.¹ The bill requires that members of the clergy, rabbis, priests, regularly ordained, accredited, or licensed ministers of an established and legally cognizable church, denomination or sect, or any person or layperson in any church, religious society, or faith acting as a leader, official, delegate, or other designated function on behalf of the church, religious society, or faith report this knowledge or suspicion in the manner described above. (R.C. 2151.421(A)(1)(a) and (b).)

Procedure and effect regarding the report

Existing law (unaffected by the bill) requires that any report made as required by law must be made forthwith by telephone or in person and must be followed by a written report, if requested by the receiving agency or officer. The written report must contain the following information (R.C. 2151.421(C)):

(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;

(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.

Any person required to make a report may take or cause to be taken color photographs of visible areas of trauma on a child and, if medically indicated, cause to be performed radiological examinations of the child.

¹ *The persons who are required to report abuse or neglect of a child include any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in R.C. 4731.15 (massage therapy, cosmetic therapy, naprapathy, and mechanotherapy); registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; or a person rendering spiritual treatment through prayer in accordance with the tenets of a well-organized religion.*

Under existing law (unaffected by the bill), generally anyone or any hospital, institution, school, health department, or agency participating in the making of mandatory reports of abuse or neglect, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of voluntary reports of abuse or neglect to a public children services agency or to a municipal or county peace officer, and anyone participating in good faith in a judicial proceeding resulting from the reports, 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 reports or the participation in the judicial proceeding. In a criminal or civil action or proceeding in which it is proved that participation in making a report was not in good faith or participation in a judicial proceeding resulting from a report 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 action or proceeding is brought. (R.C. 2151.421(G)(1)(a) and (2).)

Existing law (unaffected by the bill) also provides that generally a report of abuse or neglect is confidential. The information provided in a report and the name of the person who made the report must not be released for use, and must not be used, as evidence in any civil action or proceeding brought against the person who made the report. 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 Civil Procedure. (R.C. 2151.421(H)(1).)

Under existing law (unaffected by the bill), generally a person who is required to make a report of abuse or neglect may make a reasonable number of requests of the public children services agency that receives or is referred the report to be provided with certain specified information regarding the investigation of the report, the child's health and safety, and whether a complaint or criminal charge has been filed in court (R.C. 2151.421(K)(1)).

Testimonial privilege

Under current law, certain specified persons are forbidden from testifying in certain respects. A member of the clergy, rabbi, priest, or regularly ordained, accredited, or licensed minister of an established and legally cognizable church, denomination, or sect, when the member of the clergy, rabbi, priest, or minister remains accountable to the authority of that church, denomination, or sect, cannot testify in matters concerning a confession made, or any information confidentially communicated, to the member of the clergy, rabbi, priest, or minister for a religious counseling purpose in the member of the clergy's, rabbi's, priest's, or minister's professional character. The member of the clergy, rabbi, priest, or minister may testify by express consent of the person making the communication,

except when the disclosure of the information is in violation of a sacred trust. (R.C. 2317.02(C).)

The bill forbids any person or layperson in any church, religious society, or faith acting as a leader, official, delegate, or other designated function on behalf of the church, religious society, or faith from testifying in matters concerning a confession made, or any information confidentially communicated, to the person or layperson while acting as a leader, official, delegate, or other designated function of the church, religious society, or faith; but the person or layperson may testify by express consent of the person making the communication, except when the disclosure of the information is in violation of a sacred trust. (R.C. 2317.02(C).)

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	05-29-02	p. 1868

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