

(1) The establishment of administrative and due process procedures for the disclosure of the contents of its files and the results of its investigations for the purpose of protecting children from child sexual abuse, physical abuse, emotional abuse, or neglect; and

(2) For other purposes directly connected with the administration of this chapter, including, but not limited to, cooperation with schools, child care agencies, residential and institutional child care providers, child protection agencies, individuals providing care or protection for the child, medical and mental health personnel providing care for the child and the child's family and the perpetrator of any form of child abuse or neglect, law enforcement agencies, the judicial and correctional systems, and for cooperation with scientific and governmental research on child abuse and neglect.

(f) Except as specifically provided in this chapter, nothing in this chapter shall prevent the department from sharing information with the district attorney general and law enforcement personnel for the purpose of cooperating with a law enforcement investigation. Information from departmental records that is shared with the district attorney general or law enforcement by the department shall remain confidential to the same extent that information not shared with the district attorney general and law enforcement is confidential. Unless otherwise ordered by a court, or to the extent that such information is used for criminal prosecution, or to the extent required under the Tennessee rules of criminal procedure after criminal charges have been filed, any portion of shared information that does not become part of a court record shall remain confidential to the same extent as information not shared by the department remains confidential.

(g) A violation of this section is a Class B misdemeanor.

History.

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; Acts 1978, ch. 886, § 4; T.C.A., §§ 37-1208, 37-1209; Acts 1985, ch. 478, § 42; 1987, ch. 145, §§ 15, 23; 1988, ch. 964, § 3; 1989, ch. 591, § 112; 2000, ch. 981, § 51; 2005, ch. 391, § 11; 2008, ch. 1146, § 3; 2009, ch. 358, § 3.

37-1-410. Immunity from civil or criminal liability for reporting abuse — Damages for employment change because of making report.

(a)(1) IF a health care provider makes a report of harm, as required by § 37-1-403; AND

IF the report arises from an examination of the child performed by the health care provider in the course of rendering professional care or treatment of the child; OR

IF the health care provider who is highly qualified by experience in the field of child abuse and neglect, as evidenced by special training or credentialing, renders a second opinion at the request of the department or any law enforcement agency, whether or not the health care provider has examined the child, rendered care or treatment, or made the report of

harm; THEN

The health care provider shall not be liable in any civil or criminal action that is based solely upon:

(A) The health care provider's decision to report what the provider believed to be harm;

(B) The health care provider's belief that reporting the harm was required by law;

(C) The fact that a report of harm was made; or

(D) The fact that an opinion as described in this subdivision (a)(1) was requested and provided.

(2) For the purposes of this subsection (a), by providing a second opinion, a report, information or records at the request of the department or any law enforcement agency the health care provider has satisfied all requirements to make a report of harm as required by §§ 37-1-403 and 37-1-605.

(3) As used in this subsection (a), "health care provider" means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional.

(4) Nothing in this subsection (a) shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the child about whom the report of harm was made.

(5)(A) IF absolute immunity is not conferred upon a person pursuant to subdivision (a)(1); AND IF, acting in good faith, the person makes a report of harm, as required by § 37-1-403; THEN

The person shall not be liable in any civil or criminal action that is based solely upon:

(i) The person's decision to report what the person believed to be harm;

(ii) The person's belief that reporting the harm was required by law; or

(iii) The fact that a report of harm was made.

(B) Because of the overriding public policy to encourage all persons to report the neglect of or harm or abuse to children, any person upon whom good faith immunity is conferred pursuant to this subdivision (a)(5) shall be presumed to have acted in good faith in making a report of harm.

(6) No immunity conferred pursuant to this subsection (a) shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.

(7) A person furnishing a report, information or records as required, requested, or authorized under this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person for making the report of harm.

(8) If the person furnishing a report, information or records during the normal course of the person's duties as required or authorized or requested under this part is different from the person originally reporting the harm, then the person furnishing the

report, information or records shall have the same immunity and the same scope of immunity with respect to testimony the person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person who made the original report of harm.

(b) Any person reporting under this part shall have a civil cause of action against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

History.

Acts 1973, ch. 81, § 1; 1977, ch. 343, §§ 3, 4; T.C.A., §§ 37-1209, 37-1210; Acts 2001, ch. 351, § 2; 2008, ch. 1060, § 1.

37-1-411. Evidentiary privileges not applicable to child abuse cases.

Neither the husband-wife privilege as preserved in § 24-1-201, nor the psychiatrist-patient privilege as set forth in § 24-1-207, nor the psychologist-patient privilege as set forth in § 63-11-213 is a ground for excluding evidence regarding harm or the cause of harm to a child in any dependency and neglect proceeding resulting from a report of such harm under § 37-1-403 or a criminal prosecution for severe child abuse.

History.

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; T.C.A., §§ 37-1210, 37-1211; Acts 1985, ch. 478, § 20.

37-1-412. Violation of duty to report — Power of juvenile court — Penalty.

(a) Any person who knowingly fails to make a report required by § 37-1-403 commits a Class A misdemeanor.

(b) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury. If the defendant pleads guilty and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant under this section with a fine not to exceed two thousand five hundred dollars (\$2,500).

History.

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; T.C.A., §§ 37-1211, 37-1-1212; Acts 1989, ch. 591, § 111; 2005, ch. 256, § 1.

37-1-413. False reporting of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect — Penalty.

Any person who either verbally or by written or printed communication knowingly and maliciously re-

ports, or causes, encourages, aids, counsels or procures another to report, a false accusation of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect commits a Class E felony.

History.

Acts 1985, ch. 478, § 43; 1989, ch. 591, § 33; 2008, ch. 1171, § 1.

37-1-414. Persons working with children — Fingerprinting — Release of investigative and criminal records.

(a) A religious, charitable, scientific, educational, athletic or youth service institution or organization may require any person, who applies to work with children as a volunteer or as a paid employee, to do one (1) or more of the following:

(1) Agree to the release of all investigative records to such religious, charitable, scientific, educational, athletic, or youth service institution or organization for examination for the purpose of verifying the accuracy of criminal violation information contained on an application to work for such institution or organization;

(2) Supply fingerprint samples and submit to a criminal history records check to be conducted by the Tennessee bureau of investigation and the federal bureau of investigation; or

(3) Attend a comprehensive youth protection training program that includes adult training on recognition, disclosure, reporting and prevention of abuse and submit to character, employment, education and reference checks.

(b) Any costs incurred by the Tennessee bureau of investigation or the federal bureau of investigation in conducting such investigation of applicants shall be paid by the religious, charitable, scientific, educational, or athletic institution or organization requesting such investigation and information. Payment of such costs are to be made in accordance with the provisions of § 38-6-103.

History.

Acts 1993, ch. 350, § 2; 1995, ch. 325, § 1; 2003, ch. 30, §§ 1, 2.

PART 5

COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

37-1-501. Creation and membership of council.

(a) There is created the Tennessee council of juvenile and family court judges, which shall be the official organization of the judges having juvenile and family court jurisdiction in this state.

(b) The membership of the council shall consist of all judges of juvenile courts in this state.