



Back to School Update: Child Abuse Reporting & Threatening Behavior

August 16, 2018

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Recent Legislative Enactments

Child Abuse Reporting and Threatening Behavior

Who is Responsible for Reporting Abuse or Neglect?

- * Every person having reason to believe that a child under the age of eighteen (18) years is a victim of abuse or neglect shall report the matter ~~promptly~~ immediately to the Department of Human Services.
 - * Reports shall be made to the DHS hotline. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department.
- * Every teacher of any child under of 18 having reason to believe that a child under 18 is a victim of abuse or neglect shall immediately report the matter to the DHS hotline
- * Every teacher of a child over the age of 18 having reason to believe that a child over 18 is a victim of abuse or neglect shall immediately report the matter to local law enforcement.

OKLA. STAT. tit. 10A, § 1-2-101(B)(1)(2) (as amended by HB 2259 effective 11-1-18)

What is Neglect Under this Statute?

- * "Neglect" means:
 - * the failure or omission to provide any of the following:
 - * adequate nutrition and affection, food, clothing, shelter, sanitation, hygiene
 - * appropriate education, medical, dental or behavioral health care,
 - * supervision or appropriate caretakers, or
 - * special care made necessary by the physical or mental condition of the child
 - * the failure or omission to protect a child from exposure to any of the following
 - * the use, possession, sale or manufacture of illegal drugs
 - * illegal activities
 - * sexual acts or materials that are not age-appropriate, or
 - * abandonment
- * Unlike "Abuse," neglect does not have to be committed by a person responsible for a child's health, safety or welfare

What is Abuse Under this Statute?

- * “Abuse” means
 - * harm or threatened harm to the health, safety, or welfare of a child
 - * **by a person responsible for the child's health, safety, or welfare,**
 - * including but not limited to nonaccidental physical or mental injury, sexual abuse, or sexual exploitation.
- * Provided, however, that nothing contained in the Oklahoma Children's Code shall prohibit any parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling

Who is a Person responsible for a child's health safety or welfare?

- * This definition includes:
- * a parent
- * a legal guardian
- * custodian
- * a foster parent
- * a person eighteen (18) years of age or older with whom the child's parent cohabitates or any other adult residing in the home of the child
- * an agent or employee of a public or private residential home, institution, facility or day treatment program as defined in Section 175.20 of Title 10 of the Oklahoma Statutes, or
- * an owner, operator, or employee of a child care facility as defined by Section 402 of Title 10 of the Oklahoma Statutes

Good Faith Reporting, Failure to Report, and Bad Faith Reporting

- * Immunity from state civil and criminal liability for reporting abuse or neglect in “good faith”
 - * Good Faith is Presumed
- * Failure to Report Child Abuse can result in:
 - * A misdemeanor or
 - * A felony if the individual has prolonged knowledge (> 6 months) of ongoing child abuse or neglect who knowingly and willfully fails to promptly report.
- * Reporting in Bad faith may result in a misdemeanor.

New Statutory Provisions Regarding Child Abuse Reporting

OKLA. STAT. tit. 70, § 1210.163 (effective July 1, 2018) requires that:

- * A school employee who has reason to believe that **a student** is a victim of abuse or neglect shall report the matter promptly to DHS **and** to local law enforcement.
- * DHS report shall be made via the DHS hotline

Different Definition of Abuse and Neglect

This provision vastly expands the definition of abuse and neglect to include (but not be limited to):

- * child abuse; sexual abuse/exploitation; contributing to the delinquency of a minor; trafficking; incest; forcible sodomy; taking or enticing a child away; involving a minor in participation or distribution of child pornography; facilitating, encouraging, offering or soliciting sexual conduct with a minor; causing, inducing, persuading or encouraging a minor to engage in or securing a minor for prostitution or any other lewd or indecent act; rape; making any oral, written or electronically or computer-generated lewd/indecent proposals to a minor under the age of 16.

No civil or employment immunity expressly provided.

General Take-Aways on Abuse and Neglect

- * PROTECT YOURSELF - ERROR ON THE SIDE OF REPORTING
 - * District Personnel Report | DHS - Law Enforcement Investigate
- * REPORT any alleged abuse or neglect to DHS
- * REPORT any alleged abuse or neglect to local law enforcement
- * Make the report in WRITING if possible
- * OBTAIN the reference number for any DHS report made by phone
- * When reporting to local law enforcement, OBTAIN (a) name of person report was given, (b) DOCUMENT date and time of the report was made

Threatening Behavior:

- * New provision of law now requires an “officer or employee” of a school to notify law enforcement any verbal threat or act of threatening behavior which reasonably may have the potential to endanger students, school personnel or school property.
- * Threatening behavior defined as “any verbal threat or threatening behavior, whether or not direct at another person, which indicates a potential for future harm to students, school personnel or school property.”
- * Grants civil immunity and immunity from employment discipline for reports made in good faith.

To be codified at OKLA. STAT. tit. 70, § 24-100.8 (effective 7-1-18)

More information to come

- * **RFR's Resources:**
- * Chalkboard
- Sign up for weekly Legislative Advisories and Red Banner updates from RFR.
- Use our Client Legislative Update portal at rflaw.com.
- Email Haley Drusen at hdrusen@rflaw.com.



Questions?