



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 436

PRINTERS NO. 2011

PRIME SPONSOR: Stephens

COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	See Fiscal Impact

SUMMARY: House Bill 436, Printer's Number 2011, amends Title 23 (Domestic Relations) to provide for persons required to report suspected child abuse; provide for specific persons required to report and for required posting of signs; and provides for penalties for failure to report or to refer. The bill will take effect 60 days after enactment.

ANALYSIS: This legislation requires that the following individuals, 18 years of age or older, are required to make a report of suspected child abuse or cause a report of suspected child abuse to be made, if the person has a reasonable cause to suspect, on the basis of medical professional or other training and experience, that a child is a victim of child abuse:

- Persons licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- Medical examiners, coroners or funeral directors.
- Employees of health care facilities or providers licensed by the Department of Health, who are engaged in the admission, examination, care or treatment of individuals.
- School employees.
- Employees of child-care services.
- Clergy, priests, rabbis, ministers, Christian science practitioners, religious healers or spiritual leaders of any regularly established churches or other religious organizations.
- Individuals paid or unpaid, who have an integral role of a regularly scheduled program, activity or service and accept responsibility for a child.
- Employees of social services agencies.
- Peace officers or law enforcement officials.
- Attorneys.
- Employees of public libraries.
- Emergency medical services providers certified by the Department of Health.
- Employees of mandated reporters, who have direct contact with children.
- Independent contractors.

A sexual assault counselor at a rape crisis center or domestic violence counselor/advocate are not required to report statutory sexual assault as child abuse, if the child who would be the subject of the report is 14 or older.

Mandated reporters must report suspected child abuse if they have reasonable cause to suspect that the child is victim of child abuse under any of the following circumstances:

- The mandated reporter comes into contact with the child in the course of employment, occupation, and practice of a profession or through a regularly scheduled program, activity or service.
- The mandated reporter or the organization he/she is affiliated with is directly responsible for the child.
- A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

Confidential communications for clergy, attorneys, psychiatrists and licensed psychologists are protected pursuant to provisions in the Judicial Code. Additionally, confidential disclosures by an individual to attorneys, psychiatrists and licensed psychologists that prompt a report of child abuse cannot be used as evidence to substantiate a report of child abuse. Confidential communications between spouses are not privileged under this legislation.

The bill also provides for specific persons who are encouraged to report. The following persons are encouraged to make a report of suspected child abuse, sexual abuse or exploitation or cause a report of suspected child abuse, sexual abuse or exploitation:

- Commercial film or photographic print processors who discover any depiction of child abuse, sexual abuse or exploitation in material presented for processing.
- Persons who repair or service computers, electronics or other information technology equipment and devices and discover any depiction of child abuse, sexual abuse or exploitation in material presented for processing.

Additionally, businesses that process photographs or repair or service computers will be required to post a DPW-designed sign encouraging a report of suspected child abuse when any photo or video depiction of sexual abuse or exploitation is discovered. If a business establishment fails to post a sign, they commit a summary offense, with fines ranging from \$100 to \$250.

Penalties are also provided under the following circumstances:

- Failure to report or refer – A person or official mandated to report under this legislation and willfully fails to report or refer a suspected case of child abuse commits a misdemeanor of the 2nd degree – except that if the child abuse constitutes a felony of the 1st degree or higher, the person or official commits a felony of the 3rd degree.
- Prevention of making a report or referral – A person who intentionally or knowingly prevents or attempts to prevent the making of a report or referral of suspected child abuse commits a misdemeanor of the 1st degree – except that if the child abuse constitutes a felony of the 1st degree or higher, the person commits a felony of the 2nd degree.

- Concealment of abuse to protect another - A person who intentionally or knowingly acts to prevent the discovery of child abuse in order to protect or insulate any person or entity from prosecution or liability for the child abuse commits a felony of the 3rd degree - except if the child abuse constitutes a felony of the 1st degree or higher, the person commits a felony of the 1st degree.
- Continuing course of action - If a person knows or has reasonable cause to believe a child is actively being abused, the person commits a felony of the 3rd degree - except that if the child abuse constitutes a felony of the 1st degree or higher, the person commits a felony of the 1st degree.
- Multiple offenses - A person who commits a second or subsequent offense commits a 2nd degree felony - except that if the child abuse constitutes a felony of the 1st degree or higher, the penalty for second or subsequent offenses is a 1st degree felony.

The statute of limitations for the above offenses is either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

FISCAL IMPACT: House Bill 436 is based on recommendations of the Task Force on Child Protection. This legislation requires DPW to create signs containing the telephone number for reporting suspected child abuse and post it on DPW's website for use by businesses. It also requires the sign to be posted in languages mandated by the Voting Rights Act of 1965. DPW has also indicated that this legislation would require notification of the penalties, which would likely be through amending the current mandated reporting materials. It is assumed that DPW will be able to absorb any additional costs through their existing budget.

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House Appropriations Committee (R)

DATE: June 24, 2013

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.