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H. B. No. 419

Representatives Troy, Seitz

Cosponsors: Representatives Smith, K., Miller, A., Sheehy, Brent, Gross, Hillyer, White, John, Weinstein, Leland, Abrams, Addison, Baldrige, Bird, Blackshear, Carruthers, Creech, Crossman, Davis, Denson, Fraizer, Galonski, Ghanbari, Ginter, Humphrey, Ingram, Jarrells, Kick, Koehler, Lanese, LaRe, Lightbody, Lipps, Manning, Miranda, O'Brien, Oelslager, Patton, Richardson, Rogers, Russo, Skindell, Upchurch, West, Wilkin



A BILL

To amend sections 5101.63 and 5101.99 of the Revised Code to make failure to make a mandatory report of adult abuse, neglect, or exploitation a fourth degree misdemeanor.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5101.63 and 5101.99 of the Revised Code be amended to read as follows:

Sec. 5101.63. (A) (1) ~~Any individual~~ No person listed in division (A) (2) of this section having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall knowingly fail to immediately report such belief to the county department of job and family services.

(2) All of the following are subject to division (A) (1) of this section:

(a) An attorney admitted to the practice of law in this state;	15 16
(b) An individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;	17 18 19
(c) An individual licensed under Chapter 4734. of the Revised Code as a chiropractor;	20 21
(d) An individual licensed under Chapter 4715. of the Revised Code as a dentist;	22 23
(e) An individual licensed under Chapter 4723. of the Revised Code as a registered nurse or licensed practical nurse;	24 25
(f) An individual licensed under Chapter 4732. of the Revised Code as a psychologist;	26 27
(g) An individual licensed under Chapter 4757. of the Revised Code as a social worker, independent social worker, professional counselor, professional clinical counselor, marriage and family therapist, or independent marriage and family therapist;	28 29 30 31 32
(h) An individual licensed under Chapter 4729. of the Revised Code as a pharmacist;	33 34
(i) An individual holding a certificate to practice as a dialysis technician issued under Chapter 4723. of the Revised Code;	35 36 37
(j) An employee of a home health agency, as defined in section 3701.881 of the Revised Code;	38 39
(k) An employee of an outpatient health facility;	40
(l) An employee of a hospital, as defined in section	41

3727.01 of the Revised Code;	42
(m) An employee of a hospital or public hospital, as defined in section 5122.01 of the Revised Code;	43 44
(n) An employee of a nursing home or residential care facility, as defined in section 3721.01 of the Revised Code;	45 46
(o) An employee of a residential facility licensed under section 5119.22 of the Revised Code that provides accommodations, supervision, and personal care services for three to sixteen unrelated adults;	47 48 49 50
(p) An employee of a health department operated by the board of health of a city or general health district or the authority having the duties of a board of health under section 3709.05 of the Revised Code;	51 52 53 54
(q) An employee of a community mental health agency, as defined in section 5122.01 of the Revised Code;	55 56
(r) A humane society agent appointed under section 1717.06 of the Revised Code;	57 58
(s) An individual who is a firefighter for a lawfully constituted fire department;	59 60
(t) An individual who is an ambulance driver for an emergency medical service organization, as defined in section 4765.01 of the Revised Code;	61 62 63
(u) A first responder, emergency medical technician-basic, emergency medical technician-intermediate, or paramedic, as those terms are defined in section 4765.01 of the Revised Code;	64 65 66
(v) An official employed by a local building department to conduct inspections of houses and other residential buildings;	67 68

(w) A peace officer;	69
(x) A coroner;	70
(y) A member of the clergy;	71
(z) An individual who holds a certificate issued under Chapter 4701. of the Revised Code as a certified public accountant or is registered under that chapter as a public accountant;	72 73 74 75
(aa) An individual licensed under Chapter 4735. of the Revised Code as a real estate broker or real estate salesperson;	76 77
(bb) An individual appointed and commissioned under section 147.01 of the Revised Code as a notary public;	78 79
(cc) An employee of a bank, savings bank, savings and loan association, or credit union organized under the laws of this state, another state, or the United States;	80 81 82
(dd) A dealer, investment adviser, sales person, or investment advisor representative licensed under Chapter 1707. of the Revised Code;	83 84 85
(ee) A financial planner accredited by a national accreditation agency;	86 87
(ff) Any other individual who is a senior service provider, other than a representative of the office of the state long-term care ombudsman program as defined in section 173.14 of the Revised Code.	88 89 90 91
(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause a report to be made of such belief to the county department of job and family services.	92 93 94 95

This division applies to a representative of the office of	96
the state long-term care ombudsman program only to the extent	97
permitted by federal law.	98
(C) The reports made under this section shall be made	99
orally or in writing except that oral reports shall be followed	100
by a written report if a written report is requested by the	101
department. Written reports shall include:	102
(1) The name, address, and approximate age of the adult	103
who is the subject of the report;	104
(2) The name and address of the individual responsible for	105
the adult's care, if any individual is, and if the individual is	106
known;	107
(3) The nature and extent of the alleged abuse, neglect,	108
or exploitation of the adult;	109
(4) The basis of the reporter's belief that the adult has	110
been abused, neglected, or exploited.	111
(D) Any person with reasonable cause to believe that an	112
adult is suffering abuse, neglect, or exploitation who makes a	113
report pursuant to this section or who testifies in any	114
administrative or judicial proceeding arising from such a	115
report, or any employee of the state or any of its subdivisions	116
who is discharging responsibilities under section 5101.65 of the	117
Revised Code shall be immune from civil or criminal liability on	118
account of such investigation, report, or testimony, except	119
liability for perjury, unless the person has acted in bad faith	120
or with malicious purpose.	121
(E) No employer or any other person with the authority to	122
do so shall do any of the following as a result of an employee's	123
having filed a report under this section:	124

(1) Discharge, demote, transfer, or prepare a negative work performance evaluation;	125 126
(2) Reduce benefits, pay, or work privileges;	127
(3) Take any other action detrimental to an employee or in any way retaliate against the employee.	128 129
(F) The written or oral report provided for in this section and the investigatory report provided for in section 5101.65 of the Revised Code are confidential and are not public records, as defined in section 149.43 of the Revised Code. In accordance with rules adopted by the department of job and family services, information contained in the report shall upon request be made available to the adult who is the subject of the report and to legal counsel for the adult. If it determines that there is a risk of harm to a person who makes a report under this section or to the adult who is the subject of the report, the county department of job and family services may redact the name and identifying information related to the person who made the report.	130 131 132 133 134 135 136 137 138 139 140 141 142
(G) The county department of job and family services shall be available to receive the written or oral report provided for in this section twenty-four hours a day and seven days a week.	143 144 145
Sec. 5101.99. (A) Whoever violates division (A) of section 5101.63 of the Revised Code shall be fined not more than five hundred dollars.	146 147 148
(B) Whoever violates division (A) of section 5101.27 of the Revised Code is guilty of a misdemeanor of the first degree.	149 150
(C) <u>(B)</u> Whoever violates section 5101.133, <u>division (A) of section 5101.63,</u> or division (C) (2) of section 5101.631 of the Revised Code is guilty of a misdemeanor of the fourth degree.	151 152 153

Section 2. That existing sections 5101.63 and 5101.99 of 154
the Revised Code are hereby repealed. 155