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Bill Analysis

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Version: As Passed by the House

Primary Sponsors: Reps. Kishman and Williams

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SUMMARY

- Requires health care professionals, as mandatory reporters of child abuse or neglect, to make reports to both the public children services agency (PCSA) and a peace officer, rather than to either the PCSA or a peace officer.
- Adds the criminal intent of acting knowingly to the prohibition on a mandatory reporter failing to immediately report known or suspected child abuse or neglect.
- Requires that any law enforcement agency investigating a report, in addition to the PCSA, be provided, on request, any additional reports of medical examinations, tests, or procedures that were performed on the child regarding the alleged abuse or neglect.
- Makes health care professionals criminally and civilly liable for failure to report to both a peace officer and the PCSA.
- Specifies that the continuing law requirement that the PCSA notify the appropriate law enforcement agency of a report be done promptly, but no later than 48 hours after receiving the report.
- Names the bill "V.J.'s Law."

DETAILED ANALYSIS

Mandatory reporting of child abuse or neglect

Background

Under Ohio's mandatory reporting law, a person designated as a mandatory reporter (including health care professionals), when acting in an official or professional capacity, must immediately report any knowledge or reasonable suspicion of child abuse or neglect to either the public children services agency (PCSA) or a peace officer in the county in which the child

resides or in which the abuse or neglect is occurring or has occurred. Anyone else who knows of or suspects child abuse or neglect *may* make such a report.

Dual reporting requirements for health care professionals

The bill, named "V.J.'s Law," requires health care professionals to report known or suspected child abuse or neglect to both the PCSA and a peace officer instead of one or the other. Continuing law allows, when two or more health care professionals are caring for the same child, the health care professionals to designate one of the professionals to make a single report to both a peace officer and a PCSA. The only exception to the bill's dual reporting requirement is a report regarding a child who is an inmate in the custody of a state correctional institution. In such a case, the health care professional is required, under continuing law, to make the report to the State Highway Patrol.[1]

Under continuing law, a PCSA is a county agency that administers child welfare services. A peace officer is a sheriff, deputy sheriff, constable, police officer, marshal, deputy marshal, or State Highway Patrol trooper.[2]

Evidence available to law enforcement

The bill adds that any law enforcement agency that is investigating a report of abuse or neglect must be provided, on request, any additional reports of medical examinations, tests, or procedures that were performed on the child for the purpose of treating or diagnosing the alleged abuse or neglect. Existing law requires only that these additional reports be provided to the PCSA. Further, the bill creates an exemption for law enforcement investigation of a report of child abuse or neglect, to the continuing law provision that such medical examinations, tests, or procedures do not constitute a law enforcement investigation or activity.[3]

Criminal liability

The bill adds the criminal mental state of acting *knowingly* to the prohibition on a mandatory reporter failing to immediately report known or suspected child abuse or neglect.[4] Therefore, to be criminally liable under the bill, the person must have knowingly failed to immediately report.[5] A person acts knowingly when the person is aware that their conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist. When knowledge of the existence of a particular fact is an element of an offense, such knowledge is

[1] R.C. 2151.421(A); Section 3; R.C. 5120.173, not in the bill.

[2] R.C. 2151.421(O)(4); R.C. 5120.173, 5153.01(A), and 5153.02, not in the bill.

[3] R.C. 2151.421(D)(2) and (5).

[4] Ohio law requires, for criminal offenses created after March 23, 2015, that the law specify the degree of mental culpability required for commission of the offense (R.C. 2901.20).

[5] R.C. 2151.421(A)(1) and (4).

established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.[6]

A mandatory reporter who knowingly fails to immediately report known or suspected child abuse or neglect is guilty of a fourth degree misdemeanor. A reporter is guilty of a first degree misdemeanor, however, if the known or suspected child abuse or neglect occurs while the child is under the direct care or supervision of the reporter acting in an official or professional capacity, or another person over whom the reporter has supervisory control, and the reporter knowingly did not report.

Additionally, the bill makes it a first degree misdemeanor if a health care professional reports only to a peace officer or to a PCSA, but not both.[7] A fourth degree misdemeanor is punishable by up to 30 days in jail and a fine of up to $250. A first degree misdemeanor is punishable by up to 180 days in jail and a fine of up to $1,000.[8]

Civil liability

A mandatory reporter who fails to report known or suspected child abuse or neglect is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was not made. The bill extends this liability to include a health care professional who fails to report known or suspected abuse or neglect to both a peace officer and the PCSA.[9]

Law enforcement notification

Continuing law requires a PCSA that receives a report of child abuse or neglect from either a mandatory reporter or a permissive reporter to notify the appropriate law enforcement agency if it has received either (1) a child abuse report or (2) a child neglect report if the PCSA implements a legally authorized out-of-home placement due to the neglect. The notification is not required if an arrest is made at the time of a report that results in the appropriate law enforcement agency being contacted concerning the possible child abuse or neglect or threat of child abuse or neglect. DCY rules require the PCSA to notify law enforcement within seven days of screening the report. The bill narrows that timeframe and requires the PCSA to notify the appropriate law enforcement agency of the report promptly, but no later than 48 hours after receiving the report.[10]

[6] R.C. 2901.22(B).

[7] R.C. 2151.99(A)(2) and (C).

[8] R.C. 2929.24(A) and 2929.28(A)(2)(a), not in the bill.

[9] R.C. 2151.421(M).

[10] R.C. 2151.421(E)(2)(c); Ohio Administrative Code 5180:2-36-12(C).

HISTORY

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