

CHAPTER NO. 351

SENATE BILL NO. 983

By Haynes, Person, Jackson, Dixon, Burks

Substituted for: House Bill No. 817

By McMillan, Caldwell, Buttry, Newton, Windle, Pruitt, Fowlkes, Briley, Sands, Sherry
Jones, Arriola, Odom, Brown, Langster

AN ACT To amend Tennessee Code Annotated, Title 37, Chapter 1, Part 4, relative to mandatory child abuse reports.

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

SECTION 1. Tennessee Code Annotated, Section 37-1-403, is amended by deleting subsection (a) and by substituting instead the following:

(a)(1) Any person who has knowledge of or is called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition shall report such harm immediately if the harm is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or that, on the basis of available information, reasonably appears to have been caused by brutality, abuse or neglect.

(2) Any such person with knowledge of the type of harm described in subsection (a) shall report it, by telephone or otherwise, to the:

(A) Judge having juvenile jurisdiction over the child;

(B) County office of the department;

(C) Sheriff of the county where the child resides; or

(D) Chief law enforcement official of the municipality where the child resides.

(3) If any such person knows or has reasonable cause to suspect that a child has been sexually abused, the person shall report such information in accordance with § 37-1-605, relative to the sexual abuse of children, regardless of whether such person knows or believes that the child has sustained any apparent injury as a result of such abuse.

SECTION 2. Tennessee Code Annotated, Section 37-1-410, is amended by deleting subsection (a) and substituting instead the following:

(a)(1) IF a health care provider makes a report of harm, as required by the provisions of § 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; THEN

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

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

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

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

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

(3) Nothing in this subsection 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.

(4)(A) IF absolute immunity is not conferred upon a person pursuant subdivision (1); AND

IF, acting in good faith, the person makes a report of harm, as required by the provisions of § 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 such 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 shall be presumed to have acted in good faith in making a report of harm.

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

(6) A person furnishing a report, information or records as required or authorized under the provisions of 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 the provisions of this subsection upon such person for making the report of harm.

(7) If the person furnishing a report, information or records during the normal course of such person's duties as required or authorized under the provisions of this part is different than the person originally reporting the harm, then the person furnishing such report, information or records 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 the provisions of this subsection upon the person who made the original report of harm.

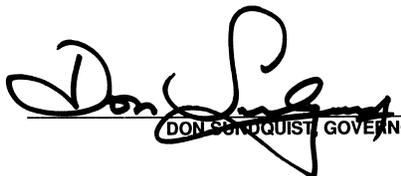
SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 29, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 7th day of June 2001


DON SUNDQUIST, GOVERNOR