

simple appeal. A motion for a new trial shall not be required for such an appeal.

History.

Acts 1978, ch. 750, § 21; T.C.A., § 37-1721.

37-1-322. Promulgation of rules by supreme court — Release of petitioner on bail or temporary custody.

(a) The supreme court may promulgate rules of practice and procedure consistent with this part, including rules prescribing the form and contents of the petition, the preparation and filing of the record and assignments of error for simple appeal and for delayed appeal in the nature of a writ of error and may make petition forms available for use by petitioners.

(b) When an appeal to the circuit court or a delayed appeal in the nature of a writ of error from the judgment of such court is granted pursuant to § 37-1-319, release on bail or temporary custody placement within the jurisdiction shall be discretionary with the circuit court judge pending further proceedings. In all other cases, the petitioner shall not be entitled to bail.

History.

Acts 1978, ch. 750, § 22; T.C.A., § 37-1722.

PART 4

MANDATORY CHILD ABUSE REPORTS

37-1-401. Part definitions.

As used in this part, unless the context otherwise requires:

- (1) "Child" means a person who is under eighteen (18) years of age or who is reasonably presumed to be under eighteen (18) years of age;
- (2) "Department" means the department of children's services; and
- (3) "Report of harm" means a report filed under § 37-1-403.

History.

Acts 1973, ch. 81, § 1; impl. am. Acts 1975, ch. 219, § 1; T.C.A., § 37-1201; Acts 1987, ch. 145, § 25; 1988, ch. 964, § 4; 1996, ch. 1079, § 73.

37-1-402. Purpose and construction of part.

(a) The purpose of this part is to protect children whose physical or mental health and welfare are adversely affected by brutality, abuse or neglect by requiring reporting of suspected cases by any person having cause to believe that such case exists. It is intended that, as a result of such reports, the protective services of the state shall be brought to bear on the situation to prevent further abuses, to safeguard and enhance the welfare of children, and to preserve family life. This part shall be administered and interpreted to provide the greatest possible protection as promptly as possible for children.

(b) Except as expressly herein provided, this part shall not be construed as repealing any provision of any

other statute but shall be supplementary thereto and cumulative thereof.

History.

Acts 1973, ch. 81, § 1; 1974, ch. 538, § 2; 1977, ch. 343, § 4; T.C.A., §§ 37-1202, 37-1212, 37-1213.

37-1-403. Reporting of brutality, abuse, neglect or child sexual abuse — Notification to parents of abuse on school grounds or under school supervision — Confidentiality of records.

(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 this subsection (a) shall report it, by telephone or otherwise, to the:

(A) Judge having juvenile jurisdiction over the child;

(B) Department, in a manner specified by the department, either by contacting a local representative of the department or by utilizing the department's centralized intake procedure, where applicable;

(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.

(b) The report shall include, to the extent known by the reporter, the name, address, telephone number and age of the child, the name, address, and telephone number of the person responsible for the care of the child, and the facts requiring the report. The report may include any other pertinent information.

(c)(1) If a law enforcement official or judge becomes aware of known or suspected child abuse, through personal knowledge, receipt of a report, or otherwise, such information shall be reported to the department immediately upon the receipt of such information, and, where appropriate, the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(2) A law enforcement official or judge who knows or becomes aware of a person who is convicted of a violation of § 55-10-401 and sentenced under § 55-10-402(b), because such person was at the time of the

offense accompanied by a child under eighteen (18) years of age, shall report such information, as provided in subdivision (c)(1), and the department shall consider such information to be appropriate for investigation in the same manner as other reports of suspected child abuse or neglect.

(3)(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

(d) Any person required to report or investigate cases of suspected child abuse who has reasonable cause to suspect that a child died as a result of child abuse shall report such suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report the medical examiner's findings, in writing, to the local law enforcement agency, the appropriate district attorney general, and the department. Autopsy reports maintained by the medical examiner shall not be subject to the confidentiality requirements provided for in § 37-1-409.

(e) Reports involving known or suspected institutional child sexual abuse shall be made and received in the same manner as all other reports made pursuant to Acts 1985, ch. 478, relative to the sexual abuse of children. Investigations of institutional child sexual abuse shall be conducted in accordance with § 37-1-606.

(f) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any sexually transmitted disease set out in § 68-10-112, or venereal herpes and chlamydia, in children thirteen (13) years of age or younger, and every superintendent or manager of a clinic, dispensary or charitable or penal institution, in which there is a case of any of the diseases, as set out in this subsection (f), in children thirteen (13) years of age or younger shall report the case immediately, in writing on a form supplied by the department of health to that department. If the reported cases are confirmed and if sexual abuse is suspected, the department of health will report the case to the department of children's services. The department of children's services will be responsible for any necessary follow-up.

(g) Every physician or other person who makes an initial diagnosis of pregnancy to an unemancipated minor, and every superintendent or manager of a clinic, dispensary or charitable or penal institution in which

there is a case of an unemancipated minor who is determined to be pregnant, shall provide to the minor's parent, if the parent is present, and the minor consents, any readily available written information on how to report to the department of children's services an occurrence of sex abuse that may have resulted in the minor's pregnancy, unless disclosure to the parent would violate the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. § 1320d et seq., or the regulations promulgated pursuant to the act.

(1) Failure to provide the written information shall not subject a person to the penalty provided by § 37-1-412.

(2) The department of children's services shall provide to the department of health the relevant written information. The department of health shall distribute copies of the written information to all licensees of the appropriate health-related boards through the boards' routinely issued newsletters. At the time of initial licensure, these boards shall also provide new licensees a copy of the relevant written information for distribution pursuant to this subsection (g).

(h) Nothing in this section shall be construed to prohibit any hospital, clinic, school, or other organization responsible for the care of children, from developing a specific procedure for internally tracking, reporting, or otherwise monitoring a report made by a member of the organization's staff pursuant to this section, including requiring a member of the organization's staff who makes a report to provide a copy of or notice concerning the report to the organization, so long as the procedure does not inhibit, interfere with, or otherwise affect the duty of a person to make a report as required by subsection (a). Nothing in this section shall prevent staff of a hospital or clinic from gathering sufficient information, as determined by the hospital or clinic, in order to make an appropriate medical diagnosis or to provide and document care that is medically indicated, and is needed to determine whether to report an incident as defined in this part. Those activities shall not interfere with nor serve as a substitute for any investigation by law enforcement officials or the department; provided, that, if any hospital, clinic, school or other organization responsible for the care of children develops a procedure for internally tracking, reporting or otherwise monitoring a report pursuant to this section, the identity of the person who made a report of harm pursuant to this section or § 37-1-605 shall be kept confidential.

(i)(1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the department of children's services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

(2) Notwithstanding § 37-5-107 or § 37-1-612 or any other law to the contrary, if a school teacher,

school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future wellbeing of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services, judge or law enforcement; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(3) Once notice is given pursuant to subdivision (i)(2), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (i)(3) shall not include records of other agencies or departments.

(4) For purposes of this subsection (i), "school" means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

History.

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 1; 1978, ch. 886, § 2; T.C.A., § 37-1203; Acts 1985, ch. 478, §§ 26, 32, 40; 1987, ch. 145, § 10; 1994, ch. 901, § 2; 1996, ch. 1079, § 73; 2001, ch. 351, § 1; 2005, ch. 185, §§ 1, 2, 3; 2005, ch. 437, § 2; 2006, ch. 843, § 1; 2007, ch. 305, § 1; 2008, ch. 1011, § 1; 2009, ch. 283, §§ 2, 3; 2009, ch. 358, § 2; 2010, ch. 979, §§ 1-4; 2013, ch. 154, § 31.

Compiler's Notes.

For codification of Acts 1985, ch. 478, see Session Law Disposition Tables in Volume 13 of the Tennessee Code Annotated.

Acts 2008, ch. 1011, § 4 provided that the state board of education, acting in consultation with the department of children's services, is authorized to promulgate rules and regulations to effectuate the purposes of the act, which added subsection (i). The rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

37-1-404. Retention of custody of child by hospital or physician — Protective custody.

(a) Any person in charge of a hospital or similar institution or any physician treating a child may keep that child in custody until the next regular weekday session of the juvenile court without the consent of the parents, legal guardian or legal custodian, whether or not additional medical treatment is required, if the circumstances are such, or if the condition of the child is such, that continuing the child in the child's place of residence or in the care or custody of the parents, legal guardian, or legal custodian presents an imminent danger to the child's life or physical or mental health.

(b) Any person taking a child into protective custody shall immediately notify the department, whereupon the department shall immediately begin a child protective investigation in accordance with the provisions of § 37-1-606, and shall make every reasonable effort to immediately notify the parents, legal guardian or legal custodian that such child has been taken into protective custody.

(c) If the department determines, according to the criteria set forth in § 37-1-114, that the child should remain in protective custody longer than the next regular weekday session of the juvenile court, it shall petition the court for an order authorizing such custody in the same manner as if the child were placed in a shelter.

(d) The department shall attempt to avoid the placement of a child in an institution whenever possible.

History.

Acts 1973, ch. 81, § 1; 1975, ch. 3, § 1; T.C.A., § 37-1204; Acts 1987, ch. 145, § 8.

37-1-405. Reference of reported cases to local director — Notice to judge.

(a)(1) All cases reported to the juvenile court judge or to state or local law enforcement officers shall be referred immediately to the local director of the county office of the department for investigation.

(2) If the court or law enforcement officer finds that there are reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from the child's surroundings and that the child's removal is necessary, appropriate protective action shall be taken under part 1 of this chapter.

(b)(1) The county office of the department or the office of the sheriff or the chief law enforcement official of the municipality where the child resides, upon receipt of a report of harm or sexual abuse, shall give notice of the report to the judge having juvenile jurisdiction where the child resides.

(2) If the case appears to involve severe child abuse as defined in § 37-1-102, including child sexual abuse, the county director of the department shall immediately notify and consult with the district