

(iii) Abandonment of a child under the age of eight (8);

(iv) Lack of care that results in a life-threatening condition or hospitalization; or

(v) Inaction of the parent resulting in serious physical injury;

(E) Any report of harm alleging facts that would result in the removal of a child from the home pursuant to department policy or rule;

(F) Any report of harm alleging facts that involve a caretaker at any institution, including, but not limited to, any licensed day care center, public or private school, or hospital; or

(G) Any report of harm alleging facts that, if proved, would constitute any other class of injury identified by the department through policy or rule as necessitating investigation.

(2) If a local law enforcement agency or district attorney general assisting the department under this subsection (m) decides not to proceed with prosecution or terminates prosecution after undertaking it, the agency or district attorney general shall make a written report on a standardized check-off form developed by the department and the Tennessee district attorneys general conference to the department and the juvenile court on the basis for its decision. The department shall compile such reports and present them to the judiciary committee of the senate and the civil justice committee of the house of representatives as part of its report pursuant to the multi-level response system for children and families, compiled in chapter 5, part 6 of this title. The department shall make quarterly reports to local law enforcement agencies and district attorneys general as to the number and types of cases the department is handling in their jurisdictions on the basis of reports of harm or sexual abuse or of children at risk of being so harmed or sexually abused.

(n) If the report of child abuse alleges physical abuse, it shall be in the best interest of the child that the child be referred to a child advocacy center or that the investigation be conducted by a child protective services investigator who is adequately trained in investigating physical abuse reports. Under no circumstances shall the investigation be performed by a probation officer previously assigned to the child.

**History.**

Acts 1985, ch. 478, § 41; 1987, ch. 145, §§ 6, 7, 18, 19, 21, 31; 1988, ch. 964, § 2; 2004, ch. 740, §§ 2, 3; 2005, ch. 391, § 10; 2009, ch. 336, § 1; 2011, ch. 410, § 3(e); 2012, ch. 888, § 1; 2013, ch. 236, § 21.

**Compiler's Notes.**

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

For the Preamble to the act concerning the prohibition against establishment of a special committee if there is a standing committee on the same subject, please refer to Acts 2011, ch. 410.

**37-1-407. [Repealed.]**

**Compiler's Notes.**

Former § 37-1-407 (Acts 1977, ch. 343, § 4; 1978, ch. 886, § 3; T.C.A., § 37-1207; Acts 1996, ch. 1079, § 73), concerning child abuse

review teams, was repealed by Acts 2009, ch. 238, § 1, effective May 20, 2009.

**37-1-408. [Repealed.]**

**Compiler's Notes.**

Former § 37-1-408 (Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; T.C.A., §§ 37-1207, 37-1208; Acts 1985, ch. 478, § 40; 1987, ch. 145, §§ 22, 28-30, 32; 1988, ch. 964, § 1; 1992, ch. 833, § 1; 1996, ch. 1079, § 73), concerning the screening of child care providers by the state registry, was repealed by Acts 2000, ch. 981, § 17, effective July 1, 2000.

**37-1-409. Reports confidential — Authorized access to information — Penalty for violation.**

(a)(1) Except as otherwise provided by this section and §§ 37-1-612 and 37-5-107, reports of harm made under this part and the identity of the reporter are confidential, except when the juvenile court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to an indictment or conviction.

(2) Except as may be ordered by the juvenile court as herein provided, the name of any person reporting child abuse shall not be released to any person, other than employees of the department or other child protection team members responsible for child protective services, the abuse registry, or the appropriate district attorney general upon subpoena of the Tennessee bureau of investigation, without the written consent of the person reporting. Such person's identity shall be irrelevant to any civil proceeding and shall, therefore, not be subject to disclosure by order of any court. This shall not prohibit the subpoenaing of a person reporting child abuse when deemed necessary by the district attorney general or the department to protect a child who is the subject of a report; provided, that the fact that such person made the report is not disclosed.

(b) Except as otherwise provided in this part, it is unlawful for any person, except for purposes directly connected with the administration of this part, to disclose, receive, make use of, authorize or knowingly permit, participate in, or acquiesce in the use of any list or the name of, or any information concerning, persons receiving services pursuant to this part, or any information concerning a report or investigation of a report of harm under this part, directly or indirectly derived from the records, papers, files or communications of the department or divisions thereof acquired in the course of the performance of official duties.

(c) In addition to such other purposes as may be directly connected with the administration of this part, the department shall also grant access to information to those persons specified in § 37-1-612.

(d) The department may confirm whether a child abuse or neglect investigation has been commenced, but may not divulge, except as permitted under this part, any details about the case, including, but not limited to, the name of the reporter, the alleged victim, or the alleged perpetrator.

(e) The department shall adopt such rules as may be necessary to carry out the following purposes:

(1) The establishment of administrative and due process procedures for the disclosure of the contents of its files and the results of its investigations for the purpose of protecting children from child sexual abuse, physical abuse, emotional abuse, or neglect; and

(2) For other purposes directly connected with the administration of this chapter, including, but not limited to, cooperation with schools, child care agencies, residential and institutional child care providers, child protection agencies, individuals providing care or protection for the child, medical and mental health personnel providing care for the child and the child's family and the perpetrator of any form of child abuse or neglect, law enforcement agencies, the judicial and correctional systems, and for cooperation with scientific and governmental research on child abuse and neglect.

(f) Except as specifically provided in this chapter, nothing in this chapter shall prevent the department from sharing information with the district attorney general and law enforcement personnel for the purpose of cooperating with a law enforcement investigation. Information from departmental records that is shared with the district attorney general or law enforcement by the department shall remain confidential to the same extent that information not shared with the district attorney general and law enforcement is confidential. Unless otherwise ordered by a court, or to the extent that such information is used for criminal prosecution, or to the extent required under the Tennessee rules of criminal procedure after criminal charges have been filed, any portion of shared information that does not become part of a court record shall remain confidential to the same extent as information not shared by the department remains confidential.

(g) A violation of this section is a Class B misdemeanor.

**History.**

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; Acts 1978, ch. 886, § 4; T.C.A., §§ 37-1208, 37-1209; Acts 1985, ch. 478, § 42; 1987, ch. 145, §§ 15, 23; 1988, ch. 964, § 3; 1989, ch. 591, § 112; 2000, ch. 981, § 51; 2005, ch. 391, § 11; 2008, ch. 1146, § 3; 2009, ch. 358, § 3.

**37-1-410. Immunity from civil or criminal liability for reporting abuse — Damages for employment change because of making report.**

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

IF the health care provider who is highly qualified by experience in the field of child abuse and neglect, as evidenced by special training or credentialing, renders a second opinion at the request of the department or any law enforcement agency, whether or not the health care provider has examined the child, rendered care or treatment, or made the report of

harm; THEN

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

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

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

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

(D) The fact that an opinion as described in this subdivision (a)(1) was requested and provided.

(2) For the purposes of this subsection (a), by providing a second opinion, a report, information or records at the request of the department or any law enforcement agency the health care provider has satisfied all requirements to make a report of harm as required by §§ 37-1-403 and 37-1-605.

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

(4) Nothing in this subsection (a) 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.

(5)(A) IF absolute immunity is not conferred upon a person pursuant to subdivision (a)(1); AND IF, acting in good faith, the person makes a report of harm, as required by § 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 the 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 (a)(5) shall be presumed to have acted in good faith in making a report of harm.

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

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

(8) If the person furnishing a report, information or records during the normal course of the person's duties as required or authorized or requested under this part is different from the person originally reporting the harm, then the person furnishing the