

1 SB392
2 213101-1
3 By Senator Chambliss
4 RFD: Children, Youth and Human Services
5 First Read: 13-APR-21

SYNOPSIS: Existing law provides for the reporting and investigation of reports of child abuse or neglect by local law enforcement agencies or the Department of Human Resources.

This bill would require oral and written reports of suspected incidents of child abuse and neglect to both local law enforcement agencies and the Department of Human Resources.

This bill would also require local law enforcement agencies to investigate reports of criminal abuse and neglect of children and would require the Department of Human Resources to investigate all other reports.

A BILL
TO BE ENTITLED
AN ACT

Relating to child abuse and neglect; to amend Sections 26-14-1 and 26-14-3, Code of Alabama 1975, to require

1 reports of suspected abuse or neglect of a child to be made to
2 both local law enforcement and the Department of Human
3 Resources; and to delegate investigative duties of reports of
4 abuse or neglect of a child between local law enforcement and
5 the Department of Human Resources.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Sections 26-14-1 and 26-14-3, Code of
8 Alabama 1975, are amended to read as follows:

9 "§26-14-1.

10 "For the purposes of this chapter, the following
11 terms shall have the meanings respectively ascribed to them by
12 this section:

13 "(1) ABUSE. Harm or threatened harm to a child's
14 health or welfare. Harm or threatened harm to a child's health
15 or welfare can occur through nonaccidental physical or mental
16 injury, sexual abuse or attempted sexual abuse, or sexual
17 exploitation or attempted sexual exploitation. Sexual abuse
18 includes the employment, use, persuasion, inducement,
19 enticement, or coercion of any child to engage in, or having a
20 child assist any other person to engage in, any sexually
21 explicit conduct or any simulation of the conduct for the
22 purpose of producing any visual depiction of the conduct; or
23 the rape, molestation, prostitution, or other form of sexual
24 exploitation of children, or incest with children as those
25 acts are defined by Alabama law. Sexual exploitation includes
26 allowing, permitting, or encouraging a child to engage in
27 prostitution and allowing, permitting, encouraging, or

1 engaging in the obscene or pornographic photographing,
2 filming, or depicting of a child for commercial purposes.

3 ~~"(2)(3)~~ NEGLECT. Negligent treatment or maltreatment
4 of a child, including the failure to provide adequate food,
5 medical treatment, supervision, clothing, or shelter.

6 ~~"(3)(2)~~ CHILD. Either of the following:

7 "a. A person under the age of 18 years.

8 "b. A person under the age of 19 years who is in
9 need of protective services and does not qualify for adult
10 protective services under Chapter 9 of Title 38.

11 ~~"(4) DULY CONSTITUTED AUTHORITY. The chief of police~~
12 ~~of a municipality or municipality and county; or the sheriff,~~
13 ~~if the observation of child abuse or neglect is made in an~~
14 ~~unincorporated territory; or the Department of Human~~
15 ~~Resources; or any person, organization, corporation, group, or~~
16 ~~agency authorized and designated by the Department of Human~~
17 ~~Resources to receive reports of child abuse and neglect;~~
18 ~~provided, that a duly constituted authority shall not include~~
19 ~~an agency involved in the acts or omissions of the reported~~
20 ~~child abuse or neglect.~~

21 "§26-14-3.

22 "(a) All hospitals, clinics, sanitariums, doctors,
23 physicians, surgeons, medical examiners, coroners, dentists,
24 osteopaths, optometrists, chiropractors, podiatrists, physical
25 therapists, nurses, public and private K-12 employees, school
26 teachers and officials, peace officers, law enforcement
27 officials, pharmacists, social workers, day care workers or

1 employees, mental health professionals, employees of public
2 and private institutions of postsecondary and higher
3 education, members of the clergy as defined in Rule 505 of the
4 Alabama Rules of Evidence, or any other person called upon to
5 render aid or medical assistance to any child, when the child
6 is known or suspected to be a victim of child abuse or
7 neglect, shall be required to report orally, either by
8 telephone or direct communication immediately, and shall be
9 followed by a written report, to ~~a duly constituted authority~~
10 the Department of Human Resources and to the local law
11 enforcement agency having jurisdiction where the child abuse
12 or neglect is observed. A local law enforcement agency
13 receiving any report, pursuant to this subsection, of alleged
14 criminal conduct shall investigate the report. The Department
15 of Human Resources shall investigate all other reports.

16 "(b) (1) When an initial report is made to a law
17 enforcement official, the official subsequently shall inform
18 the Department of Human Resources of the report so that the
19 department can carry out its responsibility to provide
20 protective services when deemed appropriate to the respective
21 child or children.

22 "(2) As soon as is practicable after a report of
23 known or suspected child abuse or neglect is made, the
24 Department of Human Resources shall make efforts to determine
25 the military status of the parent or guardian of the child who
26 is the subject of the child abuse or neglect allegation.

1 "(3) If the Department of Human Resources determines
2 that a parent or guardian under subdivision (2) is in the
3 military, the department shall notify a United States
4 Department of Defense family advocacy program at the military
5 installation of the parent or guardian that there is an
6 allegation of child abuse or neglect that is being
7 investigated that involves a child of the military parent or
8 guardian.

9 "(c) When the Department of Human Resources receives
10 initial reports of suspected abuse or neglect, as defined in
11 Section 26-14-1, including suspected abuse or neglect
12 involving discipline or corporal punishment committed in a
13 public or private school or suspected abuse or neglect in a
14 state-operated child residential facility, the Department of
15 Human Resources shall transmit a copy of school reports to the
16 law enforcement agency and residential facility reports to the
17 law enforcement agency and the operating state agency which
18 shall conduct the investigation. When the investigation is
19 completed, a written report of the completed investigation
20 shall contain the information required by the state Department
21 of Human Resources which shall be submitted by the law
22 enforcement agency or the state agency to the county
23 department of human resources for entry into the state's
24 central registry.

25 "(d) Nothing in this chapter shall preclude
26 interagency agreements between departments of human resources,
27 law enforcement, and any other state agencies on procedures

1 for investigating reports of suspected child abuse and neglect
2 to provide for departments of human resources to assist law
3 enforcement and other state agencies in these investigations.

4 "(e) Any provision of this section to the contrary
5 notwithstanding, if any agency or authority investigates any
6 report pursuant to this section and the report does not result
7 in a conviction, the agency or authority shall expunge any
8 record of the information or report and any data developed
9 from the record.

10 "(f) Subsection (a) to the contrary notwithstanding,
11 a member of the clergy shall not be required to report
12 information gained solely in a confidential communication
13 privileged pursuant to Rule 505 of the Alabama Rules of
14 Evidence which communication shall continue to be privileged
15 as provided by law.

16 "(g) Commencing on August 1, 2013, a public or
17 private employer who discharges, suspends, disciplines, or
18 penalizes an employee solely for reporting suspected child
19 abuse or neglect pursuant to this section shall be guilty of a
20 Class C misdemeanor."

21 Section 2. This act shall become effective on the
22 first day of the third month following its passage and
23 approval by the Governor, or its otherwise becoming law.