

LEGISLATIVE BILL 119

Approved by the Governor May 9, 1997

Introduced by Janssen, 15; Schimek, 27

AN ACT relating to child abuse; to amend sections 28-713.01 and 28-726, Reissue Revised Statutes of Nebraska, and sections 28-710 and 28-713, Revised Statutes Supplement, 1996; to provide procedures regarding cases of out-of-home abuse or neglect; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 28-710, Revised Statutes Supplement, 1996, is amended to read:

28-710. For purposes of sections 28-710 to 28-727, unless the context otherwise requires:

(1) ~~Department shall mean the Department of Health and Human Services;~~

~~(2) Law enforcement agency shall mean the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol; and~~

~~(3) Abuse or neglect shall mean means knowingly, intentionally, or negligently causing or permitting a minor child to be:~~

(a) Placed in a situation that endangers his or her life or physical or mental health;

(b) Cruelly confined or cruelly punished;

(c) Deprived of necessary food, clothing, shelter, or care;

(d) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(e) Sexually abused; or

(f) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

~~(2) Department means the Department of Health and Human Services;~~

~~(3) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol; and~~

~~(4) Out-of-home abuse or neglect means abuse or neglect occurring in day care homes, foster homes, day care centers, group homes, and other child care facilities or institutions.~~

Sec. 2. Section 28-713, Revised Statutes Supplement, 1996, is amended to read:

28-713. ~~(1)~~ Upon the receipt of a call reporting abuse and neglect as required by section 28-711:

~~(1) It is - it shall be the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect. The law enforcement agency may request assistance from the Department of Health and Human Services during the investigation and shall, by the next working day, notify either the hotline or the appropriate child protective services unit of the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department.~~

~~(2) In situations of alleged out-of-home abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report to determine the risk of harm to the child involved. The department shall also provide such social~~

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services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family; -

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances; -

(4) The department shall, by the next working day after receiving a report under subsection subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the central registry all reports opened for investigation of abuse or neglect and any action taken; and -

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected abuse or neglect.

Sec. 3. Section 28-713.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-713.01. Upon completion of the investigation pursuant to section 28-713:

(1) In situations of alleged out-of-home abuse or neglect, the person or persons having custody of the allegedly abused or neglected child or children shall be given written notice of the results of the investigation and any other information the law enforcement agency or department deems necessary. Such notice and information shall be sent by first-class mail; and

(2) The - the subject of the report shall be given written notice of the determination of the case and whether he or she the subject of the report will be entered into the central register pursuant to subdivision (1), (2), or (3) of section 28-720.

Such notice to the subject shall be sent by certified mail to the subject's last-known address and shall include:

(1) (a) The nature of the report;
(2) (b) The classification of the report; and
(3) (c) Notification of the subject's right to a hearing and appeal in accordance with section 28-723.

Sec. 4. Section 28-726, Reissue Revised Statutes of Nebraska, is amended to read:

28-726. Except as provided in this section and section 28-722, no person, official, or agency shall have access to such records unless in furtherance of purposes directly connected with the administration of sections 28-710 to 28-727. Such persons, officials, and agencies having access to such records shall include, but not be limited to:

(1) A law enforcement agency investigating a report of known or suspected abuse or neglect;

(2) A county attorney in preparation of an abuse, neglect, or termination petition;

(3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;

(4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of a report;

(5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report shall be made available to the researcher or auditor;

(6) The State Foster Care Review Board when the records relate to a child in a foster care placement as defined in section 43-1301. The records provided to the state board shall not include the name or identity of any person making a report of suspected child abuse or neglect; and

(7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as amended, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and

(8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home abuse or neglect.

Sec. 5. Original sections 28-713.01 and 28-726, Reissue Revised Statutes of Nebraska, and sections 28-710 and 28-713, Revised Statutes Supplement, 1996, are repealed.