

T. C. A. § 37-1-403



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West's Tennessee Code Annotated [Currentness](#)

Title 37. Juveniles

[Chapter 1](#). Juvenile Courts and Proceedings

[Part 4](#). Mandatory Child Abuse Reports ([Refs & Annos](#))

**→ § 37-1-403. Persons required to report; contents of report**

(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.

(b) If a hospital, clinic, school, or any other organization responsible for the care of children has a specific procedure, approved by the director of the county office of the department, for the protection of children who are victims of brutality, abuse or neglect, any member of its staff whose duty to report under the preceding sentence arises from the performance of services as a member of the staff of the organization may, at the staff member's option, fulfill that duty by reporting instead to the person in charge of the organization or such person's designee who shall make the report in accordance with the preceding sentence.

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

(d) 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 and where appropriate the child protective team shall be notified to investigate the report for the protection of the child in accordance with the provisions of this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(e) 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

T. C. A. § 37-1-403

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](#).

(f) 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 the provisions of [§ 37-1-606](#).

(g) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any venereal disease set out in [§ 68-10-101](#), 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, 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.

1973 Pub.Acts, c. 81, § 1; 1977 Pub.Acts, c. 343, § 1; 1978 Pub.Acts, c. 886, § 2; 1985 Pub.Acts, c. 478, § § 26, 32, 40; 1987 Pub.Acts, c. 145, § 10; [1994 Pub.Acts, c. 901, § 2, eff. May 9, 1994](#); [1996 Pub.Acts, c. 1079, § 73, eff. May 21, 1996](#); [2001 Pub.Acts, c. 351, § 1, eff. June 7, 2001](#).

**Formerly** § 37-1203.

#### HISTORICAL AND STATUTORY NOTES

2001 Pub.Acts, c. 351, § 1, rewrote subsec. (a), which previously read:

"(a) Any person, including, but not limited to, any:

"(1) Physician, osteopathic physician, medical examiner, chiropractor, nurse or hospital personnel engaged in the admission, examination, care or treatment of persons;

"(2) Health or mental health professional other than one listed in subdivision (a)(1);

"(3) Practitioner who relies solely on spiritual means for healing;

"(4) School teacher or other school official or personnel;

"(5) Judge of any court of the state;

"(6) Social worker, day care center worker, or other professional child care, foster care, residential or institutional worker;

"(7) Law enforcement officer; or

"(8) Neighbor, relative, friend or any other person;

"having knowledge of or called upon to render aid to any child who is suffering from or has sustained any wound, injury, disability, or physical or mental condition which is of such a nature as to reasonably indicate that it has been caused by brutality, abuse or neglect or which on the basis of available information reasonably appears to have been caused by brutality, abuse or neglect, shall report such harm immediately, by telephone or otherwise, to the judge having juvenile jurisdiction or to the county office of the department or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Any person, including a judge of any court of this state, who knows or has reasonable cause to suspect that a child has been sexually abused shall report such information in accordance with Acts 1985, ch. 478, relative to the sexual abuse of children, regardless of whether

T. C. A. § 37-1-403

such person knows or believes that the child has sustained any apparent injury as a result of such abuse."

#### CROSS REFERENCES

Child pregnancy, alleged father at least four years older than victim, report, see [§ 38-1-302](#).

Child sexual abuse, generally, see [§ 37-1-601](#) et seq.

Department of children's services, powers, see [§ 37-5-106](#).

Department of children's services, "report of harm" defined, see [§ 37-5-103](#).

Family violence shelters and child abuse prevention services, requirements for receipt of funds, see [§ 71-6-204](#).

Health care facilities, reporting of unusual events resulting in death, life threatening or serious injury to patient, not related to patient's underlying condition, see [§ 68-11-211](#).

Health care providers, injuries required to be reported, see [§ 38-1-101](#).

#### LAW REVIEW AND JOURNAL COMMENTARIES

Chilling Child Abuse Reporting: Rethinking the CAPTA Amendments. Caroline T. Trost, [51 Vand. L. Rev. 183 \(1998\)](#).

Protecting Our Most Vulnerable Citizens: New Guidelines Clarify, Strengthen Mission for Guardians Ad Litem. Andy Shookhoff and Susan L. Brooks, [38 Tenn. B.J. 12 \(June 2002\)](#).

#### LIBRARY REFERENCES

##### Key Numbers

Infants  17, 133.

Westlaw Key Number Searches: 211k17; 211k133.

##### Corpus Juris Secundum

C.J.S. Criminal Law § 2008.

[C.J.S. Infants § § 8](#) to [9](#), [57](#), [69](#) to [85](#).

#### RESEARCH REFERENCES

##### Encyclopedias

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to Report Child Abuse.

##### Treatises and Practice Aids

[13 Causes of Action 2d 1](#), Cause of Action Under State Law Against Public School for Sexual Harassment of Student by School Personnel or Other Student.

[Tenn. Prac., Criminal Practice & Proc. § 28.119](#), Omission-No Duty to Act.

#### UNITED STATES CODE ANNOTATED

T. C. A. § 37-1-403

Child Abuse Prevention and Treatment Act, see [42 U.S.C.A. § 5101](#) et seq.

Victims of Child Abuse Act of 1990, see [42 U.S.C.A. § 13001](#) et seq.

UNITED STATES SUPREME COURT

*Child sexual abuse,*

Child sexual abuse, rebuttal of charges of recent fabrication or improper motive, consistent out-of-court statements postdating alleged fabrication, see [Tome v. U.S., 1995, 115 S.Ct. 696, 513 U.S. 150, 130 L.Ed.2d 574](#), on remand [61 F.3d 1446](#).

Confrontation clause, hearsay statements of child sexual abuse victims, guarantees of trustworthiness, see [Idaho v. Wright, 1990, 110 S.Ct. 3139, 497 U.S. 805, 111 L.Ed.2d 638](#).

NOTES OF DECISIONS

**Conflict of laws** [3](#)

**Failure to report brutality, neglect or abuse** [2](#)

**Immunity from liability** [1](#)

**Jury instructions** [5](#)

**Questions for jury** [4](#)

[1](#). Immunity from liability

Tennessee statute imposing criminal liability for failure to report suspicions of child abuse provides that person reporting harm shall be presumed to be acting in good faith created immunity from any liability, civil or criminal, for diagnosis, reporting, and subsequent communications with state officials about medical diagnosis rendered by physicians. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(1\)](#)

Evidence that physicians may have been incorrect or even negligent in their diagnosis of child's condition as Shaken Impact Syndrome or Shaken Infant Syndrome (SIS) did not support conclusion that physicians acted in bad faith, that they were grossly negligent, or that there were no objective signs of abuse, and, thus, evidence was insufficient to deprive physicians of their immunity from liability under Tennessee law for reporting suspected child abuse; child suffered from retinal hemorrhaging, and leading cause of retinal hemorrhaging was trauma, including non-accidental trauma, even if it could also have been caused by child's liver disease. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Evidence that physicians refused to reassess their original diagnosis of child's condition as Shaken Impact Syndrome or Shaken Infant Syndrome (SIS) or to admit that their initial diagnosis may have been in error and that hospital refused to release child's medical records when requested to do so involved events that occurred well after original report of suspected **child abuse**, did not support finding of bad faith in complying with **reporting requirements** of Tennessee statute, and could not deprive physicians of their immunity from liability. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Physician's isolated comments that parents had "flippant attitude" and that they had "lofty dreams" were not sufficient to show bad faith or raise fact issue on whether physicians were immune from liability for complying with **child abuse reporting requirements** of Tennessee statute. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Parents must demonstrate by clear and convincing evidence that physicians acted in bad faith in reporting alleged

T. C. A. § 37-1-403

child abuse before physicians could be deprived of their immunity from liability under Tennessee statute for reporting suspicions of child abuse. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Physician's immunity from liability under Tennessee statute for reporting suspected child abuse does not extend to negligent misdiagnosis or treatment or for other improper actions taken beyond reporting requirement; physicians are immune only to the extent that their conduct arises from their duty to report suspicions of child abuse, which may include diagnosing child's medical condition, contacting appropriate authorities, and preparing for and later testifying as to their opinions. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Hospital and physicians were immune under Tennessee law for alleged common law negligence in failing to make reasonable inquiry into child's physical condition before reporting suspicion of child abuse. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#). [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Physicians were entitled to immunity from liability for their conduct in reporting suspicions of child abuse and testifying at hearing before Tennessee Department of Human Services about allegations of abuse, even if Tennessee law recognized cause of action for false light invasion of privacy. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#); Restatement (Second) of Torts § 652A. [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

Physicians were entitled to immunity from liability for allegedly defamatory statements made in reporting suspicions of child abuse and testifying at hearing before Tennessee Department of Human Services about allegations of abuse. West's Tenn.Code, § 37-1-403(a), [37-1-410\(a\)](#); Restatement (Second) of Torts § 580B. [Bryant-Bruce v. Vanderbilt University, Inc., 1997, 974 F.Supp. 1127](#). [Infants](#)  [13.5\(2\)](#)

## 2. Failure to report brutality, neglect or abuse

Under Tennessee law, statute requiring medical personnel to report suspected brutality, neglect, or physical or sexual abuse of children to law enforcement official creates legal obligation to report, such that failure to report can give rise to civil liability. West's Tenn.Code, § 37-1-403. [Ham v. Hospital of Morristown, Inc., 1995, 917 F.Supp. 531](#). [Infants](#)  13

Civil damage liability for failing to report complaints of child sexual abuse will arise only when it proximately causes injury to another. [T.C.A. § 29-20-205, 29-20-205\(1\)](#), 37-1-403(a)(4), [37-1-605\(a\)\(4\)](#). [Doe v. Coffee County Bd. of Educ., 1992, 852 S.W.2d 899](#), appeal denied. [Infants](#)  13

## 3. Conflict of laws

Under Tennessee choice of law, law of Tennessee would control standard to be applied to negligence action based on diversity of citizenship, that arose from alleged negligence of physicians in Tennessee, in failing to recognize and report suspected child abuse. West's Tenn.Code, § 37-1-403. [Ham v. Hospital of Morristown, Inc., 1995, 917 F.Supp. 531](#). [Infants](#)  13

## 4. Questions for jury

Fact issue as to whether conclusion by physicians that blisters on hands of child did not create suspicion of child abuse was reasonable precluded summary judgment in negligence action against physicians for failure to recognize and report symptoms of child abuse to proper agencies. West's Tenn.Code, § 37-1-403. [Ham v. Hospital of Morristown, Inc., 1995, 917 F.Supp. 531](#). Federal Civil Procedure  2515

## 5. Jury instructions

T. C. A. § 37-1-403

Trial court's giving of accurate and nonmisleading, but irrelevant, jury instruction dealing with failure to report child abuse was harmless error, in prosecution for felony murder and aggravated child abuse arising from death of victim who was apparently beaten by mother and died while in care of defendant, who was victim's stepfather. T.C.A. §§ 37-1-403, [39-13-202\(a\)\(2\)](#), [39-15-402\(a\)\(1\)](#). [State v. Hodges, 1998, 7 S.W.3d 609](#), appeal denied, denial of post-conviction relief affirmed [2002 WL 31730872](#), appeal denied, not for citation. Criminal Law  1172.6

When combined, two jury instructions on criminal responsibility for conduct of another and a juvenile criminal statute mandating that persons who have knowledge of child abuse report such abuse to the authorities created no error, in prosecution for felony murder and aggravated child abuse arising from death of child victim while victim was in care of defendant, who was her stepfather, where court charged instructions each separate from the other, with no indication that jury was to consider them together and with no further instruction that the latter constituted a "duty imposed by law" under the former. T.C.A. §§ 37-1-403, [39-11-402\(3\)](#), [39-13-202\(a\)\(2\)](#), [39-15-402\(a\)\(1\)](#). [State v. Hodges, 1998, 7 S.W.3d 609](#), appeal denied, denial of post-conviction relief affirmed [2002 WL 31730872](#), appeal denied, not for citation. Criminal Law  810

T. C. A. § 37-1-403, TN ST § 37-1-403

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