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H.622

Introduced by Representatives Pugh of South Burlington and Haas of
Rochester

Referred to Committee on

Date:

Subject: Human services; mandated reporters

Statement of purpose of bill as introduced: This bill proposes to (1) remove a requirement that mandated reporters report suspected child abuse or neglect if that mandated reporter knew that the same incident of abuse or neglect was already reported; and (2) allow certain health care professionals to cooperate with the Department for Children and Families in ongoing investigations of child abuse or neglect.

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. 33 V.S.A. § 4913 is amended to read:~~

§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
ACTION

* * *

1 ~~(e) Any mandated reporter who reasonably suspects abuse or neglect of a~~
2 child shall report in accordance with the provisions of section 4914 of this title
3 within 24 hours of the time information regarding the suspected abuse or
4 neglect was first received or observed. A mandated reporter who reasonably
5 suspects abuse or neglect of a child, and who has reliable information that the
6 same incident of suspected abuse or neglect was already reported, is not
7 required to report that same incident of suspected abuse or neglect if the
8 mandated reporter is reasonably certain that there is no additional information
9 to report.

10 * * *

11 (h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined
12 not more than \$500.00.

13 (2) A person who violates subsection ~~(a)~~(c) of this section with the
14 intent to conceal abuse or neglect of a child shall be imprisoned not more than
15 six months or fined not more than \$1,000.00, or both.

16 (3) This section shall not be construed to prohibit a prosecution under
17 any other provision of law.

18 (i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not
19 refuse to make a report required by this section on the grounds that making the
20 report would violate a privilege or disclose a confidential communication.

1 ~~(j) A member of the clergy shall not be required to make a report under this~~
2 section if the report would be based upon information received in a
3 communication which is:

4 (1) made to a member of the clergy acting in his or her capacity as
5 spiritual advisor;

6 (2) intended by the parties to be confidential at the time the
7 communication is made;

8 (3) intended by the communicant to be an act of contrition or a matter of
9 conscience; and

10 (4) required to be confidential by religious law, doctrine, or tenet.

11 (k) When a member of the clergy receives information about abuse or
12 neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of
13 this section, he or she is required to report on the basis of that information even
14 though he or she may have also received a report of abuse or neglect about the
15 same person or incident in the manner described in subsection ~~(h)~~(j) of this
16 section.

17 Sec. 2. 33 V.S.A. § 4914a is added to read:

18 § 4914a. PRIVILEGED OR CONFIDENTIAL COMMUNICATIONS

19 (a) The patient privilege set forth in 12 V.S.A. § 1612 and Rule 503 of the
20 Vermont Rules of Evidence shall not bar a person authorized to practice
21 medicine, a registered professional or licensed practical nurse, a mental health

1 ~~professional as defined in 18 V.S.A. § 7101(13), or an alcohol or drug abuse~~
2 counselor as defined in 18 V.S.A. § 3231(1) from cooperating with the
3 Department in an ongoing investigation of child abuse or neglect. Information
4 disclosed to the Department pursuant to this section shall be kept confidential
5 and may not be disclosed by the Department except as provided in
6 section 4921 of this title.

7 (b) It shall not be considered unprofessional conduct for a person
8 authorized to practice medicine, a registered professional or licensed practical
9 nurse, a mental health professional as defined in 18 V.S.A. § 7101(13), or an
10 alcohol or drug abuse counselor as defined in 18 V.S.A. § 3231(1) to cooperate
11 with the Department in an investigation of child abuse or neglect.

12 Sec. 3. EFFECTIVE DATE

13 ~~This act shall take effect on passage.~~

Sec. 1. 33 V.S.A. § 4913 is amended to read:

*§ 4913. REPORTING CHILD ABUSE AND NEGLECT; REMEDIAL
ACTION*

** * **

*(c) Any mandated reporter who reasonably suspects abuse or neglect of a
child shall report in accordance with the provisions of section 4914 of this title
within 24 hours of the time information regarding the suspected abuse or
neglect was first received or observed. A mandated reporter who reasonably*

suspects abuse or neglect of a child, and who has ~~confirmed~~ written confirmation that the same incident of suspected abuse or neglect was already reported, is not required to report that same incident of suspected abuse or neglect if the mandated reporter is reasonably certain that there is no additional information to report.

* * *

(h)(1) A person who violates subsection ~~(a)~~(c) of this section shall be fined not more than \$500.00.

(2) A person who violates subsection ~~(a)~~(c) of this section with the intent to conceal abuse or neglect of a child shall be imprisoned not more than six months or fined not more than \$1,000.00, or both.

(3) This section shall not be construed to prohibit a prosecution under any other provision of law.

(i) Except as provided in subsection ~~(h)~~(j) of this section, a person may not refuse to make a report required by this section on the grounds that making the report would violate a privilege or disclose a confidential communication.

(j) A member of the clergy shall not be required to make a report under this section if the report would be based upon information received in a communication which is:

(1) made to a member of the clergy acting in his or her capacity as spiritual advisor;

(2) intended by the parties to be confidential at the time the communication is made;

(3) intended by the communicant to be an act of contrition or a matter of conscience; and

(4) required to be confidential by religious law, doctrine, or tenet.

(k) When a member of the clergy receives information about abuse or neglect of a child in a manner other than as described in subsection ~~(h)~~(j) of this section, he or she is required to report on the basis of that information even though he or she may have also received a report of abuse or neglect about the same person or incident in the manner described in subsection ~~(h)~~(j) of this section.

Sec. 2. JOINT LEGISLATIVE CHILD PROTECTION OVERSIGHT COMMITTEE; 2016 INTERIM RESPONSIBILITIES; PRIVILEGED COMMUNICATIONS

During the 2016 legislative interim, the Joint Legislative Child Protection Oversight Committee shall:

(1) review issues related to patient privilege, confidentiality of patient records and information, and the statutes and rules governing professional conduct; and

(2) analyze the extent to which those professional obligations identified in subdivision (1) interfere with the ability of certain professional mandated

reporters to cooperate with the Department for Children and Families, law enforcement, and prosecutors during an ongoing child protection assessment, investigation, or proceeding.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.