

TO: Directors of School
FROM: Christy Ballard, General Counsel
DATE: November 12, 2020
SUBJECT: **New Procedures for LEAs for Reporting Cases of Suspected Child Abuse and Neglect**

Chapter 708 of the Public Acts of 2020 ([PC 708](#)), now codified at T.C.A. 49-6-1601, 37-1-403, and 37-1-605, which became effective on August 1, 2020, revises the procedures for school teachers, school officials, and other school personnel to follow in regard to reporting suspected child abuse or child sexual abuse. This memorandum provides an overview on the new law but local education agencies (LEA) should consult their local board attorneys for specific legal advice when implementing the law.

Provided below are the statutes that include revisions to the law made by PC 708, along with anticipated questions about the law:

***T.C.A. § 49-6-1601 Procedures to follow if knowledge or reasonable cause to suspect child abuse—
Completion of child abuse training program — Child abuse coordinator. [Effective August 1, 2020.]***

(a) Notwithstanding § 37-5-107 or § 37-1-612, if a school teacher, school official, or other school personnel has knowledge or reasonable cause to suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to § 37-1-403 or § 37-1-605, then the school teacher, school official, or other school personnel must follow the procedures outlined in subsection (d).

(b) Each LEA and each public charter school shall ensure that all school officials and other school personnel annually complete the child abuse training program required in § 37-1-408.

(c) Each LEA and each public charter school shall designate a child abuse coordinator and an alternate child abuse coordinator for each school within the LEA or public charter school. The designation of an alternative child abuse coordinator is not required when only one (1) adult is employed by or responsible for the care of children at a school. The child abuse coordinator and the alternate child abuse coordinator must:

- (1) Have access to an area providing privacy and access to a telephone for reporting suspected child abuse and child sexual abuse;
- (2) Receive training in regard to:
 - (A) Mandatory reporting;
 - (B) Multidisciplinary protocols;
 - (C) Advocacy centers;
 - (D) The importance of limited interviews; and
 - (E) Signs, symptoms, or suspicions of child abuse;
- (3) Be available for school personnel to share information about suspected child abuse and child sexual abuse;
- (4) Assist school personnel in reporting suspected child abuse and child sexual abuse to law enforcement and to the department of children's services;
- (5) Serve as a liaison between the school, the department, and law enforcement in child abuse and child sexual abuse investigations;
- (6) Assist law enforcement and department personnel by sharing available information regarding suspected child abuse and child sexual abuse, and by providing a private area within the school for law enforcement and department personnel to meet with the child and the reporting school personnel as a group or individually if required; and

(7) Maintain confidential files in accordance with §§ 37-5-107 and 37-1-612 regarding all reported suspicions of child abuse and child sexual abuse.

(d)

(1)

(A) If a child voluntarily discloses information about possible abuse to a school teacher, school official, or other school personnel, then the child must be provided a quiet and private place to speak and the person receiving the information must listen openly and speak at the child's level in a positive, non-judgmental tone.

(B) The person receiving the information from the child must:

(i) Allow the child to say what happened in the child's own words;

(ii) Avoid conducting an investigation by asking the child detailed questions;

(iii) Make every effort to write down the child's exact words;

(iv) Refrain from making any statements to the child about the alleged abuse, the alleged abuser, or the consequences of the child reporting the alleged abuse; and

(v) Immediately notify the school child abuse coordinator and report the information to the department and law enforcement.

(2) School teachers, school officials, and other school personnel should be observant of any bruising, injury, markings, or other unusual behavior that may be the result of child abuse or neglect, and immediately report any suspicions to the school's child abuse coordinator. Photographs of any bruising, injury, or markings must not be taken by any school child abuse coordinator, teacher, official, or other school personnel. Upon receiving a report of suspicion of child abuse or child sexual abuse, the child abuse coordinator must, along with the reporting school personnel who obtained the information from the child, report any suspected child abuse or child sexual abuse to law enforcement and the department.

(3) If a third party informs a school teacher, school official, or other school personnel of a reasonable suspicion that a child at the school may be the victim of child abuse or child sexual abuse, then the school teacher, school official, or other school personnel must:

(A) Encourage the third party to report the suspicion to the department and law enforcement;

(B) Notify the school's child abuse coordinator; and

(C) Report all information received from the third party to the department and law enforcement.

(4) School teachers, school officials, and other school personnel must maintain confidentiality of all information regarding any child abuse or child sexual abuse report made pursuant to this section and all information regarding the suspected child abuse or child sexual abuse must be maintained by the school child abuse coordinator in a confidential file separate from the child's educational file.

(5) School child abuse coordinators, school teachers, school officials, and other school personnel shall not provide any information relevant to the suspected child abuse or child sexual abuse to the child's parent or guardian, and must refer any questions from the child's parent or guardian to the investigating law enforcement agency and the department.

(e) For purposes of this section, "school" means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school.

(f) Each LEA and public charter school shall publish the requirements of this section in the LEA's and public charter school's policies and procedures manual.

T.C.A. § 37-1-403. Reporting of brutality, abuse, neglect or child sexual abuse — Notification to parents of abuse on school grounds or under school supervision — Confidentiality of records. [Effective August 1, 2020.]

(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 this subsection (a) shall report it, by telephone or otherwise, to the:

(A) Judge having juvenile jurisdiction over the child;

(B) Department, in a manner specified by the department, either by contacting a local representative of the department or by utilizing the department's centralized intake procedure, where applicable;

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

(c)

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

(2) A law enforcement official or judge who knows or becomes aware of a person who is convicted of a violation of § 55-10-401 and sentenced under § 55-10-402(b), because such person was at the time of the offense accompanied by a child under eighteen (18) years of age, shall report such information, as provided in subdivision (c)(1), and the department shall consider such information to be appropriate for investigation in the same manner as other reports of suspected child abuse or neglect.

(3)

(A) If the department receives information containing references to alleged human trafficking or child pornography which does or does not result in an investigation by the department, the department shall notify the appropriate law enforcement agency immediately upon receipt of such information.

(B) If the department initiates an investigation of severe child abuse, including, but not limited to, child sexual abuse, the department shall notify the appropriate local law enforcement agency immediately upon assignment of such case to a department child protective services worker.

(C) Both the department and law enforcement shall maintain a log of all such reports of such information received and confirmation that the information was sent to the appropriate party, pursuant to this subdivision (c)(3).

(d) 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 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.

(e) 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 chapter 478 of the Public Acts of 1985, relative to the sexual abuse of children. Investigations of institutional child sexual abuse shall be conducted in accordance with § 37-1-606.

(f) Every physician or other person who makes a diagnosis of, or treats, or prescribes for any sexually transmitted disease set out in § 68-10-112, 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 (f), 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.

(g) Every physician or other person who makes an initial diagnosis of pregnancy to an unemancipated minor, and every superintendent or manager of a clinic, dispensary or charitable or penal institution in which there is a case of an unemancipated minor who is determined to be pregnant, shall provide to the minor's parent, if the parent is present, and the minor consents, any readily available written information on how to report to the department of children's services an occurrence of sex abuse that may have resulted in the minor's pregnancy, unless disclosure to the parent would violate the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. § 1320d et seq., or the regulations promulgated pursuant to the act.

(1) Failure to provide the written information shall not subject a person to the penalty provided by § 37-1-412.

(2) The department of children's services shall provide to the department of health the relevant written information. The department of health shall distribute copies of the written information to all licensees of the appropriate health-related boards through the boards' routinely issued newsletters. At the time of initial licensure, these boards shall also provide new licensees a copy of the relevant written information for distribution pursuant to this subsection (g).

(h) Nothing in this section shall be construed to prohibit any hospital, clinic, school, or other organization responsible for the care of children, from developing a specific procedure for internally tracking, reporting, or otherwise monitoring a report made by a member of the organization's staff pursuant to this section, including requiring a member of the organization's staff who makes a report to provide a copy of or notice concerning the report to the organization, so long as the procedure does not inhibit, interfere with, or otherwise affect the duty of a person to make a report as required by subsection (a). Nothing in this section shall prevent staff of a hospital or clinic from gathering sufficient information, as determined by the hospital or clinic, in order to make an appropriate medical diagnosis or to provide and document care that is medically indicated, and is needed to determine whether to report an incident as defined in this part. Those activities shall not interfere with nor serve as a substitute for any investigation by law enforcement officials or the department; provided, that, if any hospital, clinic, school or other organization responsible for the care of children develops a procedure for internally tracking, reporting or otherwise monitoring a report pursuant to this section, the identity of the person who made a report of harm pursuant to this section or § 37-1-605 shall be kept confidential.

(i)

(1) Any school official, personnel, employee or member of the board of education who is aware of a report or investigation of employee misconduct on the part of any employee of the school system that in any way involves known or alleged child abuse, including, but not limited to, child physical or sexual abuse or neglect, shall immediately upon knowledge of such information notify the department of children's services or anyone listed in subdivision (a)(2) of the abuse or alleged abuse.

(2) Notwithstanding § 37-5-107 or § 37-1-612, if a school teacher, school official, or other school personnel has knowledge or reasonable cause to suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this

section, then the school teacher, school official, or other school personnel must follow the procedures outlined in § 49-6-1601.

(3) For purposes of this subsection (i), “school” means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school.

T.C.A. § 37-1-605. Reports of known or suspected child sexual abuse — Investigations—Notification to parents of abuse on school grounds or under school supervision — Confidentiality of records. [Effective August 1, 2020.]

(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 (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;

(8) Authority figure at a community facility, including any facility used for recreation or social assemblies, for educational, religious, social, health, or welfare purposes, including, but not limited to, facilities operated by schools, the boy or girl scouts, the YMCA or YWCA, the boys and girls club, or church or religious organizations; or

(9) Neighbor, relative, friend or any other person;

who knows or has reasonable cause to suspect that a child has been sexually abused shall report such knowledge or suspicion to the department in the manner prescribed in subsection (b).

(b)

(1) Each report of known or suspected child sexual abuse pursuant to this section shall be made immediately to the local office of the department responsible for the investigation of reports made pursuant to this section or to the judge having juvenile jurisdiction or to the office of the sheriff or the chief law enforcement official of the municipality where the child resides. Each report of known or suspected child sexual abuse occurring in a facility licensed by the department of mental health and substance abuse services, as defined in § 33-2-403, or any hospital, shall also be made to the local law enforcement agency in the jurisdiction where such offense occurred. In addition to those procedures provided by this part, § 37-1-405 shall also apply to all cases reported hereunder.

(2) If a law enforcement official or judge becomes aware of known or suspected child sexual abuse, through personal knowledge, receipt of a report or otherwise, such information shall be reported to the department immediately and the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted.

(3) 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 this section.

(c) Any person required to report or investigate cases of suspected child sexual abuse who has reasonable cause to suspect that a child died as a result of child sexual 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 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 § 37-1-612.

(d)

(1) Notwithstanding § 37-5-107 or § 37-1-612, if a school teacher, school official, or other school personnel has knowledge or reasonable cause to suspect that a child who attends the school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section, then the school teacher, school official, or other school personnel must follow the procedures outlined in § 49-6-1601.

(2) For purposes of this subsection (d), “school” means any public or privately operated child care agency, as defined in § 71-3-501; child care program, as defined in § 49-1-1102; preschool; nursery school; kindergarten; elementary school; or secondary school.

COMMON QUESTIONS ABOUT PC 708

Are there requirements for who serves as a school’s child abuse coordinator or alternative coordinator?

There are no specific requirements for who serves as a school’s child abuse coordinator or alternative coordinator beyond the requirements listed in T.C.A. § 49-6-1601.

With the passage of PC 708, are all LEA and public charter school personnel still required to complete the annual child abuse reporting training required by T.C.A. § 37-1-408?

Yes, pursuant to T.C.A. § 49-6-1601, each LEA and each public charter school must ensure its teachers annually complete a child abuse training program identified by the department of education or a training program that meets the guidelines set by the department of children’s services (DCS) pursuant to T.C.A. § 37-1-408, regarding the best practices for identifying and reporting signs of child abuse, child sexual abuse, and human trafficking.

Is the training required in T.C.A. § 49-6-1601(c)(2) the same as the training required by T.C.A. § 37-1-408?

No, the training required for child abuse coordinators and alternative coordinators, required by T.C.A. § 49-6-1601[a][2], is different and in addition to the required training for all school personnel, required by T.C.A. § 37-1-408). To assist LEAs and public charter schools in providing the required child abuse coordinator training to coordinators and alternative coordinators, DCS has developed a training that complies with the statutory requirements and will meaningfully assist coordinators in their work. This training can be accessed on DCS’ website at <https://www.tn.gov/dcs/program-areas/child-safety/reporting/child-abuse-coordinator-training-resources.html>.

Should school personnel report cases of suspected or known child abuse, child sexual abuse, or neglect to their school’s child abuse coordinator instead of DCS and law enforcement?

No, the role of the school child abuse coordinator does not relieve all school personnel of their legal responsibility as a mandatory reporter. Under T.C.A. § 37-1-403, “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.” Furthermore, T.C.A. § 37-1-605 requires, “Any person...who knows or has reasonable cause to suspect that a child has been sexually abused shall report such knowledge or suspicion to the department in the manner prescribed in subsection (b).”

While the child abuse coordinator should assist school personnel in reporting cases of known or suspected child abuse, child sexual abuse, or neglect, the legal responsibility to properly report known or suspected cases of such abuse or neglect rests with personnel who have knowledge or suspicion of the abuse or neglect.

Please remember that school board policies and procedures should be adopted to implement the law and should be developed in consultation with an LEA’s attorney.

For questions regarding the implementation of this law, please contact Christy.Ballard@tn.gov, General Counsel for TDOE or Douglas.E.Diamond@tn.gov, General Counsel for DCS.