

Don't Forget the Central Child Abuse Registry

After winning a hard-fought conviction, solicitors should not overlook an important step that can protect other children: making sure the offender is listed in the state-wide central child abuse registry. S.C. Code Ann. § 17-25-135 (Supp. 1999) requires the circuit court to order information about persons convicted of child abuse to be forwarded to the Department of Social Services, and it may take a reminder from the solicitor to make sure this happens.

The Central Registry on Child Abuse and Neglect, maintained by the Department of Social Services, primarily contains information on cases of child abuse or neglect substantiated by DSS. Since 1998, however, it also identifies persons who have committed crimes against children regardless of whether the criminal act falls within DSS jurisdiction.

While the title of section 17-25-135 implies it applies only to sex offenders, the language of the statute is not so limited. Pursuant to section 17-25-135(A), the circuit court must order information about the offender be placed in the central registry if:

- The person is convicted, or pleads guilty or *nolo contendere* to: an offense against the person (title 16, chapter 3); an offense against morality or decency (title 16, chapter 15); criminal domestic violence (§ 16-25-20); criminal domestic violence of a high and aggravated nature (§ 16-25-65); or common law assault and battery of a high and aggravated nature;
- *And*, the act on which the conviction or plea is based involved sexual or physical abuse of a child. Subsection (B) defines *physical abuse* as "inflicting physical injury upon a child or encouraging or facilitating the infliction of physical injury upon a

child." *Sexual abuse* includes acts involving sexual contact with a child, child prostitution, and child pornography.

The court order must contain: (1) the offender's name; (2) any other identifying information (including, but not limited to date of birth, address, and any other identifying characteristics); and (3) the nature of the act which led to the conviction or plea. § 17-25-135(A).

The information contained in the registry can be used – under conditions described in sections 20-7-690 (B) & (J) – to conduct background checks for foster homes, adoptive parents, employees, and volunteers.

Of course, the Central Registry is different from the Sex Offender Registry, a list of sex offenders compiled under the authority of section 23-3-430. Each sheriff maintains a list of local sex offenders and SLED maintains the state-wide list.

The sex offender registry, in contrast to the Central Registry, is open to public inspection. However, the burden is on offenders to register and the registry is limited to sex offenders. Thus, the Central Registry provides an additional tool to make sure offenders against children are identified.

Solicitors can play an important role by reminding courts of the requirement to forward criminal conviction information to the department.

Tana Vanderbilt, Resource Attorney with the Children's Law Office, assisted with this article. We were reminded of this issue from a 1998 memorandum sent to solicitors from Janet Butcher, former General Counsel of the Department of Social Services.

Pre-Conference Session at Second Annual Children's Law Office Conference Targets Law Enforcement Concerns

Prior to the opening of the Second Annual Children's Law Conference on May 11-12, a one-day pre-conference session on May 10 will be devoted solely to the concerns of solicitors and law enforcement officers.

The pre-conference session will focus on three areas fundamental to the investigation and prosecution of child abuse: suspect interrogation, cross-examination of defense witnesses, and interviewing children. In addition, Suzanne Mayes of the S.C. Commission on Prosecution Coordination will discuss current challenges for South Carolina solicitors.

The conference on the following two days, while not limited to law enforcement officers, will continue to address issues relevant to solicitors and officers. Titled *Challenges and Strategies for the Child Witness*, conference topics include:

- Preparing Children for Court
- How to Be a Good Witness
- Confronting Child Abuse in Rural Communities
- Memory and Suggestibility of the Child Witness
- Competency Examinations of Child Witnesses
- Family Court Hearsay Exception
- Presenting the Child's Best Interests

Early registration (paid by April 21) is \$75.00 for the full three days or \$25.00 for only the pre-conference session. Late registration (paid after April 21) is \$100.00 for the three days and \$50.00 for just May 10.

Brochures will be mailed to everyone on the CLO mailing list who receives this newsletter. To receive extra copies of the brochure, contact the CLO at 803/777-1646.

Training Opportunities Are Plentiful in Coming Months

In addition to the CLO's May conference, the National Center for Prosecution of Child Abuse (NCPCA) offers intensive training opportunities during 2000 that child abuse solicitors and investigators should consider.

Free Trial Advocacy Training for Solicitors

July 23-28, ChildProof (Columbia). ChildProof is a trial advocacy course for child abuse prosecutors. The course offered in July provides a unique opportunity for solicitors because there is no registration fee for courses conducted at the National Advocacy Center. The application process is competitive, so not all applicants are assured of being accepted. Contact the National Advocacy Center at 803/544-5050 for an application.

Training for Prosecutors and Investigators

September 11-15, Investigation and Prosecution of Child Fatalities (Charleston). Those who handle cases of serious physical abuse and child homicide should plan now to attend this conference. Some of the nation's most experienced forensic pediatric pathologists, investigators, and prosecutors teach this course.

March 6-10, Finding Words (Minneapolis). NCPCA offers the most hands-on, intensive child interviewing course available. Because the application process is highly competitive, you should contact NCPCA immediately (703/739-0321) if you are interested in participating.

June 5-9, Basic Training for Child Abuse Investigators and Prosecutors (Philadelphia). Although this NCPCA training is billed as an introductory course, it was nick-named "Boot Camp" many years ago because of its intensity. It still lives up to the name. NCPCA offers the course again August 14-18 in Tucson, Arizona.

New CLO Book Is Hot Off the Press

The Children's Law Office recently published a manual intended to serve as a concise resource on legal issues affecting the prosecution of child abuse in South Carolina. It is small enough to carry to court easily, but large enough to address the law you are most likely to face. In addition to presenting the law, the manual also contains numerous appendices with investigative checklists, sample motions, protocols, and more.

Send a check for \$15.00 payable to the Children's Law Office to order *Prosecution of Child Abuse in South Carolina: A Manual for Solicitors and Investigators (1999)*.

Pending Bills Are Designed to Strengthen Child Abuse Laws

Thanks to the efforts of law enforcement officers and solicitors, the General Assembly is considering legislation to close gaps in sexual abuse, physical abuse, and child homicide charging statutes.

Sexual Abuse and Exploitation

A large bill held over from last year addresses a wide range of issues related to criminal sexual conduct and sexual exploitation. Among other things, **SB 708** proposes to: include lewd exhibition of the female breasts as sexual conduct in § 16-3-800(2); create a child enticement offense; add "touching one's self or another person" to the definition of sexual activity in 16-15-375(5)(c) (sexual exploitation offenses); amend the sexually violent predator act (44-48-10 and following) to remove much juvenile conduct from the scope of the act.

Child Homicide and Physical Abuse

The current homicide by child abuse statute (§ 16-3-85) defines *child abuse or neglect* by reference to the children's code, which applies only to acts committed by a child's "parent, guardian, or other person responsible for his welfare." (§ 20-7-490(2)). **SB 1060** and its companion, **HB 3882**, amend the statute to define abuse and neglect within the text of the homicide by abuse statute, making it clear that the offense applies to any person – not just a parent or caretaker – who causes the death of a child while abusing that child.

SB 1060 also creates a new offense for inflicting "great bodily injury" upon a child. Under current law, if a child is seriously injured, prosecutors are limited essentially to ABHAN or ABIK. The penalties associated with ABHAN often are inadequate for serious child abuse, but an intent to kill may not exist to support an ABIK charge. The proposed offense remedies the problem by creating penalties comparable to ABIK when a person inflicts great bodily injury on a child, without requiring proof of an intent to kill.

Miscellaneous Bills

SB 287 (adds CDV to the offenses to which the spousal communication privilege, 19-11-30, does not apply)

HB 4003 (authorizes broader sharing of juvenile records)

HB 4276 (makes third degree CSC and lewd acts violent crimes)

To keep track of legislative activity, visit the General Assembly's web site <http://www.leginfo.state.sc.us/>.

Children's Law Office
School of Law, University of South Carolina
Carolina Plaza, 12th Floor
Columbia, SC 29208
803/777-1646

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