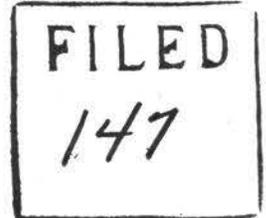


MINORS:
CHILD ABUSE:
CRIMINAL LAW:

The term "reasonable cause to believe" as used in H.B. 578 is the equivalent of the term "suspected" as used in the Federal Register, Volume 39, No. 245, Section 1340.3-3(d)(2)(i).

OPINION NO. 147

June 2, 1975



Honorable Kenneth J. Rothman
State Representative, District 77
State Capitol Building, Room 309
Jefferson City, Missouri 65101

Dear Representative Rothman:

This is in response to your request for an official opinion on the following question:

"Whether the term 'reasonable cause to believe' as used in HB 578 has the same or equivalent meaning as the word 'suspected' as used in the Federal Register, Volume 39, No. 245, Section 1340.3-3(d)(2)(i)?"

In construing the language of H.B. 578 of the 78th General Assembly, we believe that little is to be gained by examining how such terms have been construed in other areas of the law. For instance, in the area of search and seizure, reasonable cause is often equated with probable cause and distinguished from a mere suspicion. However, such construction is based upon the interpretation of a constitutional requirement and is of little use in the present instance. Further, Webster's New World Dictionary, Second College Edition, presents alternative definitions of the word suspect. One definition is to believe with little or no evidence. Another is to think it probable or likely. This latter definition appears to be in line with the term "reasonable cause to believe." Your question, however, cannot be considered in the abstract and we feel that it is necessary to consider the terms in context. Becker v. St. Francois County, 421 S.W.2d 779 (Mo. 1967). In State ex rel. Henderson v. Proctor, 361 S.W.2d 802 (Mo. 1962), it was held that although plain language of a statute may not be capriciously ignored, it is permissible in determining what statutory language really means to consider the

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purpose and policy of the statute, the totality of the enactment, and to construe the statutory language in light of what ". . . ' . . . is below the surface of the words and yet fairly a part of them."'. . ." Id. at 805.

Section 1340.3-3(d)(2)(i) of Volume 39, No. 245 of the Federal Register provides that in order for a state to be eligible for federal aid the state ". . . must provide for the reporting of known or suspected instances of child abuse and neglect. . . ." Section 2.1 of H.B. 578 provides that when anyone of an enumerated list of individuals ". . . has reasonable cause to believe that a child has been or may be subjected to abuse or neglect. . ." it is his duty to file a report with the Division of Family Services.

In examining the other sections of H.B. 578 it should be noted that the term "suspected" is used as frequently as the term "reasonable cause to believe." For instance, subsection 3 of Section 2 of H.B. 578 provides:

"In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with this act if such person has reasonable cause to believe that a child has been or may be subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect."

See also Sections 4.1 and 8.3 of H.B. 578. It appears, therefore, that H.B. 578 uses the terms "suspected" and "reasonable cause to believe" interchangeably. We believe that this is an indication the legislature has intended a construction of "reasonable cause to believe" which is different from that that might be given in the abstract.

We believe that the exact meaning of "reasonable cause to believe" can be inferred from other provisions of H.B. 578. Section 5.2 sets out the requirements for the report which must be filed. Although this section mentions evidence of previous injuries or abuse and the name of the person responsible for the current abuse it is evident that these are not necessary and are to be included only if known. The bill contemplates that a report might be filed without such information and upon nothing more than an examination of the nature of the injuries sustained by the child. In most instances it is quite likely that there is a perfectly rational explanation for the child's injuries other

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than abuse or neglect. H.B. 578, however, does not appear to require any corroboration, and, therefore, it is evident that in using the term "reasonable cause to believe" the legislature did not intend to require that level of proof which would normally be associated with reasonable or probable cause.

It is also appropriate to consider the history of, the circumstances surrounding, and the ends to be accomplished by H.B. 578. Protection Mutual Insurance Company v. Kansas City, 504 S.W.2d 127 (Mo. 1974). In the present instance the history, circumstances, and purposes of H.B. 578 are provided in Section A of the bill, which reads as follows:

"Because immediate action is necessary in order to prevent certain federal funds from being cut off from payment to the State of Missouri and because there are available other federal funds if this act is passed, this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the Constitution, and this act shall be in full force and effect upon its passage and approval."

It is contemplated, therefore, that passage of H.B. 578 would render the State of Missouri eligible for federal funds. To be eligible, Missouri law must be in compliance with the appropriate federal regulations, i.e., it must provide for a system of reporting known or suspected instances of child abuse. The emergency clause is, therefore, a clear indication that it is intended that H.B. 578 be interpreted in compliance with the federal statute and regulation and that the federal interpretation is adopted. This is similar to the rule that when the legislature adopts a statute from another jurisdiction, it is presumed to adopt the interpretation placed upon that statute by the courts of that jurisdiction. State v. Anderson, 515 S.W.2d 534 (Mo.Banc 1974).

The primary purpose of statutory construction is to ascertain and to effectuate legislative intent. Missouri Pacific Railroad Company v. Kuehle, 482 S.W.2d 505 (Mo. 1972); State ex rel. Cooper v. Cloyd, 461 S.W.2d 833 (Mo.Banc 1971). We believe that the intent of H.B. 578 clearly and unequivocally expressed by the emergency clause and that Section 10 can be effectuated by a reasonable interpretation of the term "reasonable cause to believe."

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CONCLUSION

It is our opinion that the term "reasonable cause to believe" as used in H.B. 578 is the equivalent of the term "suspected" as used in the Federal Register, Volume 39, No. 245, Section 1340.3-3 (d)(2)(i).

The foregoing opinion, which I hereby approve, was prepared by my assistant, Robert Presson.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General