

State Laws Regarding Mandated Reporting of Child Abuse

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National Center for the Prosecution of Child Abuse



State Legislators have enacted statutes requiring certain people who have frequent contact with children to report child abuse when it is observed or suspected. Specific details vary across jurisdictions. This survey contains state, and federal legislation that mandates reporting of child abuse.

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ALABAMA

Ala. Code § 26-14-3 (2016). Mandatory reporting.

(a) All hospitals, clinics, sanitariums, doctors, physicians, surgeons, medical examiners, coroners, dentists, osteopaths, optometrists, chiropractors, podiatrists, nurses, school teachers and officials, peace officers, law enforcement officials, pharmacists, social workers, day care workers or employees, mental health professionals, members of the clergy as defined in Rule 505 of the Alabama Rules of Evidence, or any other person called upon to render aid or medical assistance to any child, when the child is known or suspected to be a victim of child abuse or neglect, shall be required to report, or cause a report to be made of the same, orally, either by telephone or direct communication immediately, followed by a written report, to a duly constituted authority.

(b) When an initial report is made to a law enforcement official, the official subsequently shall inform the Department of Human Resources of the report so that the department can carry out its responsibility to provide protective services when deemed appropriate to the respective child or children.

(c) When the Department of Human Resources receives initial reports of suspected abuse or neglect involving discipline or corporal punishment committed in a public or private school or suspected abuse or neglect in a state-operated child residential facility, the Department of Human Resources shall transmit a copy of school reports to the law enforcement agency and residential facility reports to the law enforcement agency and the operating state agency which shall conduct the investigation. When the investigation is completed, a written report of the completed investigation shall contain the information required by the state Department of Human Resources which shall be submitted by the law enforcement agency or the state agency to the county department of human resources for entry into the state's central registry.

(d) Nothing in this chapter shall preclude interagency agreements between departments of human resources, law enforcement, and other state agencies on procedures for investigating reports of suspected child abuse and neglect to provide for departments of human resources to assist law enforcement and other state agencies in these investigations.

(e) Any provision of this section to the contrary notwithstanding, if any agency or authority investigates any report pursuant to this section and the report does not result in a conviction, the agency or authority shall expunge any record of the information or report and any data developed from the record.

(f) Subsection (a) to the contrary notwithstanding, a member of the clergy shall not be required to report information gained solely in a confidential communication privileged pursuant to Rule 505 of the Alabama Rules of Evidence which communication shall continue to be privileged as provided by law.

(g) Commencing on August 1, 2013, a public or private employer who discharges, suspends, disciplines, or penalizes an employee solely for reporting suspected child abuse or neglect pursuant to this section shall be guilty of a Class C misdemeanor.

Credits

Acts 1993, 1st Ex. Sess., No. 93-890; Acts 2003, No. 03-272; Acts 2013, No. 13-201, § 1, Aug. 1, 2013; Acts 2016, No. 16-354, § 2, May 11, 2016.

Ala. Code § 26-14-4 (2016). Permissive reporting.

In addition to those persons, firms, corporations, and officials required by Section 26-14-3 to report child abuse and neglect, any person may make such a report if such person has reasonable cause to suspect that a child is being abused or neglected.

Credits

Brown v. State, 588 So. 2d 551, 1991 Ala. Crim. App. LEXIS 1134 (Crim. App. 1991)

Ala. Code § 26-14-9 (2016). Immunity from liability for actions under chapter.

Any person, firm, corporation, or official, including members of a multidisciplinary child protection team, quality assurance team, child death review team, or other authorized case review team or panel, by whatever designation, participating in the making of a good faith report in an investigation or case review authorized under this chapter or other law or department practice or in the removal of a child pursuant to this chapter, or participating in a judicial proceeding resulting therefrom, shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Credits

Decatur City Bd. of Educ. v. Aycock, 562 So. 2d 1331, 1990 Ala. Civ. App. LEXIS 9 (Civ. App. 1990); Evans v. Waddell, 689 So. 2d 23, 1997 Ala. LEXIS 23, 31 Ala. B. Rep. 1057 (1997).

Ala. Code § 26-14-10 (2016). Doctrine of privileged communications not grounds for exclusion of evidence as to child's injuries.

The doctrine of privileged communication, with the exception of the attorney-client privilege, shall not be a ground for excluding any evidence regarding a child's injuries or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter

Credits

C.B. v. Bobo, 659 So. 2d 98, 1995 Ala. LEXIS 180, 29 Ala. B. Rep. 1871 (1995).

Ala. Code § 26-14-13 (2016). Penalty for failure to make required report.

Any person who shall knowingly fail to make the report required by this chapter shall be guilty of a misdemeanor and shall be punished by a sentence of not more than six months' imprisonment or a fine of not more than \$500.00.

Credits

Harris v. Montgomery, 435 So. 2d 1207, 1983 Ala. LEXIS 4384 (1983); Horace Mann Ins. v. McGee, 840 F. Supp. 875, 1994 U.S. Dist. LEXIS 7498 (M.D. Ala. 1994); C.B. v. Bobo, 659 So. 2d 98, 1995 Ala. LEXIS 180, 29 Ala. B. Rep. 1871 (1995).

Ala. Code § 38-3-8 (2016). Powers and responsibilities of department. The Department of Senior Services shall:

(1) Be the designated state agency to administer programs of the federal government relating to the aged, requiring action within the state, that are not the specific responsibility of another state agency under federal or state statutes and to administer programs for the aged when designated as an operating agency by another state agency. The department may not take over from another state agency any of the specific responsibilities held by such other state agency nor may the department withhold from another state agency any state or federal funds designated for programs administered by that agency. The department shall be the state agency to administer funds granted by the federal government under the "Older Americans Act of 1965," 42 U.S.C. § 3001, as amended, except for programs administered by another state agency. The department shall cooperate with federal and state agencies, counties, municipal corporations, and private agencies or facilities within the state in furtherance of the purposes as set forth in this chapter.

(2) Advise, consult, and coordinate with other state agencies upon request which are proposing plans, programs, and rules primarily affecting persons 60 years of age or older.

(3) Plan, initiate, coordinate, and evaluate statewide programs, services, and activities regulated by the department for elderly people which are not duplicative of services, programs, and activities provided by other state agencies.

(4) Disseminate information concerning the problems of elderly people and establish and maintain a central clearinghouse of information on public programs at all levels of government that would be of interest or benefit to the elderly.

(5) Report annually to the Governor and the Legislature on the programs of the department.

- (6) Have authority to contract with public or private groups to perform services for the department.
- (7) Adopt rules pursuant to the Alabama Administrative Procedure Act to govern the operation of services and facilities for the elderly that are regulated by the department and determine that those services and facilities are operated in conformity with these rules.
- (8) Determine the needs of the elderly and provide information on their needs to all levels of government.
- (9) Report immediately any suspected abuse, neglect, and exploitation to the Department of Human Resources as a mandatory reporter as specified in Section 38-9-8.

Credits:

Acts 2008, No. 08-398, § 2, May 16, 2008.

ALASKA

Alaska Stat. § 47.17.010 (2016). Purpose.

In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the department. It is not the intent of the legislature that persons required to report suspected child abuse or neglect under this chapter investigate the suspected child abuse or neglect before they make the required report to the department. Reports must be made when there is a reasonable cause to suspect child abuse or neglect in order to make state investigative and social services available in a wider range of cases at an earlier point in time, to make sure that investigations regarding child abuse and neglect are conducted by trained investigators, and to avoid subjecting a child to multiple interviews about the abuse or neglect. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to

- (1) prevent further harm to the child;
- (2) safeguard and enhance the general well-being of children in this state; and
- (3) preserve family life unless that effort is likely to result in physical or emotional damage to the child.

Credits:

(§ 1 ch 100 SLA 1971; am § 3 ch 104 SLA 1982; am § 4 ch 29 SLA 1990; am § 1 ch 205 SLA 1990; am § 5 ch 59 SLA 2014)

Alaska Stat. § 47.17.020 (2016). Persons Required to Report.

(a) The following persons who, in the performance of their occupational duties, or with respect to (8) of this subsection, in the performance of their appointed duties, have reasonable cause to suspect that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members of public and private schools;
- (3) peace officers and officers of the Department of Corrections;
- (4) administrative officers of institutions;
- (5) child care providers;
- (6) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.990;
- (7) paid employees of an organization that provides counseling or treatment to individuals seeking to control their use of drugs or alcohol;
- (8) members of a child fatality review team established under AS 12.65.015(e) or 12.65.120 or the multidisciplinary child protection team created under AS 47.14.300.

(b) This section does not prohibit the named persons from reporting cases that have come to their attention in their nonoccupational capacities, nor does it prohibit any other person from reporting a child's harm that the person has reasonable cause to suspect is a result of child abuse or neglect. These reports shall be made to the nearest office of the department.

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall immediately take action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(d) This section does not require a religious healing practitioner to report as neglect of a

child the failure to provide medical attention to the child if the child is provided treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination.

(e) The department shall immediately notify the nearest law enforcement agency if the department

(1) concludes that the harm was caused by a person who is not responsible for the child's welfare;

(2) is unable to determine

(A) who caused the harm to the child; or

(B) whether the person who is believed to have caused the harm has responsibility for the child's welfare; or

(3) concludes that the report involves

(A) possible criminal conduct under AS 11.41.410--11.41.458; or

(B) abuse or neglect that results in the need for medical treatment of the child.

(f) If a law enforcement agency determines that a child has been abused or neglected and that (1) the harm was caused by a teacher or other person employed by the school or school district in which the child is enrolled as a student, (2) the harm occurred during an activity sponsored by the school or school district in which the child is enrolled as a student, or (3) the harm occurred on the premises of the school in which the child is enrolled as a student or on the premises of a school within the district in which the child is enrolled as a student, the law enforcement agency shall notify the chief administrative officer of the school or district in which the child is enrolled immediately after the agency determines that a child has been abused or neglected under the circumstances set out in this section, except that if the person about whom the report has been made is the chief administrative officer or a member of the chief administrative officer's immediate family, the law enforcement agency shall notify the commissioner of education and early development that the child has been abused or neglected under the circumstances set out in this section. The notification must set out the factual basis for the law enforcement agency's determination. If the notification involves a person in the teaching profession, as defined in AS 14.20.370, the law enforcement agency shall send a copy of the notification to the Professional Teaching Practices Commission.

(g) A person required to report child abuse or neglect under (a) of this section who makes the report to the person's job supervisor or to another individual working for the entity that employs the person is not relieved of the obligation to make the report to the

department as required under (a) of this section.

(h) This section does not require a person required to report child abuse or neglect under (a)(6) of this section to report mental injury to a child as a result of exposure to domestic violence so long as the person has reasonable cause to believe that the child is in safe and appropriate care and not presently in danger of mental injury as a result of exposure to domestic violence.

(i) This section does not require a person required to report child abuse or neglect under (a)(7) of this section to report the resumption of use of an intoxicant as described in AS 47.10.011(10) so long as the person does not have reasonable cause to suspect that a child has suffered harm as a result of the resumption.

Credits:

(§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982; am E.O. No. 55 § 42 (1984); am §§ 8 -- 10 ch 39 SLA 1985; am § 2 ch 114 SLA 1986; am §§ 2 -- 6 ch 205 SLA 1990; am § 66 ch 64 SLA 1996; am § 20 ch 81 SLA 1998; am §§ 57, 58 ch 99 SLA 1998; am § 24 ch 118 SLA 1998; am § 39 ch 43 SLA 2013)

Alaska Stat. § 47.17.023 (2016). Reports from certain persons regarding child pornography.

A person providing, either privately or commercially, film, photo, or visual or printed matter processing, production, or finishing services or computer installation, repair, or other services, or Internet or cellular telephone services who, in the process of providing those services, observes a film, photo, picture, computer file, image, or other matter and has reasonable cause to suspect that the film, photo, picture, computer file, image, or other matter visually depicts a child engaged in conduct described in AS 11.41.455(a) shall immediately report the observation to the nearest law enforcement agency and provide the law enforcement agency with all information known about the nature and origin of the film, photo, picture, computer file, image, or other matter.

Credits:

(§ 11 ch 39 SLA 1985; am § 8 ch 205 SLA 1990; am § 35 ch 75 SLA 2008)

Alaska Stat. § 47.17.024 (2016). Duties of practitioners of the healing arts.

(a) A practitioner of the healing arts involved in the delivery or care of an infant who the practitioner determines has been adversely affected by, or is withdrawing from exposure to, a controlled substance or alcohol shall immediately notify the nearest office of the department of the infant's condition.

(b) In this section,

(1) “controlled substance” has the meaning given in AS 11.71.900, but does not include a substance lawfully taken under a prescription from a health care provider who is authorized to prescribe the substance;

(2) “infant” means a child who is less than 12 months of age.

Credits:

(§ 9 ch 20 SLA 2006)

Alaska Stat. § 47.17.025 (2016). Duties of public authorities.

(a) A law enforcement agency shall immediately notify the department of the receipt of a report of harm to a child from abuse. Upon receipt from any source of a report of harm to a child from abuse, the department shall notify the Department of Law and investigate the report and, within 72 hours of the receipt of the report, shall provide a written report of its investigation of the harm to a child from abuse to the Department of Law for review.

(b) The report of harm to a child from abuse required from the department by this section must include:

(1) the names and addresses of the child and the child's parent or other persons responsible for the child's care, if known;

(2) the age and sex of the child;

(3) the nature and extent of the harm to the child from abuse;

(4) the name and age and address of the person known or believed to be responsible for the harm to the child from abuse, if known;

(5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child from abuse.

(c) Within 20 days after receiving a report of harm, whether or not the matter is referred to a local government agency, the department shall notify the person who made the report and who made a request to be notified about the status of the investigation, without disclosing any confidential information.

Credits:

(§ 6 ch 104 SLA 1982; am § 47 ch 64 SLA 2005)

Alaska Stat. § 47.17.027 (2016). Duties of school officials.

(a) If the department or a law enforcement agency provides written certification to the child's school officials that (1) there is reasonable cause to suspect that the child has been abused or neglected by a person responsible for the child's welfare or as a result of conditions created by a person responsible for the child's welfare; (2) an interview at school is a necessary part of an investigation to determine whether the child has been abused or neglected; and (3) the interview at school is in the best interests of the child, school officials shall permit the child to be interviewed at school by the department or a law enforcement agency before notification of, or receiving permission from, the child's parent, guardian, or custodian. A school official shall be present during an interview at the school unless the child objects or the department or law enforcement agency determines that the presence of the school official will interfere with the investigation. The interview shall be conducted as required under AS 47.17.033. Immediately after conducting an interview authorized under this section, and after informing the child of the intention to notify the child's parent, guardian, or custodian, the department or agency shall make every reasonable effort to notify the child's parent, guardian, or custodian that the interview occurred unless it appears to the department or agency that notifying the child's parent, guardian, or custodian would endanger the child.

(b) A school official who, with criminal negligence, discloses information learned during an interview conducted under (a) of this section is guilty of a class B misdemeanor.

Credits:

(§ 9 ch 205 SLA 1990; am § 48 ch 64 SLA 2005)

Alaska Stat. § 47.17.050 (2016). Immunity

(a) Except as provided in (b) of this section, a person who, in good faith, makes a report under this chapter, permits an interview under AS 47.17.027, or participates in judicial proceedings related to the submission of reports under this chapter, is immune from civil or criminal liability that might otherwise be incurred or imposed for making the report or permitting the interview, except that a person who knowingly makes an untimely report is not immune from civil or criminal liability based on the delay in making the report.

(b) Notwithstanding (a) of this section, a person accused of committing the child abuse or neglect is not immune from civil or criminal liability for the child abuse or neglect as a result of reporting the child abuse or neglect.

Credits:

(§ 1 ch 100 SLA 1971; am §§ 11, 12 ch 205 SLA 1990)

Alaska Stat. § 47.17.060 (2016). Evidence not Privileged.

Neither the physician-patient nor the husband-wife privilege is a ground for excluding

evidence regarding a child's harm, or its cause, in a judicial proceeding related to a report made under this chapter.

Credits:

(§ 1 ch 100 SLA 1971)

Alaska Stat. § 47.17.068 (2016). Penalty for Failure to Report.

A person who fails to comply with the provisions of AS 47.17.020 or 47.17.023 and who knew or should have known that the circumstances gave rise to the need for a report, is guilty of a class A misdemeanor.

Credits:

(§ 7 ch 104 SLA 1982; am § 13 ch 39 SLA 1985; am § 14 ch 205 SLA 1990; am § 11 ch 14 SLA 2006)

ARIZONA

Ariz. Rev. Stat. Ann. §13-3620 (2016). Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

A. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow the death of an infant who is protected under § 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. A member of the clergy, christian science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, christian science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, christian science practitioner or priest belongs may withhold reporting of the communication or confession if the member of the clergy, christian science practitioner or priest determines that it is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, christian science practitioner or priest may otherwise make of the minor. For the purposes of this subsection, "person" means:

1. Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.

2. Any peace officer, member of the clergy, priest or christian science practitioner.
3. The parent, stepparent or guardian of the minor.
4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
5. Any other person who has responsibility for the care or treatment of the minor.

B. A report is not required under this section for conduct prescribed by §§ 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age and there is nothing to indicate that the conduct is other than consensual.

C. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:

1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.
2. The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

E. A health care professional who is regulated pursuant to title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in § 13-3401 shall immediately report this information, or cause a report to be made, to child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.

F. Any person other than one required to report or cause reports to be made under subsection A of this section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a peace officer or to child protective services in the department of economic security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.

G. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this section.

H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

I. Any person who is required to receive reports pursuant to subsection A of this section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the involved minor may be performed.

J. A person who furnishes a report, information or records required or authorized under this section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:

1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.

L. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a christian science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a christian science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this subsection discharges a member of the clergy, a christian science practitioner or a priest from the duty to report pursuant to subsection A of this section.

M. If psychiatric records are requested pursuant to subsection G of this section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:

1. Personal information about individuals other than the patient.
2. Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.

O. A person who violates this section is guilty of a class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a class 6 felony.

P. For the purposes of this section:

1. "Abuse" has the same meaning prescribed in § 8-201.
2. "Child abuse" means child abuse pursuant to § 13-3623.
3. "Neglect" has the same meaning prescribed in § 8-201.
4. "Reportable offense" means any of the following:
 - (a) Any offense listed in chapters 14 and 35.1 of this title or § 13-3506.01.
 - (b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to § 13-3019.
 - (c) Child prostitution pursuant to § 13-3212.

- (d) Incest pursuant to § 13-3608.
- (e) Unlawful mutilation pursuant to section 13-1214.

Credits:

Laws 1998, Ch. 276, § 37; Laws 1998, Ch. 289, § 14; Laws 2003, Ch. 222, § 2; Laws 2013, 1st Sp. Sess., Ch. 5, § 2; Laws 2013, 1st Reg. Sess., Ch. 182, § 1; Laws 2013, 1st Reg. Sess., Ch. 220, § 4; Laws 2014, 2nd Sp. Sess., Ch. 1, § 91; Laws 2014, 2nd Reg. Sess., Ch. 224, § 4; Laws 2015, 1st Reg. Sess., Ch. 143, § 1.

Ariz. Rev. Stat. Ann. § 32-3208 (2016). Criminal charges; mandatory reporting requirements; civil penalty.

A. A health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after receiving or renewing a license or certificate must notify the health professional's regulatory board in writing within ten working days after the charge is filed.

B. An applicant for licensure or certification as a health professional who has been charged with a misdemeanor involving conduct that may affect patient safety or a felony after submitting the application must notify the regulatory board in writing within ten working days after the charge is filed.

C. On receipt of this information the regulatory board may conduct an investigation.

D. A health professional who does not comply with the notification requirements of this section commits an act of unprofessional conduct. The health professional's regulatory board may impose a civil penalty of not more than one thousand dollars in addition to other disciplinary action it takes.

E. The regulatory board may deny the application of an applicant who does not comply with the notification requirements of this section.

F. On request a health profession regulatory board shall provide an applicant or health professional with a list of misdemeanors that the applicant or health professional must report.

Credits:

Recent legislative history: Laws 2003, Ch. 116, § 1.

Ariz. Rev. Stat. Ann. §13-3620.01 (2016). False reports; violation; classification

A. A person acting with malice who knowingly and intentionally makes a false report of

child abuse or neglect or a person acting with malice who coerces another person to make a false report of child abuse or neglect is guilty of a class 1 misdemeanor.

B. A person who knowingly and intentionally makes a false report that a person has violated the provisions of subsection A of this section is guilty of a class 1 misdemeanor.

Credits:

Laws 1989, 1st Reg. Sess., Ch. 270, § 6.

Ariz. Rev. Stat. Ann. § 8-817 (2016). Initial screening and safety assessment and investigation protocols.

A. The department shall develop, establish and implement initial screening and safety assessment protocols in consultation with the attorney general and statewide with county attorneys, chiefs of police, sheriffs, medical experts, victims' rights advocates, domestic violence victim advocates and mandatory reporters. Any initial screening and safety assessment tools shall be based on sound methodology and shall ensure valid and reliable responses. The department shall establish written policies and procedures to implement the use of the initial screening and safety assessment protocols.

B. To ensure thorough investigations of those accused of crimes against children, in each county, the county attorney, in cooperation with the sheriff, the chief law enforcement officer for each municipality in the county and the department shall develop, adopt and implement protocols to guide the conduct of investigations of allegations involving criminal conduct. The protocols shall include:

1. The process for notification of receipt of criminal conduct allegations.
2. The standards for interdisciplinary investigations of specific types of abuse and neglect, including timely forensic medical evaluations.
3. The standards for interdisciplinary investigations involving native American children in compliance with the Indian child welfare act.
4. Procedures for sharing information and standards for the timely disclosure of information.
5. Procedures for coordination of screening, response and investigation with other involved professional disciplines and notification of case status and standards for the timely disclosure of related information.
6. The training required for the involved child protective services workers, law enforcement officers and prosecutors to execute the investigation protocols, including forensic interviewing skills.
7. The process to ensure review of and compliance with the investigation

protocols and the reporting of activity under the protocols.

8. Procedures for annual reports to be transmitted within forty-five days after the end of each fiscal year independently from child protective services and each county attorney to the governor, the speaker of the house of representatives and the president of the senate and a copy of this report to be provided to the secretary of state. Each agency must submit a separate report. Each report made pursuant to this paragraph must be independently prepared and submitted without any input from or communication with the other reporting entities. Each report is a public document and shall include:

(a) The number of criminal conduct allegations investigated and how many of these investigations were conducted jointly pursuant to the investigation protocols established in this subsection.

(b) Information from each county attorney regarding the number of cases presented for review, the number of persons charged in those cases, the reasons why charges were not pursued and the disposition of these cases.

(c) The reasons why a joint investigation did not take place.

9. Procedures for dispute resolution.

C. The department shall cooperate with the county attorney and the appropriate law enforcement agency pursuant to the investigation protocols adopted in this section. In instances of criminal conduct against a child, the department shall protect the victim's rights of the children in its custody against harassment, intimidation and abuse, as applicable, pursuant to article II, section 2.1, Constitution of Arizona.

D. The county attorney and the law enforcement agency shall cooperate with the department pursuant to the investigation protocols adopted in this section.

Credits:

Laws 2003, 2nd Sp. Sess., Ch. 6, § 22; Laws 2007, Ch. 56, § 1; Laws 2008, Ch. 280, § 7; Laws 2011, 1st Reg. Sess., Ch. 18, § 7; Laws 2012, 2nd Reg. Sess., Ch. 320, § 5; Laws 2014, 2nd Sp. Sess., Ch. 1, § 68.

ARKANSAS

Ark. Code Ann. § 12-18-401 (2016). Generally

A person may immediately notify the Child Abuse Hotline if he or she:

(1) Has reasonable cause to suspect that:

(A) Child maltreatment has occurred; or

(B) A child has died as a result of child maltreatment; or

(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-402 (2016). Mandated Reporters

(a) An individual listed as a mandated reporter under subsection (b) of this section shall immediately notify the Child Abuse Hotline if he or she:

(1) Has reasonable cause to suspect that a child has:

(A) Been subjected to child maltreatment; or

(B) Died as a result of child maltreatment; or

(2) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment.

(b) The following individuals are mandated reporters under this chapter:

(1) A child care worker or foster care worker;

(2) A coroner;

(3) A day care center worker;

(4) A dentist;

(5) A dental hygienist;

(6) A domestic abuse advocate;

(7) A domestic violence shelter employee;

(8) A domestic violence shelter volunteer;

(9) An employee of the Department of Human Services;

- (10) An employee working under contract for the Division of Youth Services of the Department of Human Services;
- (11) A foster parent;
- (12) A judge;
- (13) A law enforcement official;
- (14) A licensed nurse;
- (15) Medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
- (16) A mental health professional;
- (17) An osteopath;
- (18) A peace officer;
- (19) A physician;
- (20) A prosecuting attorney;
- (21) A resident intern;
- (22) A school counselor;
- (23) A school official;
- (24) A social worker;
- (25) A surgeon;
- (26) A teacher;
- (27) A court-appointed special advocate program staff member or volunteer;
- (28) A juvenile intake or probation officer;
- (29) A clergy member, which includes a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization, or an individual reasonably believed to be so by the person consulting him or her, except to the extent the clergy member:

(A) Has acquired knowledge of suspected child maltreatment through

communications required to be kept confidential pursuant to the religious discipline of the relevant denomination or faith; or

(B) Received the knowledge of the suspected child maltreatment from the alleged offender in the context of a statement of admission;

(30) An employee of a child advocacy center or a child safety center;

(31) An attorney ad litem in the course of his or her duties as an attorney ad litem;

(32)(A) A sexual abuse advocate or sexual abuse volunteer who works with a victim of sexual abuse as an employee of a community-based victim service or mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.

(B) A sexual abuse advocate or sexual abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;

(33) A rape crisis advocate or rape crisis volunteer;

(34)(A) A child abuse advocate or child abuse volunteer who works with a child victim of abuse or maltreatment as an employee of a community-based victim service or a mental health agency such as Safe Places, United Family Services, or Centers for Youth and Families.

(B) A child abuse advocate or child abuse volunteer includes a paid or volunteer sexual abuse advocate who is based with a local law enforcement agency;

(35) A victim/witness coordinator;

(36) A victim assistance professional or victim assistance volunteer; or

(37) An employee of the Crimes Against Children Division of the Department of Arkansas State Police.

(38) An employee of a reproductive healthcare facility;

(39) A volunteer at a reproductive healthcare facility; and

(40) An individual not otherwise identified in this subsection who is engaged in performing his or her employment duties with a nonprofit charitable organization other than a nonprofit hospital.

(c)(1) A privilege or contract shall not prevent a person from reporting child maltreatment when he or she is a mandated reporter and required to report under this section.

(2) A school, Head Start program, or day care facility shall not prohibit an employee or a volunteer from directly reporting child maltreatment to the Child Abuse Hotline.

(3) A school, Head Start program, or day care facility shall not require an employee or a volunteer to obtain permission or notify any person, including an employee or a supervisor, before reporting child maltreatment to the Child Abuse Hotline.

Credits:

Acts 2009, No. 749, § 1; 2009, No. 1409, § 1; 2011, No. 1143, § 8; 2013, No. 725, § 7; 2013, No. 1086, §§ 7, 8; 2015, No. 1056, § 1; 2015, No. 1211, § 3.

Ark. Code Ann. § 6-61-133 (2016). Training for mandatory reporters and licensed elementary and secondary public school personnel.

(a) As used in this section:

(1) “Child maltreatment” means the abuse, sexual abuse, neglect, sexual exploitation, or abandonment of a child under the Child Maltreatment Act, § 12-18-101 et seq.; and

(2) “Licensed school personnel” means a person who works with students in an elementary or secondary public school, a public charter school, a school district, or an education service cooperative for whom a license issued by the State Board of Education is a condition of employment, including without limitation a:

(A) School or school district administrator;

(B) Teacher;

(C) Coach for a school athletics program;

(D) School counselor;

(E) School social worker;

(F) School psychologist; and

(G) School nurse.

(b) For each degree program at an institution of higher education in this state that is a prerequisite for licensure or certification in a profession in which the professional is a child maltreatment mandated reporter under the Child Maltreatment Act, § 12-18-101 et seq., the Department of Higher Education shall coordinate with all the institutions of

higher education to ensure that before receiving a degree, each graduate receives the training identified in subdivision (d)(1) of this section.

(c) Licensed school personnel shall obtain the training identified in subsection (d) of this section within twelve (12) months of:

- (1) The individual's initial licensure; and
- (2) All subsequent renewals of the individual's license.

(d)(1) The training required under this section shall include without limitation:

- (A) Recognizing the signs and symptoms of child maltreatment;
- (B) The legal requirements of the Child Maltreatment Act, § 12-18-101 et seq., and the duties of mandated reporters under the act; and
- (C) Methods for managing disclosures regarding child victims.

(2) In addition to the training required under subdivision (d)(1) of this section, licensed school personnel shall obtain training in connecting a victim of child maltreatment to appropriate in-school services and other agencies, programs, and services needed to provide the child with the emotional and educational support the child needs to continue to be successful in school.

(e)(1) The training obtained by licensed school personnel may be obtained as in-person or online training.

- (2) The Arkansas Child Abuse/Rape/Domestic Violence Commission shall approve the curriculum for the training.
- (3) Licensed school personnel shall document completed training according to the rules of the State Board of Education.

Credits:

Acts 2007, No. 703, § 3; 2009, No. 758, § 7; 2011, No. 1236, § 1; 2013, No. 969, § 11.

Ark. Code Ann. § 12-8-509 (2016). Additional reporting required.

(a) The state agency or entity responsible for administering the twenty-four-hour toll-free Child Abuse Hotline or investigating an incident of neglect as defined under § 12-18-103(13)(B) shall:

- (1) Develop and maintain statewide statistics of the incidents of neglect reported or investigated under § 12-18-103(13)(B);

(2)(A) Annually report no later than October 1 to the following:

- (i) The Senate Interim Committee on Children and Youth;
- (ii) The House Committee on Aging, Children and Youth, Legislative and Military Affairs;
- (iii) The Senate Committee on Public Health, Welfare, and Labor; and
- (iv) The House Committee on Public Health, Welfare, and Labor.

(B) The annual report under this section shall include all findings and statistics regarding incidents of neglect reported or investigated under § 12-18-103(13)(B), including, but not limited to, the following information:

- (i) The age of the mother;
- (ii) The type of illegal substance to which the newborn child was exposed prenatally;
- (iii) The estimated gestational age of the newborn child at the time of birth; and
- (iv) The newborn child's health problems; and

(3)(A) Notify each mandatory reporter who makes a call to the Child Abuse Hotline if the mandatory reporter's call is not accepted or is screened out on a subsequent Child Abuse Hotline supervisor review.

(B) The notification required under subdivision (a)(3)(A) of this section shall be made within forty-eight (48) hours, excluding weekends and holidays, after a mandatory reporter makes a call to the Child Abuse Hotline that is not accepted or is screened out on a subsequent Child Abuse Hotline supervisor review.

(b) If more than one (1) state agency or entity is responsible for administering the twenty-four-hour toll-free Child Abuse Hotline or investigating an incident of neglect as defined under § 12-18-103(13)(B), then the reporting under this section shall be a collaborative effort by all state agencies or entities involved.

Credits:

Acts 2005, No. 1176, § 4; 2007, No. 703, § 8; 2009, No. 758, § 21.

Ark. Code Ann. § 12-18-102 (2016). Purpose.

The purpose of this chapter is to:

- (1) Provide a system for the reporting of known or suspected child maltreatment;
- (2) Ensure the immediate screening, safety assessment, and prompt investigation of reports of known or suspected child maltreatment;
- (3) Ensure that immediate steps are taken to:
 - (A) Protect a maltreated child and any other child under the same care who may also be in danger of maltreatment; and
 - (B) Place a child whose health or physical well-being is in immediate danger in a safe environment;
- (4) Provide immunity from criminal prosecution for an individual making a good faith report of suspected child maltreatment;
- (5) Preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;
- (6) Encourage the cooperation of state law enforcement officials, courts, and state agencies in the investigation, assessment, prosecution, and treatment of child maltreatment; and
- (7) Stabilize the home environment if a child's health and safety are not at risk.

Credits:

Acts 2009, No. 749, § 1; 2011, No. 1143, § 1.

Ark. Code Ann. § 12-18-201 (2016). Failure to notify by a mandated reporter in the first degree.

(a) A person commits the offense of failure to notify by a mandated reporter in the first degree if he or she:

- (1) Is a mandated reporter under this chapter;
- (2) Has:
 - (A) Reasonable cause to suspect that a child has been subjected to child maltreatment;
 - (B) Reasonable cause to suspect that a child has died as a result of child

maltreatment; or

(C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Knowingly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the first degree is a Class A misdemeanor.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-202 (2016). Failure to notify by a mandated reporter in the second degree.

(a) A person commits the offense of failure to notify by a mandated reporter in the second degree if he or she:

(1) Is a mandated reporter under this chapter;

(2) Has:

(A) Reasonable cause to suspect that a child has been subjected to child maltreatment;

(B) Reasonable cause to suspect that a child has died as a result of child maltreatment; or

(C) Observes a child being subjected to conditions or circumstances that would reasonably result in child maltreatment; and

(3) Recklessly fails to notify the Child Abuse Hotline of the child maltreatment or suspected child maltreatment.

(b) Failure to notify by a mandated reporter in the second degree is a Class C misdemeanor.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-203 (2016). Making a false report under this chapter.

(a) A person commits the offense of making a false report under this chapter if he or she purposely makes a report containing a false allegation to the Child Abuse Hotline knowing the allegation to be false.

(b)(1) A first offense of making a false report under this chapter is a Class A misdemeanor.

(2) A subsequent offense of making a false report under this chapter is a Class D felony.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-204 (2016). Unlawful Restriction of Child Abuse Reporting.

(a)(1) A person employed at a school, Head Start program, or day care facility commits the offense of unlawful restriction of child abuse reporting if he or she:

(A) Prohibits a mandated reporter under this chapter from making a report of child maltreatment or suspected child maltreatment to the Child Abuse Hotline;

(B) Requires that a mandated reporter under this chapter receive permission from the person before the mandated reporter makes a report of child maltreatment or suspected child maltreatment to the Child Abuse Hotline; or

(C) Knowingly retaliates against a mandated reporter under this chapter for reporting child maltreatment or suspected child maltreatment to the Child Abuse Hotline.

(2) Nothing in this section shall prohibit any person or institution from requiring a mandatory reporter employed or serving as a volunteer for a person or institution to inform a representative of that person or institution that the reporter has made a report to the Child Abuse Hotline.

(b) Unlawful restriction of child abuse reporting is a Class A misdemeanor.

Credits:

Acts 2009, No. 749, § 1; 2013, No. 1086, § 6.

Ark. Code Ann. § 12-18-206 (2016). Civil liability for failure to report.

A person required by this chapter to make a report of child maltreatment or suspected child maltreatment to the Child Abuse Hotline who purposely fails to do so is civilly liable for damages proximately caused by that failure.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-207 (2016). Judicial and prosecutorial disclosure

A judge or prosecuting attorney who fails to make a report when required by this chapter is immune from criminal and civil liability under this chapter.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-302 (2016). Mandated Reporters

(a) As prescribed under this section, a mandated reporter under this chapter may report child maltreatment or suspected child maltreatment by telephone call, facsimile transmission, or online reporting.

(b) Facsimile transmission and online reporting may be used in nonemergency situations by an identified mandated reporter under this chapter who provides the following contact information:

(1) Name and phone number; and

(2) In the case of online reporting, the email address of the identified mandated reporter under this chapter.

(c) The Child Abuse Hotline shall provide confirmation of the receipt of a facsimile transmission via a return facsimile transmission or via online receipt.

(d) A mandated reporter under this chapter who wishes to remain anonymous shall make a report through the Child Abuse Hotline toll-free telephone system.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 12-18-303 (2016). Minimum requirements for a report to be accepted

(a) Except as otherwise provided in this section, the Child Abuse Hotline shall accept a report of child maltreatment or suspected child maltreatment if:

(1) The allegations, if true, would constitute child maltreatment as defined under this chapter;

(2) Sufficient identifying information is provided to identify and locate the child or the child's family; and

(3) The child or the child's family is present in Arkansas or the incident occurred in Arkansas.

(b)(1) If the alleged offender resides in another state and the incident occurred in another state or country, the Child Abuse Hotline shall document receipt of the report, transfer the report to the Child Abuse Hotline of the state or country where the alleged offender resides or the incident occurred, and, if child protection is an issue, forward the report to the Department of Human Services or the equivalent governmental agency of the state or country where the alleged offender resides.

(2) Any record of receipt of a report under subdivision (b)(1) of this section may be used only within the department for purposes of administration of the program and shall not be disclosed except to:

(A) The prosecuting attorney; or

(B) A law enforcement agency.

(3) Data identifying a reporter under subdivision (b)(1) of this section shall be maintained under § 12-18-502.

(c) If the incident occurred in Arkansas and the victim, offender, or victim's parents no longer reside in Arkansas, the Child Abuse Hotline shall accept the report and the Arkansas investigating agency shall contact the other state and request assistance in completing the investigation, including an interview with the out-of-state subject of the report.

(d)(1) If the Child Abuse Hotline receives a report and the alleged offender is a resident of the State of Arkansas and the report of child maltreatment or suspected child maltreatment in the state or country in which the act occurred would also be child maltreatment in Arkansas at the time the incident occurred, the Child Abuse Hotline shall refer the report to the appropriate investigating agency within the state so that the Arkansas investigative agency can investigate alone or in concert with the investigative agency of any other state or country that may be involved.

(2) The Arkansas investigating agency shall make an investigative determination and shall provide notice to the alleged offender that, if the allegation is determined to be true, the offender's name will be placed in the Child Maltreatment Central Registry.

(3) The other state may also conduct an investigation in this state that results in the offender's being named in a true report in that state and placed in the Child Maltreatment Central Registry of that state.

Credits:

Acts 2009, No. 749, § 1; 2011, No. 1143, § 6; 2015, No. 1211, § 2.

Ark. Code Ann. § 12-18-305 (2012). Garrett's Law Reports.

The Child Abuse Hotline shall accept a report of neglect as defined under § 12-18-103(13)(B) only if the reporter is one (1) of the following mandated reporters and the mandated reporter has reasonable cause to suspect that a child has been subjected to neglect as defined under § 12-18-103(13)(B):

- (1) A licensed nurse;
- (2) Any medical personnel who may be engaged in the admission, examination, care, or treatment of persons;
- (3) An osteopath;
- (4) A physician;
- (5) A resident intern;
- (6) A surgeon; or
- (7) A social worker in a hospital.

Ark. Code Ann. § 12-18-803 (2016). Privileged communications as evidence--Exception

(a) It is the public policy of the State of Arkansas to protect the health, safety, and the welfare of children within the state.

(b) No privilege, except that between a lawyer and client or between a minister, including a Christian Science practitioner, and a person confessing to or being counseled by the minister shall prevent anyone from testifying concerning child maltreatment.

(c) When a physician, psychologist, psychiatrist, or licensed counselor or therapist conducts interviews with or provides therapy to a subject of a report of suspected child maltreatment for purposes related to child maltreatment, the physician, psychologist, psychiatrist, or licensed counselor or therapist is deemed to be performing services on behalf of the child.

(d) An adult subject of a report of suspected child maltreatment cannot invoke privilege on the child's behalf.

Credits:

Acts 2009, No. 749, § 1.

Ark. Code Ann. § 16-10-138 (2016). Mandatory reporter training.

REPEALED

(a) The Administrative Office of the Courts shall develop a web-based curriculum concerning mandatory reporter training that will include without limitation:

(1) The signs and symptoms of abuse;

(2) Training on the specifics that are required to be reported under law and rules; and

(3) The managing of disclosures.

(b) The Department of Human Services shall serve as the host for the web-based curriculum developed by the Administrative Office of the Courts.

Ark. Code Ann. § 17-1-105 (2016). Notification of mandatory reporters.

Each board, commission, or other entity that licenses mandatory reporters of child abuse and neglect shall provide notice to each licensee concerning the online and web-based child abuse reporting program required under § 16-10-138..

Credits:

Acts 2007, No. 703, § 16.

CALIFORNIA

Cal.Penal Code § 11165.7 (2016). Mandated reporter defined

(a) As used in this article, “mandated reporter” is defined as any of the following:

(1) A teacher.

(2) An instructional aide.

- (3) A teacher's aide or teacher's assistant employed by a public or private school.
- (4) A classified employee of a public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of a public or private school.
- (6) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary institutions.
- (7) An administrator of a public or private day camp.
- (8) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (9) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (10) An employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (11) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (12) A Head Start program teacher.
- (13) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (14) A public assistance worker.
- (15) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (16) A social worker, probation officer, or parole officer.
- (17) An employee of a school district police or security department.
- (18) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.
- (19) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker, is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code

to represent a minor.

(20) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(21) A firefighter, except for volunteer firefighters.

(22) A physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage and family therapist, clinical social worker, professional clinical counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(23) An emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(24) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.

(25) A marriage and family therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.

(26) An unlicensed marriage and family therapist intern registered under Section 4980.44 of the Business and Professions Code.

(27) A state or county public health employee who treats a minor for venereal disease or any other condition.

(28) A coroner.

(29) A medical examiner, or other person who performs autopsies.

(30) A commercial film and photographic print or image processor, as specified in subdivision (e) of Section 11166. As used in this article, “commercial film and photographic print or image processor” means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, or who prepares, publishes, produces, develops, duplicates, or prints any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disk, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image, for compensation. The term includes any employee of that person; it does not include a person who develops film or makes prints or images for a public agency.

(31) A child visitation monitor. As used in this article, “child visitation monitor” means a person who, for financial compensation, acts as monitor of a visit between a child and other person when the monitoring of that visit has been ordered by a court of law.

(32) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:

(A) “Animal control officer” means a person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.

(B) “Humane society officer” means a person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporations Code.

(33) A clergy member, as specified in subdivision (d) of Section 11166. As used in this article, “clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(34) The custodian of records of a clergy member, as specified in this section and subdivision (d) of Section 11166.

(35) An employee of a police department, county sheriff's department, county probation department, or county welfare department.

(36) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 5.655 of the California Rules of Court.

(37) A custodial officer, as defined in Section 831.5.

(38) A person providing services to a minor child under Section 12300 or 12300.1 of the Welfare and Institutions Code.

(39) An alcohol and drug counselor. As used in this article, an “alcohol and drug counselor” is a person providing counseling, therapy, or other clinical services for a state licensed or certified drug, alcohol, or drug and alcohol treatment program. However, alcohol or drug abuse, or both alcohol and drug abuse, is not, in and of itself, a sufficient basis for reporting child abuse or neglect.

(40) A clinical counselor trainee, as defined in subdivision (g) of Section 4999.12 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary institution, whose duties bring the administrator or employee into contact with

children on a regular basis, or who supervises those whose duties bring the administrator or employee into contact with children on a regular basis, as to child abuse or neglect occurring on that institution's premises or at an official activity of, or program conducted by, the institution. Nothing in this paragraph shall be construed as altering the lawyer-client privilege as set forth in Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(42)(A) A commercial computer technician as specified in subdivision (e) of Section 11166. As used in this article, “commercial computer technician” means a person who works for a company that is in the business of repairing, installing, or otherwise servicing a computer or computer component, including, but not limited to, a computer part, device, memory storage or recording mechanism, auxiliary storage recording or memory capacity, or any other material relating to the operation and maintenance of a computer or computer network system, for a fee. An employer who provides an electronic communications service or a remote computing service to the public shall be deemed to comply with this article if that employer complies with Section 2258A of Title 18 of the United States Code.

(B) An employer of a commercial computer technician may implement internal procedures for facilitating reporting consistent with this article. These procedures may direct employees who are mandated reporters under this paragraph to report materials described in subdivision (e) of Section 11166 to an employee who is designated by the employer to receive the reports. An employee who is designated to receive reports under this subparagraph shall be a commercial computer technician for purposes of this article. A commercial computer technician who makes a report to the designated employee pursuant to this subparagraph shall be deemed to have complied with the requirements of this article and shall be subject to the protections afforded to mandated reporters, including, but not limited to, those protections afforded by Section 11172.

(b) Except as provided in paragraph (36) of subdivision (a), volunteers of public or private organizations whose duties require direct contact with and supervision of children are not mandated reporters but are encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect to an agency specified in Section 11165.9.

(c) Employers are strongly encouraged to provide their employees who are mandated reporters with training in the duties imposed by this article. This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. Whether or not employers provide their employees with training in child abuse and neglect identification and reporting, the employers shall provide their employees who are mandated reporters with the statement required pursuant to subdivision (a) of Section 11166.5.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) Unless otherwise specifically provided, the absence of training shall not excuse a mandated reporter from the duties imposed by this article.

(f) Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.

Credits:

Added Stats 1987 ch 1459 § 14. Amended Stats 1991 ch 132 § 1 (AB 1133); Stats 1992 ch 459 § 1 (SB 1695); Stats 2000 ch 916 § 5 (AB 1241); Stats 2001 ch 133 § 3 (AB 102), effective July 31, 2001, ch 754 § 4 (AB 1697); Stats 2002 ch 927 § 10.7 (AB 3032), ch 936 § 1 (AB 299), effective September 27, 2002; Stats 2003 ch 122 § 1 (SB 316); Stats 2004 ch 762 § 1 (AB 2531), ch 842 § 5.5 (SB 1313); Stats 2006 ch 901 § 9.5 (SB 1422), effective January 1, 2007; Stats 2008 ch 456 § 1 (AB 2337), effective January 1, 2009; Stats 2011 ch 381 § 41 (SB 146), effective January 1, 2012; Stats 2012 ch 162 § 136 (SB 1171), effective January 1, 2013, ch 517 § 1 (AB 1713), effective January 1, 2013, ch 518 § 1 (SB 1264), effective January 1, 2013, ch 519 § 1 (AB 1434), effective January 1, 2013, ch 520 § 1 (AB 1435), effective January 1, 2013, ch 521 § 1.15 (AB 1817), effective January 1, 2013 (ch 521 prevails); Stats 2013 ch 76 § 164 (AB 383), effective January 1, 2014; Stats 2014 ch 797 § 4 (AB 1432), effective January 1, 2015; Stats 2015 ch 414 § 3 (AB 1207), effective January 1, 2016.

Cal.Penal Code § 11165.9 (2016). Reports of suspected child abuse or neglect

Reports of suspected child abuse or neglect shall be made by mandated reporters, or in the case of reports pursuant to Section 11166.05, may be made, to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

Credits:

Added Stats 2000 ch 916 § 8 (AB 1241). Amended Stats 2001 ch 133 § 4 (AB 102),

effective July 31, 2001; Stats 2005 ch 713 § 2 (AB 776), effective January 1, 2006; Stats 2006 ch 701 § 2 (AB 525), effective January 1, 2007.

Cal. Penal Code § 11166 (2016). Report of child abuse or neglect; mandatory reporters; reasonable suspicion defined; form of report; criminal liability for failure to report; investigation; other reporters; joint reports; retaliation prohibited; report by county probation or welfare department, or law enforcement agency, to investigatory agency and district attorney

(a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written followup report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident.

(1) For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.

(2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.

(3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.

(b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone followup call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written followup report.

- (1) The one-time automated written report form prescribed by the Department of Justice shall be clearly identifiable so that it is not mistaken for a standard written followup report. In addition, the automated one-time report shall contain a section that allows the mandated reporter to state the reason the initial telephone call was not able to be completed. The reason for the submission of the one-time automated written report in lieu of the procedure prescribed in subdivision (a) shall be captured in the Child Welfare Services/Case Management System (CWS/CMS). The department shall work with stakeholders to modify reporting forms and the CWS/CMS as is necessary to accommodate the changes enacted by these provisions.
- (2) This subdivision shall not become operative until the CWS/CMS is updated to capture the information prescribed in this subdivision.
- (3) This subdivision shall become inoperative three years after this subdivision becomes operative or on January 1, 2009, whichever occurs first.
- (4) On the inoperative date of these provisions, a report shall be submitted to the counties and the Legislature by the state Department of Social Services that reflects the data collected from automated one-time reports indicating the reasons stated as to why the automated one-time report was filed in lieu of the initial telephone report.
- (5) Nothing in this section shall supersede the requirement that a mandated reporter first attempt to make a report via telephone, or that agencies specified in Section 11165.9 accept reports from mandated reporters and other persons as required.
- (c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d)(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, "penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(2) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected child abuse or neglect when the clergy member is acting in some other capacity that would otherwise make the clergy member a mandated reporter.

(3)(A) On or before January 1, 2004, a clergy member or any custodian of records for the clergy member may report to an agency specified in Section 11165.9 that the clergy member or any custodian of records for the clergy member, prior to January 1, 1997, in his or her professional capacity or within the scope of his or her employment, other than during a penitential communication, acquired knowledge or had a reasonable suspicion that a child had been the victim of sexual abuse that the clergy member or any custodian of records for the clergy member did not previously report the abuse to an agency specified in Section 11165.9. The provisions of Section 11172 shall apply to all reports made pursuant to this paragraph.

(B) This paragraph shall apply even if the victim of the known or suspected abuse has reached the age of majority by the time the required report is made.

(C) The local law enforcement agency shall have jurisdiction to investigate any report of child abuse made pursuant to this paragraph even if the report is made after the victim has reached the age of majority.

(e)(1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited, to any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to

the law enforcement agency located in the county in which the images or material are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written followup report of the incident with a brief description of the images or materials.

(3) For purposes of this article, “commercial computer technician” includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (41) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, “electronic medium” includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, “sexual conduct” means any of the following:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex or between humans and animals.

(B) Penetration of the vagina or rectum by any object.

(C) Masturbation for the purpose of sexual stimulation of the viewer.

(D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.

(E) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.

(f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).

(g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

(h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(i)(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be

established provided that they are not inconsistent with this article.

(2) The internal procedures shall not require any employee required to make reports pursuant to this article to disclose his or her identity to the employer.

(3) Reporting the information regarding a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report to an agency specified in Section 11165.9.

(j) A county probation or welfare department shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the law enforcement agency having jurisdiction over the case, to the agency given the responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and to the district attorney's office every known or suspected instance of child abuse or neglect, as defined in Section 11165.6, except acts or omissions coming within subdivision (b) of Section 11165.2, or reports made pursuant to Section 11165.13 based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, which shall be reported only to the county welfare or probation department. A county probation or welfare department also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

(k) A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorney's office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

Credits:

Added Stats 1980 ch 1071 § 4. Amended Stats 1981 ch 435 § 2, effective September 12, 1981; Stats 1982 ch 905 § 2; Stats 1984 ch 1423 § 9, effective September 26, 1984; Stats 1986 ch 1289 § 2; Stats 1987 ch 1459 § 20; Stats 1988 ch 269 § 1, ch 1580 § 2; Stats 1990 ch 1603 § 3 (SB 2669), operative July 1, 1991; Stats 1992 ch 459 § 3 (SB 1695); Stats 1993 ch 510 § 1.5 (SB 665); Stats 1996 ch 1080 § 10 (AB 295), ch 1081 § 3.5 (AB

3354); Stats 2000 ch 916 § 16 (AB 1241); Stats 2001 ch 133 § 5 (AB 102), effective July 31, 2001; Stats 2002 ch 936 § 2 (AB 299), effective September 27, 2002; Stats 2004 ch 823 § 17 (AB 20), ch 842 § 7.5 (SB 1313); Stats 2005 ch 42 § 1 (AB 299), ch 713 § 3 (AB 776), effective January 1, 2006; Stats 2006 ch 701 § 3 (AB 525), effective January 1, 2007; Stats 2007 ch 393 § 3 (AB 673), effective January 1, 2008; Stats 2010 ch 123 § 1 (AB 2380), effective January 1, 2011; Stats 2012 ch 517 § 2 (AB 1713), effective January 1, 2013, ch 521 § 2.5 (AB 1817), effective January 1, 2013 (ch 521 prevails), ch 728 § 131 (SB 71), effective January 1, 2013; Stats 2013 ch 76 § 165 (AB 383), effective January 1, 2014; Stats 2015 ch 425 § 4 (SB 794), effective January 1, 2016.

Cal.Penal Code § 11166.01 (2016). Supervisors, administrators and other mandated reporters; failure to report or impeding or inhibiting report of suspected child abuse or neglect; violations and penalties

(a) Except as provided in subdivision (b), any supervisor or administrator who violates paragraph (1) of subdivision (i) of Section 11166 shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

(b) Notwithstanding Section 11162 or subdivision (c) of Section 11166, any mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, in violation of this article, where that abuse or neglect results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.

Credits:

Added Stats 2002 ch 858 § 1 (AB 2672). Amended Stats 2004 ch 842 § 8 (SB 1313); Stats 2005 ch 163 § 1 (AB 1188), effective January 1, 2006; Stats 2006 ch 901 § 10 (SB 1422), effective January 1, 2007.

Cal.Penal Code § 11167 (2016). Report; contents; confidentiality of identity of persons reporting

(a) Reports of suspected child abuse or neglect pursuant to Section 11166 or Section 11166.05 shall include the name, business address, and telephone number of the mandated reporter; the capacity that makes the person a mandated reporter; and the information that gave rise to the reasonable suspicion of child abuse or neglect and the source or sources of that information. If a report is made, the following information, if known, shall also be included in the report: the child's name, the child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of

this information is not known or is uncertain to him or her.

(b) Information relevant to the incident of child abuse or neglect and information relevant to a report made pursuant to Section 11166.05 may be given to an investigator from an agency that is investigating the known or suspected case of child abuse or neglect.

(c) Information relevant to the incident of child abuse or neglect, including the investigation report and other pertinent materials, and information relevant to a report made pursuant to Section 11166.05 may be given to the licensing agency when it is investigating a known or suspected case of child abuse or neglect.

(d)(1) The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under Section 602 of the Welfare and Institutions Code arising from alleged child abuse, or to counsel appointed pursuant to subdivision (c) of Section 317 of the Welfare and Institutions Code, or to the county counsel or prosecutor in a proceeding under Part 4 (commencing with Section 7800) of Division 12 of the Family Code or Section 300 of the Welfare and Institutions Code, or to a licensing agency when abuse or neglect in out-of-home care is reasonably suspected, or when those persons waive confidentiality, or by court order.

(2) No agency or person listed in this subdivision shall disclose the identity of any person who reports under this article to that person's employer, except with the employee's consent or by court order.

(e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166 or Section 11166.05, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in a manner that is consistent with laws protecting the identity of the reporter under this article.

(f) Persons who may report pursuant to subdivision (g) of Section 11166 are not required to include their names

Credits:

Added Stats 1980 ch 1071 § 4. Amended Stats 1981 ch 435 § 3, effective September 12, 1981; Stats 1982 ch 162 § 2, effective April 26, 1982; Stats 1984 ch 144 § 164; Stats 1985 ch 1598 § 6; Stats 1986 ch 1289 § 3; Stats 1987 ch 531 § 6; Stats 1992 ch 163 § 112 (AB 2641), operative January 1, 1994 (ch 316 prevails), ch 316 § 2 (AB 3491); Stats 1993 ch 219 § 221 (AB 1500); Stats 1997 ch 324 § 8 (SB 871); Stats 2000 ch 916 § 24 (AB 1241); Stats 2001 ch 133 § 13 (AB 102), effective July 31, 2001; Stats 2004 ch 292 § 1 (AB 2749), ch 842 § 15.5 (SB 1313); Stats 2005 ch 279 § 17 (SB 1107), effective January 1, 2006; Stats 2006 ch 701 § 4 (AB 525) (ch 701 prevails), effective January 1, 2007, ch 901 § 10.5 (SB 1422), effective January 1, 2007; Stats 2010 ch 95 § 1 (AB 2339), effective January 1, 2011.

Cal.Penal Code § 11172 (2016). Immunity from liability; liability for false reports; attorney fees; failure to report

(a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her professional capacity or outside the scope of his or her employment. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, nor any person taking photographs at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or causing photographs to be taken of a suspected victim of child abuse or neglect, without parental consent, or for disseminating the photographs, images, or material with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.

(c) Any commercial computer technician, and any employer of any commercial computer technician, who, pursuant to a warrant from a law enforcement agency investigating a report of suspected child abuse or neglect, provides the law enforcement agency with a computer or computer component which contains possible evidence of a known or suspected instance of child abuse or neglect, shall not incur civil or criminal liability as a result of providing that computer or computer component to the law enforcement agency.

(d)(1) The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they not be unfairly burdened by legal fees incurred in defending those actions. Therefore, a mandated reporter may present a claim to the California Victim Compensation and Government Claims Board for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The California Victim Compensation and Government Claims Board shall allow that claim if

the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

(2) This subdivision shall not apply if a public entity has provided for the defense of the action pursuant to Section 995 of the Government Code.

(e) A court may award attorney's fees and costs to a commercial film and photographic print processor when a suit is brought against the processor because of a disclosure mandated by this article and the court finds this suit to be frivolous.

Credits:

Added Stats 1980 ch 1071 § 4. Amended Stats 1981 ch 135 § 1, effective July 1, 1981, ch 435 § 6, effective September 12, 1981; Stats 1984 ch 1170 § 2, ch 1703 § 2, ch 1718 § 3; Stats 1985 ch 1598 § 9; Stats 1986 ch 553 § 1; Stats 1987 ch 1459 § 23; Stats 1992 ch 459 § 5 (SB 1695); Stats 1993 ch 510 § 3 (SB 665); Stats 1996 ch 1081 § 6 (AB 3354); Stats 2000 ch 916 § 31 (AB 1241); Stats 2001 ch 133 § 16 (AB 102), effective July 31, 2001; Stats 2004 ch 842 § 21 (SB 1313); Stats 2006 ch 538 § 525 (SB 1852), effective January 1, 2007; Stats 2012 ch 521 § 3 (AB 1817), effective January 1, 2013; Stats 2016 ch 31 § 257 (SB 836), effective June 27, 2016.

COLORADO

Colo. Rev. Stat. § 19-3-304 (2016). Persons required to report child abuse or neglect.

(1)(a) Except as otherwise provided by section 19-3-307, sections 25-1-122(4)(d) and 25-4-1404(1)(d), C.R.S., and paragraph (b) of this subsection (1), any person specified in subsection (2) of this section who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect shall immediately upon receiving such information report or cause a report to be made of such fact to the county department or local law enforcement agency.

(b) The reporting requirement described in paragraph (a) of this subsection (1) shall not apply if the person who is otherwise required to report does not:

(I) Learn of the suspected abuse or neglect until after the alleged victim of the suspected abuse or neglect is eighteen years of age or older; and

(II) Have reasonable cause to know or suspect that the perpetrator of the suspected abuse or neglect:

(A) Has subjected any other child currently under eighteen years of age to abuse or neglect or to circumstances or conditions that would likely result in abuse or neglect; or

(B) Is currently in a position of trust, as defined in section 18-3-401(3.5), C.R.S., with regard to any child currently under eighteen years of age.

(2) Persons required to report such abuse or neglect or circumstances or conditions include any:

- (a) Physician or surgeon, including a physician in training;
- (b) Child health associate;
- (c) Medical examiner or coroner;
- (d) Dentist;
- (e) Osteopath;
- (f) Optometrist;
- (g) Chiropractor;
- (h) Podiatrist;
- (i) Registered nurse or licensed practical nurse;
- (j) Hospital personnel engaged in the admission, care, or treatment of patients;
- (k) Christian science practitioner;
- (l) Public or private school official or employee;
- (m) Social worker or worker in any facility or agency that is licensed or certified pursuant to part 1 of article 6 of title 26, C.R.S.;
- (n) Mental health professional;
- (o) Dental hygienist;
- (p) Psychologist;
- (q) Physical therapist;

- (r) Veterinarian;
- (s) Peace officer as described in section 16-2.5-101, C.R.S.;
- (t) Pharmacist;
- (u) Commercial film and photographic print processor as provided in subsection (2.5) of this section;
- (v) Firefighter as defined in section 18-3-201(1), C.R.S.;
- (w) Victim's advocate, as defined in section 13-90-107(1)(k)(II), C.R.S.;
- (x) Licensed professional counselors;
- (y) Licensed marriage and family therapists;
- (z) Registered psychotherapists;
- (aa)(I) Clergy member.

(II) The provisions of this paragraph (aa) shall not apply to a person who acquires reasonable cause to know or suspect that a child has been subjected to abuse or neglect during a communication about which the person may not be examined as a witness pursuant to section 13-90-107(1)(c), C.R.S., unless the person also acquires such reasonable cause from a source other than such a communication.

(III) For purposes of this paragraph (aa), unless the context otherwise requires, "clergy member" means a priest, rabbi, duly ordained, commissioned, or licensed minister of a church, member of a religious order, or recognized leader of any religious body.

- (bb) Registered dietitian who holds a certificate through the commission on dietetic registration and who is otherwise prohibited by 7 CFR 246.26 from making a report absent a state law requiring the release of this information;
- (cc) Worker in the state department of human services;
- (dd) Juvenile parole and probation officers;
- (ee) Child and family investigators, as described in section 14-10-116.5, C.R.S.;
- (ff) Officers and agents of the state bureau of animal protection, and animal control officers;

(gg) The child protection ombudsman as created in article 3.3 of this title;

(hh) Educator providing services through a federal special supplemental nutrition program for women, infants, and children, as provided for in 42 U.S.C. sec. 1786.

(2.5) Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child engaged in an act of sexual conduct shall report such fact to a local law enforcement agency immediately or as soon as practically possible by telephone and shall prepare and send a written report of it with a copy of the film, photograph, video tape, negative, or slide attached within thirty-six hours of receiving the information concerning the incident.

(3) In addition to those persons specifically required by this section to report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in abuse or neglect, any other person may report known or suspected child abuse or neglect and circumstances or conditions which might reasonably result in child abuse or neglect to the local law enforcement agency or the county department.

(3.5) No person, including a person specified in subsection (1) of this section, shall knowingly make a false report of abuse or neglect to a county department or local law enforcement agency.

(4) Any person who willfully violates the provisions of subsection (1) of this section or who violates the provisions of subsection (3.5) of this section:

(a) Commits a class 3 misdemeanor and shall be punished as provided in section 18-1.3-501, C.R.S.;

(b) Shall be liable for damages proximately caused

Credits:

L. 87: Entire title R&RE, p. 764, § 1, effective October 1.L. 90: (2)(m) amended, P. 1394, § 2, effective May 24; (3.5) added and IP(4) amended, p. 1023, § 1, effective July 1.L. 93: (1) amended, p. 1609, § 1, effective June 6; (2) amended, p. 1735, § 29, effective July 1.L. 95: (2)(w) added, p. 949, § 5, effective July 1.L. 96: (2.5) amended, p. 83, § 8, effective March 20; (2)(m) amended, p. 265, § 16, effective July 1.L. 97: (2)(v) amended, p. 1013, § 19, effective August 6.L. 2001: (2)(x), (2)(y), and (2)(z) added, p. 160, § 1, effective July 1.L. 2002: (1) amended, p. 568, § 2, effective May 24; (2)(aa) added, p. 1145, § 1, effective June 3; (1) amended, p. 1592, § 30, effective July 1; (4)(a) amended, p. 1527, § 231, effective October 1.L. 2003: (2)(m) amended and (2)(cc) added, p. 660, § 1, effective March 20; (2)(bb) added, p. 666, § 1, effective March 20; (2)(s) amended, p. 1616, § 18, effective August 6.L. 2005: (2)(dd), (2)(ee), and (2)(ff) added, p. 357, § 1, effective April 22; (2)(ee) amended, p. 963, § 9, effective July 1.L. 2010: (2)(gg) added, (SB 10-171), ch. 225, p. 982, § 4, effective May 14; (1) amended, (SB 10-066), ch. 418,

p. 2060, § 1, effective June 10; (2)(h) amended, (HB 10-1224), ch. 420, p. 2161, § 25, effective July 1.L. 2011: IP(2) and (2)(z) amended, (SB 11-187), ch. 285, p. 1328, § 71, effective July 1; (2)(hh) added, (SB 11-034), ch. 125, p. 390, § 1, effective January 1, 2012.L. 2013: (2)(hh) amended and (2)(ii) added, (SB 13-012), ch. 51, p. 173, § 2, effective March 22; (1)(a), (3), and (3.5) amended, (HB 13-1271), ch. 219, p. 1021, § 2, effective May 14; (2)(jj) added, (HB 13-1104), ch. 77, p. 249, § 6, effective August 7; (2)(kk) added, (SB 13-220), ch. 220, p. 1023, § 1, effective July 1, 2014.L. 2014: (2)(v) amended, (HB 14-1214), ch. 336, p. 1499, § 11, effective August 6.L. 2016: (1)(a) amended, (SB 16-146), ch. 230, p. 918, § 13, effective July 1.

Colo. Rev. Stat. § 19-3-305 (2016). Required Report of Postmortem Investigation.

(1) Any person who is required by section 19-3-304 to report known or suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report such fact immediately to a local law enforcement agency and to the appropriate medical examiner. The local law enforcement agency and the medical examiner shall accept such report for investigation and shall report their findings to the local law enforcement agency, the district attorney, and the county department.

(2) The county department shall forward a copy of such report to the state department of human services.

Credits:

L. 87: Entire title R&RE, p. 765, § 1, effective October 1.L. 2003: (2) amended, p. 1405, § 9, effective January 1, 2004.

Colo. Rev. Stat .Ann. § 19-3-307 (2016). Reporting Procedures.

(1) Reports of known or suspected child abuse or neglect made pursuant to this article shall be made immediately to the county department or the local law enforcement agency and shall be followed promptly by a written report prepared by those persons required to report. The county department shall submit a report of confirmed child abuse or neglect within sixty days of receipt of the report to the state department in a manner prescribed by the state department.

(2) Such reports, when possible, shall include the following information:

- (a) The name, address, age, sex, and race of the child;
- (b) The name and address of the person responsible for the suspected abuse or neglect;
- (c) The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's

siblings;

(d) The names and addresses of the persons responsible for the suspected abuse or neglect, if known;

(e) The family composition;

(f) The source of the report and the name, address, and occupation of the person making the report;

(g) Any action taken by the reporting source;

(h) Any other information that the person making the report believes may be helpful in furthering the purposes of this part 3.

(2.5) Notwithstanding the requirements set forth in subsection (2) of this section, any officer or employee of a county, district, or municipal public health agency or state department of public health and environment who makes a report pursuant to section 25-1-122(4)(d) or 25-4-1404(1)(d), C.R.S., shall include only the information described in said sections.

(3)(a) A copy of the report of known or suspected child abuse or neglect shall be transmitted immediately by the county department to the district attorney's office and to the local law enforcement agency.

(b) When the county department reasonably believes a criminal act of abuse or neglect of a child in foster care has occurred, the county department shall transmit immediately a copy of the written report prepared by the county department in accordance with subsection (1) of this section to the district attorney's office and to the local law enforcement agency.

(4) A written report from persons or officials required by this part 3 to report known or suspected child abuse or neglect shall be admissible as evidence in any proceeding relating to child abuse, subject to the limitations of section 19-1-307.

Credits:

L. 87: Entire title R&RE, p. 766, § 1, effective October 1.L. 90: (4) amended, p. 1012, § 6, effective July 1.L. 93: (2.5) added, p. 1609, § 2, effective June 6.L. 94: (2.5) amended, p. 2737, § 364, effective July 1.L. 98: (4) amended, p. 822, § 27, effective August 5.L. 2001: (3) amended, p. 758, § 9, effective June 1.L. 2003: (1) amended, p. 1406, § 10, effective January 1, 2004.L. 2010: (2.5) amended, (HB 10-1422), ch. 419, p. 2075, § 36, effective August 11.L. 2013: (1) amended, (HB 13-1271), ch. 219, p. 1022, § 3, effective May 14.L. 2016: (2.5) amended, (SB 16-146), ch. 230, p. 919, § 14, effective July 1.

**Colo. Rev. Stat .Ann. §§ 19-3-309 (2016). Immunity from liability--
persons reporting**

Any person, other than the perpetrator, complicitor, coconspirator, or accessory, participating in good faith in the making of a report, in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to section 19-3-405 or otherwise performing his duties or acting pursuant to this part 3 shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.

Credits:

L. 87: Entire title R&RE, p. 770, § 1, effective October 1.L. 89: Entire section amended, p. 916, § 7, effective July 1.

Colo. Rev. Stat .Ann. § 19-3-311 (2016). Evidence not privileged.

(1) The incident of privileged communication between patient and physician, between patient and registered professional nurse, or between any person licensed pursuant to article 43 of title 12, C.R.S., or certified or licensed school psychologist and client, which is the basis for a report pursuant to section 19-3-304, shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to this part 3. In addition, privileged communication shall not apply to any discussion of any future misconduct or of any other past misconduct which could be the basis for any other report under section 19-3-304.

(2) The privileged communication between husband and wife shall not be a ground for excluding evidence in any judicial proceeding resulting from a report pursuant to this part 3.

Credits:

L. 87: Entire title R&RE, p. 771, § 1, effective October 1.L. 89: Entire section amended, p. 699, § 6, effective June 7.L. 90: Entire section amended, p. 1024, § 3, effective July 1.L. 2008: (1) amended, p. 1893, § 65, effective August 5.

CONNECTICUT

**Conn. Gen. Stat. Ann. § 17a-101 (2016). Protection of children from abuse.
Mandated reporters. Educational and training programs. Model mandated**

reporting policy

(a) The public policy of this state is: To protect children whose health and welfare may be adversely affected through injury and neglect; to strengthen the family and to make the home safe for children by enhancing the parental capacity for good child care; to provide a temporary or permanent nurturing and safe environment for children when necessary; and for these purposes to require the reporting of suspected child abuse or neglect, investigation of such reports by a social agency, and provision of services, where needed, to such child and family.

(b) The following persons shall be mandated reporters: Any physician or surgeon licensed under the provisions of chapter 370, any resident physician or intern in any hospital in this state, whether or not so licensed, any registered nurse, licensed practical nurse, medical examiner, dentist, dental hygienist or psychologist, a school employee, as defined in section 53a-65, social worker, police officer, juvenile or adult probation officer, juvenile or adult parole officer, member of the clergy, pharmacist, physical therapist, optometrist, chiropractor, podiatrist, mental health professional or physician assistant, any person who is a licensed or certified emergency medical services provider, any person who is a licensed or certified alcohol and drug counselor, any person who is a licensed marital and family therapist, any person who is a sexual assault counselor or a battered women's counselor, as defined in section 52-146k, any person who is a licensed professional counselor, any person who is a licensed foster parent, any person paid to care for a child in any public or private facility, child day care center, group day care home or family day care home licensed by the state, any employee of the Department of Children and Families, any employee of the Department of Public Health who is responsible for the licensing of child day care centers, group day care homes, family day care homes or youth camps, the Child Advocate and any employee of the Office of the Child Advocate and any family relations counselor, family relations counselor trainee or family services supervisor employed by the Judicial Department.

(c) The Commissioner of Children and Families shall develop an educational training program and refresher training program for the accurate and prompt identification and reporting of child abuse and neglect. Such training program and refresher training program shall be made available to all persons mandated to report child abuse and neglect at various times and locations throughout the state as determined by the Commissioner of Children and Families. Such training program shall be provided to all new school employees, as defined in section 53a-65, within available appropriations.

(d) On or before October 1, 2011, the Department of Children and Families, in consultation with the Department of Education, shall develop a model mandated reporting policy for use by local and regional boards of education. Such policy shall state applicable state law regarding mandated reporting and any relevant information that may assist school districts in the performance of mandated reporting. Such policy shall include, but not be limited to, the following information: (1) Those persons employed by the local or regional board of education who are required pursuant to this section to be mandated reporters, (2) the type of information that is to be reported, (3) the time frame

for both written and verbal mandated reports, (4) a statement that the school district may conduct its own investigation into an allegation of abuse or neglect by a school employee, provided such investigation does not impede an investigation by the Department of Children and Families, and (5) a statement that retaliation against mandated reporters is prohibited. Such policy shall be updated and revised as necessary.

Credits:

February, 1965, P.A. 580, S. 1-3; 1967, P.A. 317; 1969, P.A. 25; 1971, P.A. 216; P.A. 73-205, S. 1; P.A. 74-293, S. 1-3; P.A. 75-270; 75-384, S. 1-6, 9; 75-420, S. 4, 6; P.A. 76-27, S. 1, 2; 76-436, S. 586, 681; P.A. 77-308, S. 1, 4; 77-614, S. 486, 521, 587, 610; P.A. 78-303, S. 85, 136; P.A. 79-631, S. 60, 111; P.A. 80-190, S. 4; P.A. 81-91, S. 2; 81-472, S. 29, 159; P.A. 82-203; P.A. 86-337, S. 6; P.A. 88-218; 88-333; P.A. 89-160, S. 1, 2; 89-168, S. 1; P.A. 92-76, S. 1; P.A. 93-91, S. 1, 2; 93-340, S. 4, 19; P.A. 94-221, S. 21; P.A. 95-103; 95-289, S. 7; P.A. 96-246, S. 1; P.A. 99-102, S. 13; P.A. 00-49, S. 6, 7; P.A. 02-106, S. 3; 02-138, S. 12; P.A. 09-185, S. 8; 09-242, S. 2; P.A. 10-43, S. 12; P.A. 11-93, S. 3; P.A. 12-82, S. 8, eff. Oct. 1, 2012; P.A. 12-119, S. 7, eff. June 15, 2012; P.A. 13-214, S. 7, eff. Oct. 1, 2013; P.A. 14-39, S. 63, eff. July 1, 2014; P.A. 14-186, S. 6, eff. Oct. 1, 2014; P.A. 15-143, S. 9, eff. June 30, 2015; P.A. 15-205, S. 1, eff. July 1, 2015; P.A. 16-163, S. 16, eff. June 9, 2016.

Conn. Gen. Stat. Ann. § 17a-101a (2016). Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney

(a) Any mandated reporter, as defined in section 17a-101, who in the ordinary course of such person's employment or profession has reasonable cause to suspect or believe that any child under the age of eighteen years (1) has been abused or neglected, as defined in section 46b-120, (2) has had nonaccidental physical injury, or injury which is at variance with the history given of such injury, inflicted upon such child, or (3) is placed at imminent risk of serious harm, shall report or cause a report to be made in accordance with the provisions of sections 17a-101b to 17a-101d, inclusive.

(b) Any person required to report under the provisions of this section who fails to make such report or fails to make such report within the time period prescribed in sections 17a-101b to 17a-101d, inclusive, and section 17a-103 shall be fined not less than five hundred dollars or more than two thousand five hundred dollars and shall be required to participate in an educational and training program. The program may be provided by one or more private organizations approved by the commissioner, provided the entire cost of the program shall be paid from fees charged to the participants, the amount of which shall be subject to the approval of the commissioner.

(c) The Commissioner of Children and Families, or the commissioner's designee, shall promptly notify the Chief State's Attorney when there is reason to believe that any such person has failed to make a report in accordance with this section.

(d) For purposes of this section and section 17a-101b, a mandated reporter's suspicion or belief may be based on factors including, but not limited to, observations, allegations, facts or statements by a child, victim, as described in subdivision (2) of subsection (a) of this section, or third party. Such suspicion or belief does not require certainty or probable cause.

Credits:

P.A. 96-246, S. 2; P.A. 97-319, S. 9, 22; P.A. 98-241, S. 3, 18; P.A. 02-106, S. 4; 02-138, S. 13; P.A. 11-93, S. 8; P.A. 12-82, S. 9, eff. Oct. 1, 2012; P.A. 13-297, S. 2, eff. Oct. 1, 2013; P.A. 15-205, S. 2, eff. Oct. 1, 2015.

Conn. Gen. Stat. Ann. § 17a-101b (2016). Oral report by mandated reporter. Notification of law enforcement agency when allegation of sexual abuse or serious physical abuse. Notification of person in charge of institution, facility or school when staff member suspected of abuse or neglect

(a) An oral report shall be made by a mandated reporter as soon as practicable but not later than twelve hours after the mandated reporter has reasonable cause to suspect or believe that a child has been abused or neglected or placed in imminent risk of serious harm, by telephone or in person to the Commissioner of Children and Families or a law enforcement agency. If a law enforcement agency receives an oral report, it shall immediately notify the Commissioner of Children and Families.

(b) If the commissioner or the commissioner's designee suspects or knows that such person has knowingly made a false report, the identity of such person shall be disclosed to the appropriate law enforcement agency and to the perpetrator of the alleged abuse.

(c) If the Commissioner of Children and Families, or the commissioner's designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage or loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, the commissioner shall, within twelve hours of receipt of such report, notify the appropriate law enforcement agency.

(d) Whenever a mandated reporter, as defined in section 17a-101, has reasonable cause to suspect or believe that any child has been abused or neglected by a member of the staff of a public or private institution or facility that provides care for such child or a public or private school, the mandated reporter shall report as required in subsection (a) of this section. The Commissioner of Children and Families or the commissioner's designee shall notify the principal, headmaster, executive director or other person in charge of such institution, facility or school, or the person's designee, unless such person is the alleged perpetrator of the abuse or neglect of such child. In the case of a public school, the commissioner shall also notify the person's employing superintendent. Such person in charge, or such person's designee, shall then immediately notify the child's parent or other

person responsible for the child's care that a report has been made.

(e) For purposes of this section, “child” includes any victim described in subdivision (2) of subsection (a) of section 17a-101a.

Credits:

P.A. 96-246, S. 3; P.A. 97-319, S. 10, 22; P.A. 02-138, S. 14; P.A. 11-93, S. 11; P.A. 15-205, S. 3, eff. Oct. 1, 2015.

Conn. Gen. Stat. Ann. § 17a-101c (2016). Written Report by Mandated Reporter.

Not later than forty-eight hours after making an oral report, a mandated reporter shall submit a written report to the Commissioner of Children and Families or the commissioner's designee. When a mandated reporter is a member of the staff of a public or private institution or facility that provides care for such child or public or private school the reporter shall also submit a copy of the written report to the person in charge of such institution, school or facility or the person's designee. In the case of a report concerning a school employee holding a certificate, authorization or permit issued by the State Board of Education under the provisions of sections 10-144o to 10-146b, inclusive, and 10-149, a copy of the written report shall also be sent by the Commissioner of Children and Families or the commissioner's designee to the Commissioner of Education or the commissioner's designee. In the case of an employee of a facility or institution that provides care for a child which is licensed by the state, a copy of the written report shall also be sent by the Commissioner of Children and Families to the executive head of the state licensing agency.

Credits:

P.A. 96-246, S. 4; P.A. 97-319, S. 11, 22; P.A. 98-239, S. 18; P.A. 03-168, S. 6; P.A. 11-93, S. 9.

Conn. Gen. Stat. Ann. § 17a-101d (2016). Contents of Oral and Written Reports.

All oral and written reports required in sections 17a-101a to 17a-101c, inclusive, and section 17a-103, shall contain, if known: (1) The names and addresses of the child and his parents or other person responsible for his care; (2) the age of the child; (3) the gender of the child; (4) the nature and extent of the child's injury or injuries, maltreatment or neglect; (5) the approximate date and time the injury or injuries, maltreatment or neglect occurred; (6) information concerning any previous injury or injuries to, or maltreatment or neglect of, the child or his siblings; (7) the circumstances in which the injury or injuries, maltreatment or neglect came to be known to the reporter; (8) the name of the person or persons suspected to be responsible for causing such injury or injuries, maltreatment or neglect; (9) the reasons such person or persons are suspected of causing such injury or injuries, maltreatment or neglect; (10) any information concerning any

prior cases in which such person or persons have been suspected of causing an injury, maltreatment or neglect of a child; and (11) whatever action, if any, was taken to treat, provide shelter or otherwise assist the child.

Credits:

P.A. 96-246, S. 5; P.A. 11-93, S. 15; P.A. 15-205, S. 4, eff. Oct. 1, 2015.

Conn. Gen. Stat. Ann. § 17a-101e (2016). Employers prohibited from discrimination against witness in child abuse proceeding. Penalty. Immunity for making report of child abuse in good faith. False report of child abuse. Penalty

(a) No employer shall discharge, or in any manner discriminate or retaliate against, any employee who in good faith makes a report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, testifies or is about to testify in any proceeding involving child abuse or neglect. The Attorney General may bring an action in Superior Court against an employer who violates this subsection. The court may assess a civil penalty of not more than two thousand five hundred dollars and may order such other equitable relief as the court deems appropriate.

(b) Any person, institution or agency which, in good faith, makes, or in good faith does not make, the report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such report provided such person did not perpetrate or cause such abuse or neglect.

(c) Any person who is alleged to have knowingly made a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, shall be referred to the office of the Chief State's Attorney for purposes of a criminal investigation.

(d) Any person who knowingly makes a false report of child abuse or neglect pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103, shall be fined not more than two thousand dollars or imprisoned not more than one year or both.

Credits:

P.A. 96-246, S. 6; P.A. 97-319, S. 12, 22; P.A. 12-82, S. 10, eff. Oct. 1, 2012; P.A. 13-53, S. 1, eff. Oct. 1, 2013.

Conn. Gen. Stat. Ann. § 17a-103 (2016). Reports by others. False reports. Notification to law enforcement agency

(a) Any mandated reporter acting outside his professional capacity and any other person having reasonable cause to suspect or believe that any child under the age of eighteen is in danger of being abused, or has been abused or neglected, as defined in section 46b-120, may cause a written or oral report to be made to the Commissioner of Children and Families or his representative or a law enforcement agency. The Commissioner of

Children and Families or his representative shall use his best efforts to obtain the name and address of a person who causes a report to be made pursuant to this section. In the case of an oral report, such report shall be recorded on tape and the commissioner or his representative shall announce to the person making such report that such report is being recorded and shall state the penalty for knowingly making a false report of child abuse or neglect under subsection (d) of section 17a-101e.

(b) Notwithstanding the provisions of section 17a-101k, if the identity of any such person who made a report pursuant to subsection (a) of this section is known, and the commissioner or his representative suspects or knows that such person has knowingly made a false report, such identity shall be disclosed to the appropriate law enforcement agency and to the perpetrator of the alleged abuse.

(c) If the Commissioner of Children and Families, or his designee, receives a report alleging sexual abuse or serious physical abuse, including, but not limited to, a report that: (1) A child has died; (2) a child has been sexually assaulted; (3) a child has suffered brain damage, loss or serious impairment of a bodily function or organ; (4) a child has been sexually exploited; or (5) a child has suffered serious nonaccidental physical injury, he shall, within twenty-four hours of receipt of such report, notify the appropriate law enforcement agency.

Credits:

P.A. 73-205, S. 3; P.A. 75-420, S. 4, 6; P.A. 77-308, S. 3, 4; 77-614, S. 521, 610; P.A. 79-631, S. 62, 111; P.A. 93-91, S. 1, 2; P.A. 96-246, S. 7; P.A. 97-319, S. 17, 22; P.A. 12-82, S. 13, eff. Oct. 1, 2012.

DELAWARE

Del. Code Ann. tit 16 § 903 (2016). Reports required.

Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title. For purposes of this section, "person" shall include, but shall not be limited to, any physician, any other person in the healing arts including any person licensed to render services in medicine, osteopathy or dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner, hospital, health care institution, the Medical Society of Delaware or law-enforcement agency. In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition.

Credits:

16 Del. C. 1953, § 1002; 58 Del. Laws, c. 154; 60 Del. Laws, c. 494, § 1; 72 Del. Laws,

c. 179, § 4; 77 Del. Laws, c. 320, § 1.

Del. Code Ann. tit 16 § 909 (2016). Privileged communication not recognized.

No legally recognized privilege, except that between attorney and client and that between priest and penitent in a sacramental confession, shall apply to situations involving known or suspected child abuse, neglect, exploitation or abandonment and shall not constitute grounds for failure to report as required by § 903 of this title or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

Credits:

16 Del. C. 1953, § 1007; 55 Del. Laws, c. 50, § 1; 58 Del. Laws, c. 154; 60 Del. Laws, c. 494, § 1; 71 Del. Laws, c. 199, § 5.

Del. Code Ann. tit 16 § 914 (2016). Penalty for violation.

(a) Whoever violates § 903 of this title shall be liable for a civil penalty not to exceed \$10,000 for the first violation, and not to exceed \$50,000 for any subsequent violation.

(b) In any action brought under this section, if the court finds a violation, the court may award costs and attorneys' fees.

Credits:

16 Del. C. 1953, § 1008; 58 Del. Laws, c. 154; 60 Del. Laws, c. 494, § 1; 77 Del. Laws, c. 121, § 1; 77 Del. Laws, c. 320, § 6.

DISTRICT OF COLUMBIA

D.C. Code § 4-1321.02 (2016). Persons required to make reports; procedure.

(a) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been or is in immediate danger of being a mentally or physically abused or neglected child, as defined in § 16-2301(9), shall immediately report or have a report made of such knowledge or suspicion to either the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(a-1) [Not funded]

(a-2) [Not funded]

(b) Persons required to report such abuse or neglect shall include Child and Family Services Agency employees, agents, and contractors, and every physician, psychologist, medical examiner, dentist, chiropractor, registered nurse, licensed practical nurse, person involved in the care and treatment of patients, law-enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, school official, teacher, athletic coach, Department of Parks and Recreation employee, public housing resident manager, social service worker, day care worker, human trafficking counselor as defined in § 14-311(2), domestic violence counselor as defined in § 14-310(a)(2), and mental health professional as defined in § 7-1201.01(11). Such persons are not required to report when employed by a lawyer who is providing representation in a criminal, civil, including family law, or delinquency matter and the basis for the suspicion arises solely in the course of that representation. Whenever a person is required to report in his or her capacity as a member of the staff of a hospital, school, social agency or similar institution, he or she shall immediately notify the person in charge of the institution or his or her designated agent who shall then be required to make the report. The fact that such a notification has been made does not relieve the person who was originally required to report from his or her duty under subsection (a) of this section of having a report made promptly to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(c) In addition to those persons who are required to make a report, any other person may make a report to the Metropolitan Police Department of the District of Columbia or the Child and Family Services Agency.

(d) In addition to the requirements in subsections (a) and (b) of this section, any health professional licensed pursuant to Chapter 12 of Title 3, or a law enforcement officer, humane officer of any agency charged with the enforcement of animal cruelty laws, except an undercover officer whose identity or investigation might be jeopardized, shall report immediately, in writing, to the Child and Family Services Agency, that the law enforcement officer or health professional has reasonable cause to believe that a child is abused as a result of inadequate care, control, or subsistence in the home environment due to exposure to drug-related activity. The report shall be in accordance with the provisions of § 4-1321.03.

(e) Notwithstanding § 14-307, any person specified in subsection (b) of this section who knows or has reasonable cause to suspect that a child known to him or her in his or her professional or official capacity has been, or is in immediate danger of being, the victim of “sexual abuse” or “attempted sexual abuse” prohibited by Chapter 30 of Title 22; or that the child was assisted, supported, caused, encouraged, commanded, enabled, induced, facilitated, or permitted to become a prostitute, as that term is defined in § 22-2701.01(3); or that the child has an injury caused by a bullet; or that the child has an injury caused by a knife or other sharp object which has been caused by other than accidental means, shall immediately report or have a report made of such knowledge, information, or suspicion to the Metropolitan Police Department or the Child and Family Services Agency.

(f) A health professional licensed pursuant to Chapter 12 of Title 3, who in his or her own professional or official capacity knows that a child under 12 months of age is diagnosed as having a Fetal Alcohol Spectrum Disorder, shall immediately report or have a report made to the Child and Family Services Agency.

(g) A person who violates this section shall not be prosecuted under subchapter II-A of Chapter 30 of Title 22 [§ 22-3020.51 et seq.].

(h) The Metropolitan Police Department shall immediately report or have a report made to the Child and Family Services Agency of any knowledge, information, or suspicion of a child engaging in or offering to engage in a sexual act, as defined in § 22-3001(8), or sexual contact, as defined in § 22-3001(9), in return for receiving anything of value.

Credits:

(Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 2; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(c), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(a), 37 DCR 50; Mar. 2, 2007, D.C. Law 16-204, § 2, 53 DCR 9059; Apr. 24, 2007, D.C. Law 16-306, § 203(a), 53 DCR 8610; July 18, 2008, D.C. Law 17-198, § 3, 55 DCR 6283; Dec. 5, 2008, D.C. Law 17-281, § 102, 55 DCR 9186; Mar. 25, 2009, D.C. Law 17-353, §§ 173(a), 193, 240(b), 56 DCR 1117; Oct. 23, 2010, D.C. Law 18-239, § 202, 57 DCR 5405; Oct. 26, 2010, D.C. Law 18-242, § 2, 57 DCR 7555; July 13, 2012, D.C. Law 19-164, § 3, 59 DCR 6185; June 8, 2013, D.C. Law 19-315, § 2(a), 60 DCR 1702; Sept. 19, 2013, D.C. Law 20-17, § 302, 60 DCR 9839; May 7, 2015, D.C. Law 20-276, § 4, 62 DCR 479.)

D.C. Code § 4-1321.03 (2016). Nature and contents of reports.

(a) Each person required to make a report of a known or suspected neglected child shall:

(1) Immediately make an oral report of the case to the Child and Family Services Agency or the Metropolitan Police Department of the District of Columbia; and

(2) Make a written report of the case if requested by said Division or Police or if the abuse involves drug-related activity.

(b) The report shall include, but need not be limited to, the following information if it is known to the person making the report:

(1) The name, age, sex, and address of the following individuals:

(A) The child who is the subject of the report;

(B) Each of the child's siblings and other children in the household; and

(C) Each of the child's parents or other persons responsible for the child's care;

(2) The nature and extent of the abuse or neglect of the child and any previous abuse or neglect, if known;

(3) All other information which the person making the report believes may be helpful in establishing the cause of the abuse or neglect and the identity of the person responsible for the abuse or neglect; and

(4) If the source was required to report under this subchapter, the identity and occupation of the source, how to contact the source and a statement of the actions taken by the source concerning the child.

Credits:

(Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 3; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(d), 24 DCR 3341; Mar. 15, 1990, D.C. Law 8-87, § 2(b), 37 DCR 50; Apr. 12, 2005, D.C. Law 15-341, § 3, 52 DCR 2315; Apr. 24, 2007, D.C. Law 16-306, § 203(b), 53 DCR 8610.)

D.C. Code § 4-1321.04 (2016). Immunity from liability.

Any person, hospital, or institution participating in good faith in the making of a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to participation in any judicial proceeding involving the report. In all civil or criminal proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted.

Credits:

(Nov. 6, 1966, 80 Stat. 1354, Pub. L. 89-775, § 4; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(e), 24 DCR 3341.)

D.C. Code § 4-1321.05 (2016). Privileges; waiver.

Notwithstanding the provisions of §§ 14-306 and 14-307, neither the spouse or domestic partner privilege nor the physician-patient privilege shall be grounds for excluding evidence in any proceeding in the Family Division of the Superior Court of the District of Columbia concerning the welfare of a neglected child; provided, that a judge of the Family Division of the Superior Court of the District of Columbia determines such privilege should be waived in the interest of justice.

Credits:

(Nov. 6, 1966, 80 Stat. 1355, Pub. L. 89-775, § 5; July 29, 1970, 84 Stat. 577, Pub. L. 91-358, title I, § 159(a); Sept. 23, 1977, D.C. Law 2-22, title I, § 103(f), 24 DCR 3341; Sept. 12, 2008, D.C. Law 17-231, § 13, 55 DCR 6758.)

D.C. Code § 4-1321.07 (2016). Failure to make report.

Any person required to make a report under this subchapter who willfully fails to make such a report shall be fined not more than \$300 or imprisoned for not more than 90 days or both. Violations of this subchapter shall be prosecuted by the Corporation Counsel of the District of Columbia or his or her agent in the name of the District of Columbia.

Credits:

(Nov. 6, 1966, Pub. L. 89-775, § 7; Sept. 23, 1977, D.C. Law 2-22, title I, § 103(g), 24 DCR 3341; Apr. 24, 2007, D.C. Law 16-306, § 203(c), 53 DCR 8610; June 8, 2013, D.C. Law 19-315, § 2(b), 60 DCR 1702.)

FLORIDA

Fla. Stat. Ann. § 39.201 (2016). Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.

(1)(a) Any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, or that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(b) Any person who knows, or who has reasonable cause to suspect, that a child is abused by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(c) Any person who knows, or has reasonable cause to suspect, that a child is the victim of childhood sexual abuse or the victim of a known or suspected juvenile sexual offender, as defined in this chapter, shall report such knowledge or suspicion to the department in the manner prescribed in subsection (2).

(d) Reporters in the following occupation categories are required to provide their names to the hotline staff:

1. Physician, osteopathic physician, medical examiner, chiropractic physician, 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 subparagraph 1.;
3. Practitioner who relies solely on spiritual means for healing;
4. School teacher or other school official or personnel;
5. Social worker, day care center worker, or other professional child care, foster care, residential, or institutional worker;
6. Law enforcement officer; or
7. Judge.

The names of reporters shall be entered into the record of the report, but shall be held confidential and exempt as provided in s. 39.202.

(e) A professional who is hired by or enters into a contract with the department for the purpose of treating or counseling any person, as a result of a report of child abuse, abandonment, or neglect, is not required to again report to the central abuse hotline the abuse, abandonment, or neglect that was the subject of the referral for treatment.

(f) An officer or employee of the judicial branch is not required to again provide notice of reasonable cause to suspect child abuse, abandonment, or neglect when that child is currently being investigated by the department, there is an existing dependency case, or the matter has previously been reported to the department, provided there is reasonable cause to believe the information is already known to the department. This paragraph applies only when the information has been provided to the officer or employee in the course of carrying out his or her official duties.

(g) Nothing in this chapter or in the contracting with community-based care providers for foster care and related services as specified in s. 409.1671 shall be construed to remove or reduce the duty and responsibility of any person, including any employee of the community-based care provider, to report a suspected or actual case of child abuse, abandonment, or neglect or the sexual abuse of a child to the department's central abuse hotline.

(2)(a) Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in this chapter, except those solely under s. 827.04(3), and each report that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based

report. Personnel at the department's central abuse hotline shall determine if the report received meets the statutory definition of child abuse, abandonment, or neglect. Any report meeting one of these definitions shall be accepted for the protective investigation pursuant to part III of this chapter. Any call received from a parent or legal custodian seeking assistance for himself or herself which does not meet the criteria for being a report of child abuse, abandonment, or neglect may be accepted by the hotline for response to ameliorate a potential future risk of harm to a child. If it is determined by a child welfare professional that a need for community services exists, the department shall refer the parent or legal custodian for appropriate voluntary community services.

(b) Each report of known or suspected child abuse by an adult other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare, as defined in this chapter, shall be made immediately to the department's central abuse hotline. Such reports may be made on the single statewide toll-free telephone number or via fax, web-based chat, or web-based report. Such reports or calls shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

(c) Reports involving a known or suspected juvenile sexual offender or a child who has exhibited inappropriate sexual behavior shall be made and received by the department.

1. The department shall determine the age of the alleged offender, if known.

2. If the alleged offender is 12 years of age or younger, the central abuse hotline shall immediately electronically transfer the report or call to the county sheriff's office. The department shall conduct an assessment and assist the family in receiving appropriate services pursuant to s. 39.307, and send a written report of the allegation to the appropriate county sheriff's office within 48 hours after the initial report is made to the central abuse hotline.

3. If the alleged offender is 13 years of age or older, the central abuse hotline shall immediately electronically transfer the report or call to the appropriate county sheriff's office and send a written report to the appropriate county sheriff's office within 48 hours after the initial report to the central abuse hotline.

(d) If the report is of an instance of known or suspected child abuse, abandonment, or neglect that occurred out of state and the alleged perpetrator and the child alleged to be a victim live out of state, the central abuse hotline shall not accept the report or call for investigation, but shall transfer the information on the report to the appropriate state.

(e) If the report is of an instance of known or suspected child abuse involving

impregnation of a child under 16 years of age by a person 21 years of age or older solely under s. 827.04(3), the report shall be made immediately to the appropriate county sheriff's office or other appropriate law enforcement agency. If the report is of an instance of known or suspected child abuse solely under s. 827.04(3), the reporting provisions of this subsection do not apply to health care professionals or other persons who provide medical or counseling services to pregnant children when such reporting would interfere with the provision of medical services.

(f) Reports involving known or suspected institutional child abuse or neglect shall be made and received in the same manner as all other reports made pursuant to this section.

(g) Reports involving surrendered newborn infants as described in s. 383.50 shall be made and received by the department.

1. If the report is of a surrendered newborn infant as described in s. 383.50 and there is no indication of abuse, neglect, or abandonment other than that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the department shall provide to the caller the name of a licensed child-placing agency on a rotating basis from a list of licensed child-placing agencies eligible and required to accept physical custody of and to place newborn infants left at a hospital, emergency medical services station, or fire station. The report shall not be considered a report of abuse, neglect, or abandonment solely because the infant has been left at a hospital, emergency medical services station, or fire station pursuant to s. 383.50.

2. If the call, fax, web-based chat, or web-based report includes indications of abuse or neglect beyond that necessarily entailed in the infant having been left at a hospital, emergency medical services station, or fire station, the report shall be considered as a report of abuse, neglect, or abandonment and shall be subject to the requirements of s. 39.395 and all other relevant provisions of this chapter, notwithstanding any provisions of chapter 383.

(h) Hotline counselors shall receive periodic training in encouraging reporters to provide their names when reporting abuse, abandonment, or neglect. Callers shall be advised of the confidentiality provisions of s. 39.202. The department shall secure and install electronic equipment that automatically provides to the hotline the number from which the call or fax is placed or the Internet protocol (IP) address from which the report is received. This number shall be entered into the report of abuse, abandonment, or neglect and become a part of the record of the report, but shall enjoy the same confidentiality as provided to the identity of the reporter pursuant to s. 39.202.

(i) The department shall voice-record all incoming or outgoing calls that are

received or placed by the central abuse hotline which relate to suspected or known child abuse, neglect, or abandonment. The department shall maintain an electronic copy of each fax and web-based report. The recording or electronic copy of each fax and web-based report shall become a part of the record of the report but, notwithstanding s. 39.202, shall be released in full only to law enforcement agencies and state attorneys for the purpose of investigating and prosecuting criminal charges pursuant to s. 39.205, or to employees of the department for the purpose of investigating and seeking administrative penalties pursuant to s. 39.206. Nothing in this paragraph shall prohibit the use of the recordings, the electronic copies of faxes, and web-based reports by hotline staff for quality assurance and training.

(j) 1. The department shall update the web form used for reporting child abuse, abandonment, or neglect to:

- a. Include qualifying questions in order to obtain necessary information required to assess need and a response.
- b. Indicate which fields are required to submit the report.
- c. Allow a reporter to save his or her report and return to it at a later time.

2. The report shall be made available to the counselors in its entirety as needed to update the Florida Safe Families Network or other similar systems.

(k) The department shall conduct a study to determine the feasibility of using text and short message service formats to receive and process reports of child abuse, abandonment, or neglect to the central abuse hotline.

(3) Any person required to report or investigate cases of suspected child abuse, abandonment, or neglect who has reasonable cause to suspect that a child died as a result of child abuse, abandonment, or neglect shall report his or her suspicion to the appropriate medical examiner. The medical examiner shall accept the report for investigation and shall report his or her findings, in writing, to the local law enforcement agency, the appropriate state attorney, and the department. Autopsy reports maintained by the medical examiner are not subject to the confidentiality requirements provided for in s. 39.202.

(4) The department shall operate and maintain a central abuse hotline to receive all reports made pursuant to this section in writing, via fax, via web-based reporting, via web-based chat, or through a single statewide toll-free telephone number, which any person may use to report known or suspected child abuse, abandonment, or neglect at any hour of the day or night, any day of the week. The department shall promote public awareness of the central abuse hotline through community-based partner organizations

and public service campaigns. The central abuse hotline is the first step in the safety assessment and investigation process. The central abuse hotline shall be operated in such a manner as to enable the department to:

- (a) Immediately identify and locate prior reports or cases of child abuse, abandonment, or neglect through utilization of the department's automated tracking system.
 - (b) Monitor and evaluate the effectiveness of the department's program for reporting and investigating suspected abuse, abandonment, or neglect of children through the development and analysis of statistical and other information.
 - (c) Track critical steps in the investigative process to ensure compliance with all requirements for any report of abuse, abandonment, or neglect.
 - (d) Maintain and produce aggregate statistical reports monitoring patterns of child abuse, child abandonment, and child neglect. The department shall collect and analyze child-on-child sexual abuse reports and include the information in aggregate statistical reports. The department shall collect and analyze, in separate statistical reports, those reports of child abuse and sexual abuse which are reported from or occurred on the campus of any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02.
 - (e) Serve as a resource for the evaluation, management, and planning of preventive and remedial services for children who have been subject to abuse, abandonment, or neglect.
 - (f) Initiate and enter into agreements with other states for the purpose of gathering and sharing information contained in reports on child maltreatment to further enhance programs for the protection of children.
- (5) The department shall be capable of receiving and investigating, 24 hours a day, 7 days a week, reports of known or suspected child abuse, abandonment, or neglect and reports that a child is in need of supervision and care and has no parent, legal custodian, or responsible adult relative immediately known and available to provide supervision and care. If it appears that the immediate safety or well-being of a child is endangered, that the family may flee or the child will be unavailable for purposes of conducting a child protective investigation, or that the facts otherwise so warrant, the department shall commence an investigation immediately, regardless of the time of day or night. In all other child abuse, abandonment, or neglect cases, a child protective investigation shall be commenced within 24 hours after receipt of the report. In an institutional investigation, the alleged perpetrator may be represented by an attorney, at his or her own expense, or accompanied by another person, if the person or the attorney executes an affidavit of understanding with the department and agrees to comply with the confidentiality provisions of s. 39.202. The absence of an attorney or other person does not prevent the

department from proceeding with other aspects of the investigation, including interviews with other persons. In institutional child abuse cases when the institution is not operating and the child cannot otherwise be located, the investigation shall commence immediately upon the resumption of operation. If requested by a state attorney or local law enforcement agency, the department shall furnish all investigative reports to that agency.

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h). Information in the central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

(7) On an ongoing basis, the department's quality assurance program shall review calls, fax reports, and web-based reports to the hotline involving three or more unaccepted reports on a single child, where jurisdiction applies, in order to detect such things as harassment and situations that warrant an investigation because of the frequency or variety of the source of the reports. A component of the quality assurance program shall analyze unaccepted reports to the hotline by identified relatives as a part of the review of screened out calls. The Program Director for Family Safety may refer a case for investigation when it is determined, as a result of this review, that an investigation may be warranted.

Credits:

SS. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 7, ch. 84-226; s. 37, ch. 85-54; s. 68, ch. 86-163; s. 34, ch. 87-238; s. 21, ch. 88-337; s. 33, ch. 89-294; s. 6, ch. 90-50; s. 51, ch. 90-306; s. 7, ch. 91-57; s. 17, ch. 91-71; s. 6, ch. 93-25; s. 59, ch. 94-164; ss. 22, 44, ch. 95-228; s. 9, ch. 95-266; s. 51, ch. 95-267; s. 133, ch. 95-418; s. 1, ch. 96-215; s. 14, ch. 96-268; s. 14, ch. 96-402; s. 271, ch. 96-406; s. 1041, ch. 97-103; s. 43, ch. 97-264; s. 257, ch. 98-166; s. 31, ch. 98-403; s. 4, ch. 99-168; s. 10, ch. 99-193; s. 41, ch. 2000-139; s. 3, ch. 2000-188; s. 1, ch. 2000-217; s. 1, ch. 2001-53; s. 1, ch. 2003-127; s. 7, ch. 2006-86, eff. July 1, 2006; s. 2, ch. 2008-90, eff. July 1, 2008; s. 5, ch. 2008-245, eff. June 30, 2008; s. 3, ch. 2009-43, eff. July 1, 2009; s. 1, ch. 2012-155, eff. Oct. 1, 2012; s. 4, ch. 2012-178, eff. July 1, 2012; s. 6, ch. 2013-15, eff. July 2, 2013; s. 4, ch. 2013-219, eff. July 1, 2013; ss. 5, 50, ch. 2014-224, eff. July 1, 2014; s. 1, ch. 2016-58, eff. July 1, 2016; s. 1, ch. 2016-238, eff. July 1, 2016.

Fla. Stat. Ann. § 39.202 (2016). Confidentiality of reports and records in cases of child abuse or neglect.

(1) In order to protect the rights of the child and the child's parents or other persons responsible for the child's welfare, all records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse

hotline and all records generated as a result of such reports, shall be confidential and exempt from the provisions of s. 119.07(1) and shall not be disclosed except as specifically authorized by this chapter. Such exemption from s. 119.07(1) applies to information in the possession of those entities granted access as set forth in this section.

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, or county agencies responsible for carrying out:

1. Child or adult protective investigations;
2. Ongoing child or adult protective services;
3. Early intervention and prevention services;
4. Healthy Start services;
5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, or family day care homes or informal child care providers who receive school readiness funding, or other homes used to provide for the care and welfare of children; or
6. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

(b) Criminal justice agencies of appropriate jurisdiction.

(c) The state attorney of the judicial circuit in which the child resides or in which the alleged abuse or neglect occurred.

(d) The parent or legal custodian of any child who is alleged to have been abused, abandoned, or neglected, and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings. This access shall be made available no later than 30 days after the department receives the initial report of abuse, neglect, or abandonment. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(e) Any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 30 days after the department receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.

(f) A court upon its finding that access to such records may be necessary for the determination of an issue before the court; however, such access shall be limited to inspection in camera, unless the court determines that public disclosure of the information contained therein is necessary for the resolution of an issue then pending before it.

(g) A grand jury, by subpoena, upon its determination that access to such records is necessary in the conduct of its official business.

(h) Any appropriate official of the department or the Agency for Persons with Disabilities who is responsible for:

1. Administration or supervision of the department's program for the prevention, investigation, or treatment of child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult, when carrying out his or her official function;
2. Taking appropriate administrative action concerning an employee of the department or the agency who is alleged to have perpetrated child abuse, abandonment, or neglect, or abuse, neglect, or exploitation of a vulnerable adult; or
3. Employing and continuing employment of personnel of the department or the agency.

(i) Any person authorized by the department who is engaged in the use of such records or information for bona fide research, statistical, or audit purposes. Such individual or entity shall enter into a privacy and security agreement with the department and shall comply with all laws and rules governing the use of such records and information for research and statistical purposes. Information identifying the subjects of such records or information shall be treated as confidential by the researcher and shall not be released in any form.

(j) The Division of Administrative Hearings for purposes of any administrative challenge.

(k) Any appropriate official of a Florida advocacy council investigating a report

- of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the guardian ad litem for the child.
- (l) Employees or agents of an agency of another state that has comparable jurisdiction to the jurisdiction described in paragraph (a).
- (m) The Public Employees Relations Commission for the sole purpose of obtaining evidence for appeals filed pursuant to s. 447.207. Records may be released only after deletion of all information which specifically identifies persons other than the employee.
- (n) Employees or agents of the Department of Revenue responsible for child support enforcement activities.
- (o) Any person in the event of the death of a child determined to be a result of abuse, abandonment, or neglect. Information identifying the person reporting abuse, abandonment, or neglect shall not be released. Any information otherwise made confidential or exempt by law shall not be released pursuant to this paragraph.
- (p) An employee of the local school district who is designated as a liaison between the school district and the department pursuant to an interagency agreement required under s. 39.0016 and the principal of a public school, private school, or charter school where the child is a student. Information contained in the records which the liaison or the principal determines are necessary for a school employee to effectively provide a student with educational services may be released to that employee.
- (q) Staff of a children's advocacy center that is established and operated under s. 39.3035.
- (r) A physician licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a mental health professional licensed under chapter 491 engaged in the care or treatment of the child.
- (s) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed residential group home described in s. 39.523, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption entity acting on behalf of preadoptive or adoptive parents.
- (3) The department may release to professional persons such information as is necessary

for the diagnosis and treatment of the child or the person perpetrating the abuse or neglect.

(4) Notwithstanding any other provision of law, when a child under investigation or supervision of the department or its contracted service providers is determined to be missing, the following shall apply:

(a) The department may release the following information to the public when it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child:

1. The name of the child and the child's date of birth;
2. A physical description of the child, including at a minimum the height, weight, hair color, eye color, gender, and any identifying physical characteristics of the child; and
3. A photograph of the child.

(b) With the concurrence of the law enforcement agency primarily responsible for investigating the incident, the department may release any additional information it believes likely to assist efforts in locating the child or to promote the safety or well-being of the child.

(c) The law enforcement agency primarily responsible for investigating the incident may release any information received from the department regarding the investigation, if it believes the release of the information is likely to assist efforts in locating the child or to promote the safety or well-being of the child.

The good faith publication or release of this information by the department, a law enforcement agency, or any recipient of the information as specifically authorized by this subsection shall not subject the person, agency or entity releasing the information to any civil or criminal penalty. This subsection does not authorize the release of the name of the reporter, which may be released only as provided in subsection (5).

(5) The name of any person reporting child abuse, abandonment, or neglect may not be released to any person other than employees of the department responsible for child protective services, the central abuse hotline, law enforcement, the child protection team, or the appropriate state attorney, without the written consent of the person reporting. This does not prohibit the subpoenaing of a person reporting child abuse, abandonment, or neglect when deemed necessary by the court, the state attorney, or the department, provided the fact that such person made the report is not disclosed. Any person who reports a case of child abuse or neglect may, at the time he or she makes the report, request that the department notify him or her that a child protective investigation occurred as a result of the report. Any person specifically listed in s. 39.201(1) who

makes a report in his or her official capacity may also request a written summary of the outcome of the investigation. The department shall mail such a notice to the reporter within 10 days after completing the child protective investigation.

(6) All records and reports of the child protection team of the Department of Health are confidential and exempt from the provisions of ss. 119.07(1) and 456.057, and shall not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals, in furtherance of the treatment or additional evaluative needs of the child, by order of the court, or to health plan payors, limited to that information used for insurance reimbursement purposes.

(7) The department shall make and keep reports and records of all cases under this chapter and shall preserve the records pertaining to a child and family until the child who is the subject of the record is 30 years of age, and may then destroy the records.

(a) Within 90 days after the child leaves the department's custody, the department shall give a notice to the person having legal custody of the child, or to the young adult who was in the department's custody, which specifies how the records may be obtained.

(b) The department may adopt rules regarding the format, storage, retrieval, and release of such records.

(8) A person who knowingly or willfully makes public or discloses to any unauthorized person any confidential information contained in the central abuse hotline is subject to the penalty provisions of s. 39.205. This notice shall be prominently displayed on the first sheet of any documents released pursuant to this section.

Credits:

SS. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 488, ch. 81-259; s. 11, ch. 84-226; s. 39, ch. 85-54; s. 14, ch. 85-224; s. 36, ch. 87-238; s. 2, ch. 88-80; s. 8, ch. 88-219; s. 26, ch. 88-337; s. 5, ch. 89-170; s. 5, ch. 89-278; s. 36, ch. 89-294; s. 2, ch. 89-535; s. 8, ch. 90-50; s. 7, ch. 90-208; s. 54, ch. 90-306; s. 9, ch. 91-57; s. 20, ch. 91-71; ss. 43, 48, ch. 92-58; s. 32, ch. 93-39; s. 16, ch. 93-214; s. 58, ch. 94-218; ss. 25, 46, ch. 95-228; s. 28, ch. 95-267; s. 15, ch. 96-402; s. 275, ch. 96-406; s. 1044, ch. 97-103; s. 15, ch. 97-276; s. 3, ch. 97-299; s. 15, ch. 98-137; s. 32, ch. 98-166; s. 3, ch. 98-255; s. 45, ch. 98-280; s. 32, ch. 98-403; s. 5, ch. 99-168; s. 11, ch. 99-193; s. 1, ch. 99-369; s. 18, ch. 2000-139; s. 2, ch. 2000-217; s. 6, ch. 2000-263; s. 51, ch. 2000-349; s. 12, ch. 2001-60; s. 27, ch. 2001-266; s. 2, ch. 2003-146; s. 1, ch. 2005-173; s. 1, ch. 2005-213; s. 6, ch. 2006-194, eff. July 1, 2006; s. 3, ch. 2006-227, eff. July 1, 2006; s. 2, ch. 2009-34, eff. July 1, 2009; s. 2, ch. 2009-35, eff. July 1, 2009; s. 4, ch. 2009-43, eff. July 1, 2009; s. 2, ch. 2010-210, eff. July 1, 2010; s. 2, ch. 2016-58, eff. July 1, 2016; s. 2, ch. 2016-238, eff. July 1, 2016.

Fla. Stat. Ann. § 39.203 (2016). Immunity from liability in cases of child abuse, abandonment, or neglect

(1)(a) Any person, official, or institution participating in good faith in any act authorized or required by this chapter, or reporting in good faith any instance of child abuse, abandonment, or neglect to the department or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

(b) Except as provided in this chapter, nothing contained in this section shall be deemed to grant immunity, civil or criminal, to any person suspected of having abused, abandoned, or neglected a child, or committed any illegal act upon or against a child.

(2)(a) No resident or employee of a facility serving children may be subjected to reprisal or discharge because of his or her actions in reporting abuse, abandonment, or neglect pursuant to the requirements of this section.

(b) Any person making a report under this section shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of such reporting party by reason of his or her making such report. Any detrimental change made in the residency or employment status of such person, including, but not limited to, discharge, termination, demotion, transfer, or reduction in pay or benefits or work privileges, or negative evaluations within a prescribed period of time shall establish a rebuttable presumption that such action was retaliatory.

Credits:

SS. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 27, ch. 88-337; s. 55, ch. 90-306; s. 63, ch. 94-164; s. 73, ch. 97-103; s. 33, ch. 98-403; s. 12, ch. 99-193.

Fla. Stat. Ann. §39.204 (2016). Abrogation of privileged communications in cases involving child abuse, abandonment, or neglect.

The privileged quality of communication between husband and wife and between any professional person and his or her patient or client, and any other privileged communication except that between attorney and client or the privilege provided in s. 90.505, as such communication relates both to the competency of the witness and to the exclusion of confidential communications, shall not apply to any communication involving the perpetrator or alleged perpetrator in any situation involving known or suspected child abuse, abandonment, or neglect and shall not constitute grounds for failure to report as required by s. 39.201 regardless of the source of the information

requiring the report, failure to cooperate with law enforcement or the department in its activities pursuant to this chapter, or failure to give evidence in any judicial proceeding relating to child abuse, abandonment, or neglect.

Credits:

SS. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 2, ch. 85-28; s. 64, ch. 94-164; s. 74, ch. 97-103; s. 34, ch. 98-403; s. 3, ch. 2002-174.

Fla. Stat. Ann. §39.205 (2016). Penalties relating to reporting of child abuse, abandonment, or neglect

(1) A person who is required to report known or suspected child abuse, abandonment, or neglect and who knowingly and willfully fails to do so, or who knowingly and willfully prevents another person from doing so, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A judge subject to discipline pursuant to s. 12, Art. V of the Florida Constitution shall not be subject to criminal prosecution when the information was received in the course of official duties.

(2) Unless the court finds that the person is a victim of domestic violence or that other mitigating circumstances exist, a person who is 18 years of age or older and lives in the same house or living unit as a child who is known or suspected to be a victim of child abuse, neglect of a child, or aggravated child abuse, and knowingly and willfully fails to report the child abuse commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose administrators knowingly and willfully, upon receiving information from faculty, staff, or other institution employees, fail to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, or who knowingly and willfully prevent another person from doing so, shall be subject to fines of \$1 million for each such failure.

(a) A Florida College System institution subject to a fine shall be assessed by the State Board of Education.

(b) A state university subject to a fine shall be assessed by the Board of Governors.

(c) A nonpublic college, university, or school subject to a fine shall be assessed by the Commission for Independent Education.

(4) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, whose law enforcement agency fails to report known or suspected child abuse, abandonment, or neglect committed on the property of the university, college, or school, or during an event or function sponsored by the university, college, or school, shall be subject to fines of \$1 million for each such failure assessed in the same manner as subsection (3).

(5) Any Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21 or s. 1005.02, shall have the right to challenge the determination that the institution acted knowingly and willfully under subsection (3) or subsection (4) in an administrative hearing pursuant to s. 120.57; however, if it is found that actual knowledge and information of known or suspected child abuse was in fact received by the institution's administrators and was not reported, a presumption of a knowing and willful act will be established.

(6) A person who knowingly and willfully makes public or discloses any confidential information contained in the central abuse hotline or in the records of any child abuse, abandonment, or neglect case, except as provided in this chapter, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(7) The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such a report to the appropriate law enforcement agency and shall report annually to the Legislature the number of reports referred.

(8) If the department or its authorized agent has determined during the course of its investigation that a report is a false report, the department may discontinue all investigative activities and shall, with the consent of the alleged perpetrator, refer the report to the local law enforcement agency having jurisdiction for an investigation to determine whether sufficient evidence exists to refer the case for prosecution for filing a false report as defined in s. 39.01. During the pendency of the investigation, the department must notify the local law enforcement agency of, and the local law enforcement agency must respond to, all subsequent reports concerning children in that same family in accordance with s. 39.301. If the law enforcement agency believes that there are indicators of abuse, abandonment, or neglect, it must immediately notify the department, which must ensure the safety of the children. If the law enforcement agency finds sufficient evidence for prosecution for filing a false report, it must refer the case to the appropriate state attorney for prosecution.

(9) A person who knowingly and willfully makes a false report of child abuse, abandonment, or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083. Anyone making a report who is acting in good faith is immune from any liability under this

subsection.

(10) The State Board of Education shall adopt rules to implement this section as it relates to Florida College System institutions; the Commission for Independent Education shall adopt rules to implement this section as it relates to nonpublic colleges, universities, and schools; and the Board of Governors shall adopt regulations to implement this section as it relates to state universities.

Credits:

SS. 1, 2, 3, 4, 5, 6, ch. 63-24; s. 941, ch. 71-136; ss. 1, 1A, ch. 71-97; s. 32, ch. 73-334; s. 65, ch. 74-383; s. 1, ch. 75-101; s. 1, ch. 75-185; s. 4, ch. 76-237; s. 1, ch. 77-77; s. 3, ch. 77-429; ss. 1, 2, ch. 78-322; s. 3, ch. 78-326; s. 22, ch. 78-361; s. 1, ch. 78-379; s. 181, ch. 79-164; s. 1, ch. 79-203; s. 28, ch. 88-337; s. 56, ch. 90-306; s. 10, ch. 91-57; s. 21, ch. 91-71; s. 251, ch. 91-224; s. 10, ch. 93-25; s. 276, ch. 96-406; s. 4, ch. 98-111; s. 35, ch. 98-403; s. 6, ch. 99-168; s. 3, ch. 2000-217; s. 4, ch. 2002-70; s. 29, ch. 2006-86, eff. July 1, 2006; s. 25, ch. 2008-245, eff. June 30, 2008; s. 5, ch. 2012-178, eff. July 1, 2012; s. 2, ch. 2012-155, eff. Oct. 1, 2012; s. 3, ch. 2013-51, eff. July 1, 2013.

Fla. Stat. Ann. § 39.206 (2016). Administrative fines for false report of abuse, abandonment, or neglect of a child; civil damages

(1) In addition to any other penalty authorized by this section, chapter 120, or other law, the department may impose a fine, not to exceed \$10,000 for each violation, upon a person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report.

(2) If the department alleges that a person has filed a false report with the central abuse hotline, the department must file a Notice of Intent which alleges the name, age, and address of the individual, the facts constituting the allegation that the individual made a false report, and the administrative fine the department proposes to impose on the person. Each time that a false report is made constitutes a separate violation.

(3) The Notice of Intent to impose the administrative fine must be served upon the person alleged to have filed the false report and the person's legal counsel, if any. Such Notice of Intent must be given by certified mail, return receipt requested.

(4) Any person alleged to have filed the false report is entitled to an administrative hearing, pursuant to chapter 120, before the imposition of the fine becomes final. The person must request an administrative hearing within 60 days after receipt of the Notice of Intent by filing a request with the department. Failure to request an administrative hearing within 60 days after receipt of the Notice of Intent constitutes a waiver of the right to a hearing, making the administrative fine final.

(5) At the administrative hearing, the department must prove by a preponderance of the evidence that the person filed a false report with the central abuse hotline. The administrative hearing officer shall advise any person against whom a fine may be

imposed of that person's right to be represented by counsel at the administrative hearing.

(6) In determining the amount of fine to be imposed, if any, the following factors shall be considered:

(a) The gravity of the violation, including the probability that serious physical or emotional harm to any person will result or has resulted, the severity of the actual or potential harm, and the nature of the false allegation.

(b) Actions taken by the false reporter to retract the false report as an element of mitigation, or, in contrast, to encourage an investigation on the basis of false information.

(c) Any previous false reports filed by the same individual.

(7) A decision by the department, following the administrative hearing, to impose an administrative fine for filing a false report constitutes final agency action within the meaning of chapter 120. Notice of the imposition of the administrative fine must be served upon the person and the person's legal counsel, by certified mail, return receipt requested, and must state that the person may seek judicial review of the administrative fine pursuant to s. 120.68.

(8) All amounts collected under this section shall be deposited into an appropriate trust fund of the department.

(9) A person who is determined to have filed a false report of abuse, abandonment, or neglect is not entitled to confidentiality. Subsequent to the conclusion of all administrative or other judicial proceedings concerning the filing of a false report, the name of the false reporter and the nature of the false report shall be made public, pursuant to s. 119.01(1). Such information shall be admissible in any civil or criminal proceeding.

(10) A person who knowingly and willfully makes a false report of abuse, abandonment, or neglect of a child, or a person who counsels another to make a false report may be civilly liable for damages suffered, including reasonable attorney fees and costs, as a result of the filing of the false report. If the name of the person who filed the false report or counseled another to do so has not been disclosed under subsection (9), the department as custodian of the records may be named as a party in the suit until the dependency court determines in a written order upon an in camera inspection of the records and report that there is a reasonable basis for believing that the report was false and that the identity of the reporter may be disclosed for the purpose of proceeding with a lawsuit for civil damages resulting from the filing of the false report. The alleged perpetrator may submit witness affidavits to assist the court in making this initial determination.

(11) Any person making a report who is acting in good faith is immune from any liability under this section and shall continue to be entitled to have the confidentiality of their identity maintained.

Credits:

S. 65, ch. 94-164; s. 5, ch. 98-111; s. 36, ch. 98-403; s. 13, ch. 99-193.

GEORGIA

Ga. Code Ann., § 19-7-5 (2016). Reports by physicians, treating personnel, institutions and others as to child abuse; failure to report suspected child abuse

(a) The purpose of this Code section is to provide for the protection of children whose health and welfare are adversely affected and further threatened by the conduct of those responsible for their care and protection. It is intended that the mandatory reporting of such cases will cause the protective services of the state to be brought to bear on the situation in an effort to prevent further abuses, to protect and enhance the welfare of these children, and to preserve family life wherever possible. This Code section shall be liberally construed so as to carry out the purposes thereof.

(b) As used in this Code section, the term:

(1) “Abortion” shall have the same meaning as set forth in Code Section 15-11-111.

(2) “Abused” means subjected to child abuse.

(3) “Child” means any person under 18 years of age.

(4) “Child abuse” means:

(A) Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child;

(B) Neglect or exploitation of a child by a parent or caretaker thereof;

(C) Sexual abuse of a child; or

(D) Sexual exploitation of a child.

However, no child who in good faith is being treated solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall, for that reason alone, be considered to be an

“abused” child.

(5) “Child service organization personnel” means persons employed by or volunteering at a business or an organization, whether public, private, for profit, not for profit, or voluntary, that provides care, treatment, education, training, supervision, coaching, counseling, recreational programs, or shelter to children.

(6) “Clergy” means ministers, priests, rabbis, imams, or similar functionaries, by whatever name called, of a bona fide religious organization.

(7) “Pregnancy resource center” means an organization or facility that:

(A) Provides pregnancy counseling or information as its primary purpose, either for a fee or as a free service;

(B) Does not provide or refer for abortions;

(C) Does not provide or refer for FDA approved contraceptive drugs or devices; and

(D) Is not licensed or certified by the state or federal government to provide medical or health care services and is not otherwise bound to follow federal Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, or other state or federal laws relating to patient confidentiality.

(8) “Reproductive health care facility” means any office, clinic, or any other physical location that provides abortions, abortion counseling, abortion referrals, or gynecological care and services.

(9) “School” means any public or private pre-kindergarten, elementary school, secondary school, technical school, vocational school, college, university, or institution of postsecondary education.

(10) “Sexual abuse” means a person's employing, using, persuading, inducing, enticing, or coercing any minor who is not that person's spouse to engage in any act which involves:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Lewd exhibition of the genitals or pubic area of any person;

- (E) Flagellation or torture by or upon a person who is nude;
- (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;
- (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's clothed or unclothed genitals, pubic area, or buttocks or with a female's clothed or unclothed breasts;
- (H) Defecation or urination for the purpose of sexual stimulation; or
- (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

“Sexual abuse” shall not include consensual sex acts involving persons of the opposite sex when the sex acts are between minors or between a minor and an adult who is not more than five years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(11) “Sexual exploitation” means conduct by any person who allows, permits, encourages, or requires that child to engage in:

- (A) Prostitution, as defined in Code Section 16-6-9; or
- (B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, as defined in Code Section 16-12-100.

(c)(1) The following persons having reasonable cause to believe that a child has been abused shall report or cause reports of that abuse to be made as provided in this Code section:

- (A) Physicians licensed to practice medicine, interns, or residents;
- (B) Hospital or medical personnel;
- (C) Dentists;
- (D) Licensed psychologists and persons participating in internships to obtain licensing pursuant to Chapter 39 of Title 43;
- (E) Podiatrists;
- (F) Registered professional nurses or licensed practical nurses licensed

pursuant to Chapter 24 of Title 43 or nurse's aides;

(G) Professional counselors, social workers, or marriage and family therapists licensed pursuant to Chapter 10A of Title 43;

(H) School teachers;

(I) School administrators;

(J) School guidance counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;

(K) Child welfare agency personnel, as that agency is defined pursuant to Code Section 49-5-12;

(L) Child-counseling personnel;

(M) Child service organization personnel;

(N) Law enforcement personnel; or

(O) Reproductive health care facility or pregnancy resource center personnel and volunteers.

(2) If a person is required to report child abuse pursuant to this subsection because that person attends to a child pursuant to such person's duties as an employee of or volunteer at a hospital, school, social agency, or similar facility, that person shall notify the person in charge of the facility, or the designated delegate thereof, and the person so notified shall report or cause a report to be made in accordance with this Code section. An employee or volunteer who makes a report to the person designated pursuant to this paragraph shall be deemed to have fully complied with this subsection. Under no circumstances shall any person in charge of such hospital, school, agency, or facility, or the designated delegate thereof, to whom such notification has been made exercise any control, restraint, modification, or make other change to the information provided by the reporter, although each of the aforementioned persons may be consulted prior to the making of a report and may provide any additional, relevant, and necessary information when making the report.

(d) Any other person, other than one specified in subsection (c) of this Code section, who has reasonable cause to believe that a child is abused may report or cause reports to be made as provided in this Code section.

(e) An oral report shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe a child has been abused, by telephone or otherwise and followed by a report in writing, if requested, to a child welfare agency

providing protective services, as designated by the Department of Human Services, or, in the absence of such agency, to an appropriate police authority or district attorney. If a report of child abuse is made to the child welfare agency or independently discovered by the agency, and the agency has reasonable cause to believe such report is true or the report contains any allegation or evidence of child abuse, then the agency shall immediately notify the appropriate police authority or district attorney. Such reports shall contain the names and addresses of the child and the child's parents or caretakers, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and any other information that the reporting person believes might be helpful in establishing the cause of the injuries and the identity of the perpetrator. Photographs of the child's injuries to be used as documentation in support of allegations by hospital employees or volunteers, physicians, law enforcement personnel, school officials, or employees or volunteers of legally mandated public or private child protective agencies may be taken without the permission of the child's parent or guardian. Such photographs shall be made available as soon as possible to the chief welfare agency providing protective services and to the appropriate police authority.

(f) Any person or persons, partnership, firm, corporation, association, hospital, or other entity participating in the making of a report or causing a report to be made to a child welfare agency providing protective services or to an appropriate police authority pursuant to this Code section or any other law or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith. Any person making a report, whether required by this Code section or not, shall be immune from liability as provided in this subsection.

(g) Suspected child abuse which is required to be reported by any person pursuant to this Code section shall be reported notwithstanding that the reasonable cause to believe such abuse has occurred or is occurring is based in whole or in part upon any communication to that person which is otherwise made privileged or confidential by law; provided, however, that a member of the clergy shall not be required to report child abuse reported solely within the context of confession or other similar communication required to be kept confidential under church doctrine or practice. When a clergy member receives information about child abuse from any other source, the clergy member shall comply with the reporting requirements of this Code section, even though the clergy member may have also received a report of child abuse from the confession of the perpetrator.

(h) Any person or official required by subsection (c) of this Code section to report a suspected case of child abuse who knowingly and willfully fails to do so shall be guilty of a misdemeanor.

(i) A report of child abuse or information relating thereto and contained in such report, when provided to a law enforcement agency or district attorney pursuant to subsection (e) of this Code section or pursuant to Code Section 49-5-41, shall not be subject to public inspection under Article 4 of Chapter 18 of Title 50 even though such report or

information is contained in or part of closed records compiled for law enforcement or prosecution purposes unless:

(1) There is a criminal or civil court proceeding which has been initiated based in whole or in part upon the facts regarding abuse which are alleged in the child abuse reports and the person or entity seeking to inspect such records provides clear and convincing evidence of such proceeding; or

(2) The superior court in the county in which is located the office of the law enforcement agency or district attorney which compiled the records containing such reports, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this paragraph. When those records are located in more than one county, the application may be made to the superior court of any one of such counties. A copy of any application authorized by this paragraph shall be served on the office of the law enforcement agency or district attorney which compiled the records containing such reports. In cases where the location of the records is unknown to the applicant, the application may be made to the Superior Court of Fulton County. The superior court to which an application is made shall not grant the application unless:

(A) The application includes a description of the proposed research project, including a specific statement of the information required, the purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;

(B) The applicant carries the burden of showing the legitimacy of the research project; and

(C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.

Credits:

Code 1933, § 74-111, enacted by Ga. L. 1965, p. 588, § 1; Ga. L. 1968, p. 1196, § 1; Ga. L. 1973, p. 309, § 1; Ga. L. 1974, p. 438, § 1; Ga. L. 1977, p. 242, §§ 1-3; Ga. L. 1978, p. 2059, §§ 1, 2; Ga. L. 1980, p. 921, § 1; Ga. L. 1981, p. 1034, §§ 1-3; Ga. L. 1988, p. 1624, § 1; Ga. L. 1990, p. 1761, § 1; Ga. L. 1993, p. 1695, §§ 1, 1.1; Ga. L. 1994, p. 97, § 19; Ga. L. 1999, p. 81, § 19; Ga. L. 2006, p. 485, § 1/SB 442; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2009, p. 733, § 1/SB 69; Ga. L. 2012, p. 899, § 5-1/HB 1176; Ga. L.

2013, p. 141, § 19/HB 79; Ga. L. 2013, p. 294, § 4-23/HB 242; Ga. L. 2013, p. 524, § 2-1/HB 78; Ga. L. 2015, p. 906, § 1/HB 268; Ga. L. 2016, p. 773, § 2/HB 905.

Ga. Code Ann., § 16-12-100 (2016). Sexual exploitation of children.

(a) As used in this Code section, the term:

- (1) “Minor” means any person under the age of 18 years.
- (2) “Performance” means any play, dance, or exhibit to be shown to or viewed by an audience.
- (3) “Producing” means producing, directing, manufacturing, issuing, or publishing.
- (4) “Sexually explicit conduct” means actual or simulated:
 - (A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;
 - (B) Bestiality;
 - (C) Masturbation;
 - (D) Lewd exhibition of the genitals or pubic area of any person;
 - (E) Flagellation or torture by or upon a person who is nude;
 - (F) Condition of being fettered, bound, or otherwise physically restrained on the part of a person who is nude;
 - (G) Physical contact in an act of apparent sexual stimulation or gratification with any person's unclothed genitals, pubic area, or buttocks or with a female's nude breasts;
 - (H) Defecation or urination for the purpose of sexual stimulation of the viewer; or
 - (I) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.
- (5) “Visual medium” means any film, photograph, negative, slide, magazine, or other visual medium.

(b)(1) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(2) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual medium depicting such conduct.

(3) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

(4) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.

(5) It is unlawful for any person knowingly to create, reproduce, publish, promote, sell, distribute, give, exhibit, or possess with intent to sell or distribute any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(6) It is unlawful for any person knowingly to advertise, sell, purchase, barter, or exchange any medium which provides information as to where any visual medium which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct can be found or purchased.

(7) It is unlawful for any person knowingly to bring or cause to be brought into this state any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(8) It is unlawful for any person knowingly to possess or control any material which depicts a minor or a portion of a minor's body engaged in any sexually explicit conduct.

(c) A person who, in the course of processing or producing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter submitted for processing or producing depicts a minor engaged in sexually explicit conduct shall immediately report such incident, or cause a report to be made, to the Georgia Bureau of Investigation or the law enforcement agency for the county in which such matter is submitted. Any person participating in the making of a report or causing a report to be made pursuant to this subsection or participating in any judicial proceeding or any other proceeding resulting therefrom shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, providing such participation pursuant to this subsection is made in good faith.

(d) The provisions of subsection (b) of this Code section shall not apply to the activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses or to legitimate medical, scientific, or educational activities.

(e)(1) A person who is convicted of an offense under this Code section shall forfeit to the State of Georgia such interest as the person may have in:

(A) Any property constituting or directly derived from gross profits or other proceeds obtained from such offense; and

(B) Any property used, or intended to be used, to commit such offense.

(2) In any action under this Code section, the court may enter such restraining orders or take other appropriate action, including acceptance of performance bonds, in connection with any interest that is subject to forfeiture.

(3) The court shall order forfeiture of property referred to in paragraph (1) of this subsection if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

(4) The provisions of subsection (u) of Code Section 16-13-49 shall apply for the disposition of any property forfeited under this subsection. In any disposition of property under this subsection, a convicted person shall not be permitted to acquire property forfeited by such person.

(f)(1) The following property shall be subject to forfeiture to the State of Georgia:

(A) Any material or equipment used, or intended for use, in producing, reproducing, transporting, shipping, or receiving any visual medium in violation of this Code section;

(B) Any visual medium produced, transported, shipped, or received in violation of this Code section, or any material containing such depiction; provided, however, that any such property so forfeited shall be destroyed by the appropriate law enforcement agency after it is no longer needed in any court proceedings; or

(C) Any property constituting or directly derived from gross profits or other proceeds obtained from a violation of this Code section; except that no property of any owner shall be forfeited under this paragraph, to the extent of the interest of such owner, by reason of an act or omission established by such owner to have been committed or omitted without knowledge or consent of such owner.

(2) The procedure for forfeiture and disposition of forfeited property under this

subsection shall be as provided for forfeitures under Code Section 16-13-49.

(g)(1) Except as otherwise provided in paragraph (2) of this subsection, any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than five nor more than 20 years and by a fine of not more than \$100,000.00. In the event, however, that the person so convicted is a member of the immediate family of the victim, no fine shall be imposed.

(2) Any person who violates subsection (c) of this Code section shall be guilty of a misdemeanor.

(3) Any person who violates paragraph (1), (5), (7), or (8) of subsection (b) of this Code section shall be guilty of a misdemeanor if:

(A) The minor depicted was at least 14 years of age at the time the visual medium was created;

(B) The visual medium was created with the permission of the minor depicted; and

(C) The defendant was 18 years of age or younger at the time of the offense and:(i) The defendant's violation of such paragraphs did not involve the distribution of such visual medium to another person; or

(ii) In the court's discretion, and when the prosecuting attorney and the defendant have agreed, if the defendant's violation of such paragraphs involved the distribution of such visual medium to another person but such distribution was not for the purpose of:(I) Harassing, intimidating, or embarrassing the minor depicted; or

(II) For any commercial purpose.

Credits:

Ga. L. 1978, p. 2193, § 1; Ga. L. 1983, p. 1437, § 1; Ga. L. 1987, p. 1164, § 1; Ga. L. 1988, p. 11, §§ 1, 2; Ga. L. 1991, p. 886, § 3; Ga. L. 1995, p. 957, § 6; Ga. L. 1996, p. 6, § 16; Ga. L. 2003, p. 573, § 2; Ga. L. 2013, p. 663, § 1/HB 156; Ga. L. 2015, p. 693, § 2-15/HB 233.

Ga. Code Ann., § 49-5-41 (2016). Certain persons and agencies to have reasonable access to records.

(a) Notwithstanding Code Section 49-5-40, the following persons or agencies shall have reasonable access to such records concerning reports of child abuse:

(1) Any federal, state, or local governmental entity, or any agency of any such entity, that has a need for information contained in such reports in order to carry out its legal responsibilities to protect children from abuse and neglect;

(2) A court, by subpoena, upon its finding that access to such records may be necessary for determination of an issue before such court; provided, however, that the court shall examine such record in camera, unless the court determines that

public disclosure of the information contained therein is necessary for the resolution of an issue then before it and the record is otherwise admissible under the rules of evidence;

(3) A grand jury by subpoena upon its determination that access to such records is necessary in the conduct of its official business;

(4) The district attorney of any judicial circuit in this state, a solicitor-general, or any assistant district attorney or assistant solicitor-general who may seek such access in connection with official duty;

(5) Any adult who makes a report of suspected child abuse as required by Code Section 19-7-5, but such access shall include only notification regarding the child concerning whom the report was made, shall disclose only whether the investigation by the department or governmental child protective agency of the reported abuse is ongoing or completed and, if completed, whether child abuse was confirmed or unconfirmed, and shall only be disclosed if requested by the person making the report;

(6) Any adult requesting information regarding investigations by the department or a governmental child protective agency regarding the findings or information about the case of child abuse or neglect that results in a child fatality or near fatality, unless such disclosure of information would jeopardize a criminal investigation or proceeding, but such access shall be limited to a disclosure of the available facts and findings. Any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers.

(7) The State Personnel Board, by administrative subpoena, upon a finding by an administrative law judge appointed by the chief state administrative law judge pursuant to Article 2 of Chapter 13 of Title 50, that access to such records may be necessary for a determination of an issue involving departmental personnel and that issue involves the conduct of such personnel in child related employment activities, provided that only those parts of the record relevant to the child related employment activities shall be disclosed. The name of any complainant or client shall not be identified or entered into the record;

(7.1) A child advocacy center which is certified by the Child Abuse Protocol Committee of the county where the principal office of the center is located as participating in the Georgia Network of Children's Advocacy Centers or a similar accreditation organization and which is operated for the purpose of investigation of known or suspected child abuse and treatment of a child or a family which is the subject of a report of abuse, and which has been created and supported through one or more intracommunity compacts between such advocacy center and

one or more police agencies, the office of the district attorney, a legally mandated public or private child protective agency, a mental health board, and a community health service board; provided, however, that any child advocacy center which is granted access to records concerning reports of child abuse shall be subject to the confidentiality provisions of subsection (b) of Code Section 49-5-40 and shall be subject to the penalties imposed by Code Section 49-5-44 for authorizing or permitting unauthorized access to or use of such records;

(8) Police or any other law enforcement agency of this state or any other state or any medical examiner or coroner investigating a report of known or suspected abuse or any child fatality review panel or child abuse protocol committee or subcommittee thereof created pursuant to Chapter 15 of Title 19, it being found by the General Assembly that the disclosure of such information is necessary in order for such entities to carry out their legal responsibilities to protect children from abuse and neglect, which protective actions include bringing criminal actions for such abuse or neglect, and that such disclosure is therefore permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4); and

(9) The Governor, the Attorney General, the Lieutenant Governor, or the Speaker of the House of Representatives when such officer makes a written request to the commissioner of the department which specifies the name of the child for which such access is sought and which describes such officer's need to have access to such records in order to determine whether the laws of this state are being complied with to protect children from abuse and neglect and whether such laws need to be changed to enhance such protection, for which purposes the General Assembly finds such disclosure is permissible and encouraged under the 1992 amendments to Section 107(b)(4) of the Child Abuse Prevention and Treatment Act, 42 U.S.C. Section 5106(A)(b)(4).

(b)(1) Notwithstanding Code Section 49-5-40, the juvenile court in the county in which are located any department or county board records concerning reports of child abuse, after application for inspection and a hearing on the issue, shall permit inspection of such records by or release of information from such records to individuals or entities who are engaged in legitimate research for educational, scientific, or public purposes and who comply with the provisions of this subsection. When those records are located in more than one county, the application may be made to the juvenile court of any one such county. A copy of any application authorized by this subsection shall be served on the nearest office of the department. In cases where the location of the records is unknown to the applicant, the application may be made to the Juvenile Court of Fulton County.

(2) The juvenile court to which an application is made pursuant to paragraph (1) of this subsection shall not grant the application unless:

(A) The application includes a description of the proposed research project, including a specific statement of the information required, the

purpose for which the project requires that information, and a methodology to assure the information is not arbitrarily sought;

(B) The applicant carries the burden of showing the legitimacy of the research project; and

(C) Names and addresses of individuals, other than officials, employees, or agents of agencies receiving or investigating a report of abuse or treating a child or family which is the subject of a report, shall be deleted from any information released pursuant to this subsection unless the court determines that having the names and addresses open for review is essential to the research and the child, through his or her representative, gives permission to release the information.

(3) Notwithstanding the provisions of this subsection, access to the child abuse registry created pursuant to Article 8 of this chapter shall not be permitted except as allowed by Article 8 of this chapter.

(c) The department or a county or other state or local agency may permit access to records concerning reports of child abuse and may release information from such records to the following persons or agencies when deemed appropriate by such department:

(1) A physician who has before him a child whom he reasonably suspects may be abused;

(2) A licensed child-placing agency, a licensed child-caring institution of this state which is assisting the Department of Human Services by locating or providing foster or adoptive homes for children in the custody of the department, or an investigator appointed by a court of competent jurisdiction of this state to investigate a pending petition for adoption;

(3) A person legally authorized to place a child in protective custody when such person has before him a child he reasonably suspects may be abused and such person requires the information in the record or report in order to determine whether to place the child in protective custody;

(4) An agency or person having the legal custody, responsibility, or authorization to care for, treat, or supervise the child who is the subject of a report or record;

(5) An agency, facility, or person having responsibility or authorization to assist in making a judicial determination for the child who is the subject of the report or record of child abuse, including but not limited to members of officially recognized citizen review panels, court appointed guardians ad litem, certified Court Appointed Special Advocate (CASA) volunteers who are appointed by a judge of a juvenile court to act as advocates for the best interest of a child in a juvenile proceeding, and members of a county child abuse protocol committee or

task force;

(6) A legally mandated public child protective agency or law enforcement agency of another state bound by similar confidentiality provisions and requirements when, during or following the department's investigation of a report of child abuse, the alleged abuser has left this state;

(7) A child welfare agency, as defined in Code Section 49-5-12, or a school where the department has investigated allegations of child abuse made against any employee of such agency or school and any child remains at risk from exposure to that employee, except that such access or release shall protect the identity of:

(A) Any person reporting the child abuse; and

(B) Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;

(8) An employee of a school or employee of a child welfare agency, as defined in Code Section 49-5-12, against whom allegations of child abuse have been made, when the department has been unable to determine the extent of the employee's involvement in alleged child abuse against any child in the care of that school or agency. In those instances, upon receiving a request and signed release from the employee, the department may report its findings to the employer, except that such access or release shall protect the identity of:

(A) Any person reporting the child abuse; and

(B) Any other person whose life or safety has been determined by the department or agency likely to be endangered if the identity were not so protected;

(9) Any person who has an ongoing relationship with the child named in the record or report of child abuse any part of which is to be disclosed to such person but only if that person is required to report suspected abuse of that child pursuant to subsection (b) of Code Section 19-7-5, as that subsection existed on January 1, 1990;

(10) Any school principal or any school guidance counselor, school social worker, or school psychologist who is certified under Chapter 2 of Title 20 and who is counseling a student as a part of such counseling person's school employment duties, but those records shall remain confidential and information obtained therefrom by that counseling person may not be disclosed to any person, except that student, not authorized under this Code section to obtain those records, and such unauthorized disclosure shall be punishable as a misdemeanor;

(11) The Department of Early Care and Learning or the Department of Education;
or

(12) An individual, at the time such individual is leaving foster care by reason of having attained the age of majority, but such access shall be limited to providing such individual with a free copy of his or her health and education records, including the most recent information available.

(d) Notwithstanding any other provision of law, any child-caring agency, child-placing agency, or identified foster parent shall have reasonable access to nonidentifying information from the placement or child protective services record compiled by any state department or agency having custody of a child with respect to any child who has been placed in the care or custody of such agency or foster parent or for whom foster care is being sought, excluding all documents obtained from outside sources which cannot be redisclosed under state or federal law. A department or agency shall respond to a request for access to a child's record within 14 days of receipt of such written request. Any child-caring agency, child-placing agency, or identified foster parent who is granted access to a child's record shall be subject to the penalties imposed by Code Section 49-5-44 for unauthorized access to or use of such records. Such record shall include reports of abuse of such child and the social history of the child and the child's family, the medical history of such child, including psychological or psychiatric evaluations, or educational records as allowed by state or federal law and any plan of care or placement plan developed by the department, provided that no identifying information is disclosed regarding such child.

(e) Notwithstanding any other provisions of law, with the exception of medical and mental health records made confidential by other provisions of law, child abuse and deprivation records applicable to a child who at the time of his or her fatality or near fatality was:

(1) In the custody of a state department or agency or foster parent;

(2) A child as defined in paragraph (3) of Code Section 15-11-171; or

(3) The subject of an investigation, report, referral, or complaint under Code Section 15-11-173 shall not be confidential and shall be subject to Article 4 of Chapter 18 of Title 50, relating to open records; provided, however, that any identifying information, including but not limited to the child or caretaker's name, race, ethnicity, address, or telephone numbers and any other information that is privileged or confidential, shall be redacted to preserve the confidentiality of the child, other children in the household, and the child's parents, guardians, custodians, or caretakers. Upon the release of documents pursuant to this subsection, the department may comment publicly on the case.

(f) Notwithstanding Code Section 49-5-40, a child who alleges that he or she was abused shall be permitted access to records concerning a report of child abuse

allegedly committed against him or her which are in the custody of a child advocacy center, the department, or other state or local agency when he or she reaches 18 years of age; provided, however, that prior to such child reaching 18 years of age, if the requestor is not the subject of such record, such records shall be made available to such child's parent or legal guardian or a deceased child's duly appointed representative when the requestor or his or her attorney submits a sworn affidavit to the applicable child advocacy center, the department, or other state or local agency that attests that such information is relevant to a pending or proposed civil action relating to damages sustained by such child; and provided, further, that such record concerning a report of child abuse shall still be subject to confidentiality pursuant to paragraph (4) of subsection (a) of Code Section 50-18-72. Such record concerning a report of child abuse shall not be subject to release under paragraph (11) of subsection (a) of this Code section or subsection (g) of this Code section.

(g) (1) A subpoena authorized under paragraph (11) of subsection (a) of this Code section shall be served on the prosecuting attorney who has jurisdiction over a pending investigation or prosecution of criminal or unlawful activity, if such information is known to the individual seeking such access or disclosure.

(2) A prosecuting attorney may intervene in an action involving a motion filed under paragraph (11) of subsection (a) of this Code section.

(3) (A) When a court issues an order pursuant to paragraph (11) of subsection (a) of this Code section, the court shall issue a protective order to ensure the confidentiality of such records. Such protective order may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense and may include one or more of the following: (i) That the records not be reproduced except as authorized by court order;

(ii) That the records be viewed or disclosed only on specified terms and conditions;

(iii) That the records be sealed and only opened by court order;

(iv) That the order be applicable to all parties, their counsel, and any agent or representative of a party; or

(v) That records released pursuant to such order be returned to the court upon completion of the matter that caused the production of such records. (B) Any person who fails to obey a protective order issued under this subsection shall be punished as contempt by the court.

Credits:

Ga. L. 1975, p. 1135, § 2; Ga. L. 1990, p. 1778, § 2; Ga. L. 1991, p. 1320, §§ 1-3; Ga. L. 1993, p. 979, § 2; Ga. L. 1993, p. 1712, § 2; Ga. L. 1994, p. 967, §§ 1, 2; Ga. L. 1996, p. 1143, § 1; Ga. L. 1997, p. 844, § 4; Ga. L. 1998, p. 609, § 5; Ga. L. 2000, p. 243, § 3; Ga. L. 2001, p. 4, § 49; Ga. L. 2002, p. 861, § 1; Ga. L. 2003, p. 497, § 1; Ga. L. 2004, p. 645, § 16; Ga. L. 2006, p. 72, § 49/SB 465; Ga. L. 2007, p. 478, § 8/SB 128; Ga. L. 2009, p. 43, §§ 2, 3/SB 79; Ga. L. 2009, p. 453, § 2-2/HB 228; Ga. L. 2010, p. 316, § 1/HB 303; Ga. L. 2013, p. 294, § 4-

56/HB 242; Ga. L. 2014, p. 34, § 2-10/SB 365; Ga. L. 2015, p. 552, § 10/SB 138; Ga. L. 2015, p. 689, § 5/HB 17; Ga. L. 2015, p. 845, § 1/HB 177; Ga. L. 2016, p. 160, § 3/HB 725; Ga. L. 2016, p. 864, § 49/HB 737.

HAWAII

Haw. Rev. Stat. § 350-1.1 (2016). Reports.

(a) Notwithstanding any other state law concerning confidentiality to the contrary, the following persons who, in their professional or official capacity, have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, shall immediately report the matter orally to the department or to the police department:

- (1) Any licensed or registered professional of the healing arts or any health-related occupation who examines, attends, treats, or provides other professional or specialized services, including but not limited to physicians, including physicians in training, psychologists, dentists, nurses, osteopathic physicians and surgeons, optometrists, chiropractors, podiatrists, pharmacists, and other health-related professionals;
- (2) Employees or officers of any public or private school;
- (3) Employees or officers of any public or private agency or institution, or other individuals, providing social, medical, hospital, or mental health services, including financial assistance;
- (4) Employees or officers of any law enforcement agency, including but not limited to the courts, police departments, department of public safety, correctional institutions, and parole or probation offices;
- (5) Individual providers of child care, or employees or officers of any licensed or registered child care facility, foster home, or similar institution;
- (6) Medical examiners or coroners; and
- (7) Employees of any public or private agency providing recreational or sports activities.

(b) Whenever a person designated in subsection (a) is a member of the staff of any public or private school, agency, or institution, that staff member shall immediately report the known or suspected child abuse or neglect directly to the department or to the police

department and also shall immediately notify the person in charge or a designated delegate of the report made in accordance with this chapter.

(c) The initial oral report shall be followed as soon as possible by a report in writing to the department. If a police department or the department of public safety is the initiating agency, a written report shall be filed with the department for cases that the police or the department of public safety takes further action on or for active cases in the department under this chapter. All written reports shall contain the name and address of the child and the child's parents or other persons responsible for the child's care, if known, the child's age, the nature and extent of the child's injuries, and any other information that the reporter believes might be helpful or relevant to the investigation of the child abuse or neglect. This subsection shall not be construed to serve as a cause of action against the department, the police, or the department of public safety.

(d) Any person subject to subsection (a) shall, upon demand of the department or any police department, provide all information related to the alleged incident of child abuse or neglect, including, but not limited to, medical records and medical reports, which was not included in the written report submitted pursuant to subsection (c).

(e) The director may adopt, amend, or repeal rules, subject to chapter 91, to further define or clarify the specific forms of child abuse or neglect enumerated in section 350-1 for use in implementing this chapter; provided that rules adopted under this subsection shall be limited to such further or clarifying definitions.

Credits:

L 1967, c 261, § 2; HRS § 350-1; am L 1970, c 21, § 1 and c 105, § 5; am L 1975, c 147, § 1; am L 1977, c 81, § 2; am L 1979, c 171, § 1; am L 1981, c 59, § 1; ren and am L 1982, c 77, § 2; am L 1985, c 17, § 1 and c 208, § 3; am L 1987, c 204, § 4 and c 339, § 4; am L 1988, c 323, § 2; am L 1998, c 134, § 4; am L 1999, c 271, § 4; am L 2000, c 248, § 1; am L 2006, c 159, § 1; am L 2006, c 193, § 1.

Haw. Rev. Stat. § 350-1.15 (2016). Orientation and training

To improve the identification of child abuse and neglect, the department shall offer periodic orientation and training to those responsible for making child abuse and neglect reports pursuant to section 350-1.1.

Credits:

L 1988, c 323, § 1.

Haw. Rev. Stat. § 350-1.2 (2016). Nonreporting; penalty.

Any person subject to section 350-1.1(a) who knowingly prevents another person from reporting, or who knowingly fails to provide information as required by section 350-1.1(c) or (d), shall be guilty of a petty misdemeanor.

Credits:

L 1985, c 17, § 3; am L 1987, c 204, § 5 and c 339, § 4.

Haw. Rev. Stat. § 350-1.3 (2016). Any person may report.

Any person, not otherwise required to report pursuant to section 350-1.1, who becomes aware of facts or circumstances which cause that person to have reason to believe that child abuse or neglect has occurred or that there exists a substantial risk that child abuse or neglect may occur in the reasonably foreseeable future, may immediately report the matter orally to the department or to the police department.

Credits:

L 1987, c 204, § 1.

Haw. Rev. Stat. § 350-1.4 (2016). Confidentiality.

(a) All reports to the department concerning child abuse or neglect made pursuant to this chapter, as well as all records of such reports, are confidential. The director may adopt rules, pursuant to chapter 91, to provide for the confidentiality of reports and records and for the authorized disclosure of reports and records. Any person who intentionally makes an unauthorized disclosure of a report or record of a report made to the department shall be guilty of a misdemeanor.

(b) Every reasonable good faith effort shall be made by the department to maintain the confidentiality of the name of a reporter who requests that the reporter's name be confidential.

(c) Notwithstanding subsection (a) and section 346-10, the director may adopt rules pursuant to chapter 91 to provide for the release of information required by federal statute or regulation.

Credits:

L 1987, c 204, § 2; am L 1999, c 34, § 2.

Haw. Rev. Stat. § 350-3 (2016). Immunity from liability.

(a) Anyone participating in good faith in the making of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(b) Any individual who assumes a duty or responsibility pursuant to section 350-2 or chapter 587A shall have immunity from civil liability for acts or omissions performed

within the scope of the individual's duty or responsibility. Nothing in this section shall limit the liability of the department, any other state agency, or any private organization for the conduct of individuals provided immunity herein.

Credits:

L 1967, c 261, § 4; HRS § 350-3; am L 1986, c 229, § 1; am L 1987, c 204, § 7 and c 339, § 4.

Haw. Rev. Stat. § 350-5 (2016). Admissibility of evidence.

The physician-patient privilege, the psychologist-client privilege, the spousal privilege, and the victim-counselor privilege shall not be grounds for excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect pursuant to this chapter.

Credits:

L 1967, c 261, § 6; HRS § 350-5; am L 1987, c 204, § 8; am L 1992, c 217, § 3.

IDAHO

Idaho Code § 16-1605 (2016). Reporting of abuse, abandonment or neglect.

(1) Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the department. The department shall be informed by law enforcement of any report made directly to it. When the attendance of a physician, resident, intern, nurse, day care worker, or social worker is pursuant to the performance of services as a member of the staff of a hospital or similar institution, he shall notify the person in charge of the institution or his designated delegate who shall make the necessary reports.

(2) For purposes of subsection (3) of this section the term “duly ordained minister of religion” means a person who has been ordained or set apart, in accordance with the ceremonial, ritual or discipline of a church or religious organization which has been established on the basis of a community of religious faith, belief, doctrines and practices, to hear confessions and confidential communications in accordance with the bona fide doctrines or discipline of that church or religious organization.

(3) The notification requirements of subsection (1) of this section do not apply to a duly

ordained minister of religion, with regard to any confession or confidential communication made to him in his ecclesiastical capacity in the course of discipline enjoined by the church to which he belongs if:

- (a) The church qualifies as tax-exempt under 26 U.S.C. section 501(c)(3);
- (b) The confession or confidential communication was made directly to the duly ordained minister of religion; and
- (c) The confession or confidential communication was made in the manner and context which places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. A confession or confidential communication made under any other circumstances does not fall under this exemption.

(4) Failure to report as required in this section shall be a misdemeanor.

Credits:

I.C., § 16-1619, as added by 1976, ch. 204, § 2, p. 732; am. 1982, ch. 186, § 18, p. 491; am. 1985, ch. 158, § 1, p. 416; am. 1995, ch. 329, § 1, p. 1098; am. and redesign. 2005, ch. 391, § 7, p. 1263.

Idaho Code § 16-1606 (2016). Immunity.

Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in section 16-1605, Idaho Code, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any such judicial proceeding resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof.

Credits:

I.C., § 16-1620, as added by 1976, ch. 204, § 2, p. 732; am. 1982, ch. 186, § 19, p. 491; am. 1985, ch. 158, § 2, p. 416; am. 1995, ch. 328, § 1, p. 1097; am. and redesign. 2005, ch. 391, § 8, p. 1263.

Idaho Code § 16-1607 (2016). Reporting in bad faith--Civil damages

Any person who makes a report or allegation of child abuse, abandonment or neglect knowing the same to be false or who reports or alleges the same in bad faith or with malice shall be liable to the party or parties against whom the report was made for the

amount of actual damages sustained or statutory damages of two thousand five hundred dollars (\$2,500), whichever is greater, plus attorney's fees and costs of suit. If the court finds that the defendant acted with malice or oppression, the court may award treble actual damages or treble statutory damages, whichever is greater.

Credits:

I.C., § 16-1620A, as added by 1995, ch. 276, § 1, p. 924; am. and redesign. 2005, ch. 391, § 9, p. 1263; am. 2007, ch. 128, § 1, p. 385.

ILLINOIS

325 Ill. Comp. Stat. Ann. § 5/4 (2016). Persons required to report; privileged communications; transmitting false report.

§ 4. Persons required to report; privileged communications; transmitting false report. Any physician, resident, intern, hospital, hospital administrator and personnel engaged in examination, care and treatment of persons, surgeon, dentist, dentist hygienist, osteopath, chiropractor, podiatrist, physician assistant, substance abuse treatment personnel, funeral home director or employee, coroner, medical examiner, emergency medical technician, acupuncturist, crisis line or hotline personnel, school personnel (including administrators and both certified and non-certified school employees), personnel of institutions of higher education, educational advocate assigned to a child pursuant to the School Code, member of a school board or the Chicago Board of Education or the governing body of a private school (but only to the extent required in accordance with other provisions of this Section expressly concerning the duty of school board members to report suspected child abuse), truant officers, social worker, social services administrator, domestic violence program personnel, registered nurse, licensed practical nurse, genetic counselor, respiratory care practitioner, advanced practice nurse, home health aide, director or staff assistant of a nursery school or a child day care center, recreational or athletic program or facility personnel, early intervention provider as defined in the Early Intervention Services System Act, law enforcement officer, licensed professional counselor, licensed clinical professional counselor, registered psychologist and assistants working under the direct supervision of a psychologist, psychiatrist, or field personnel of the Department of Healthcare and Family Services, Juvenile Justice, Public Health, Human Services (acting as successor to the Department of Mental Health and Developmental Disabilities, Rehabilitation Services, or Public Aid), Corrections, Human Rights, or Children and Family Services, supervisor and administrator of general assistance under the Illinois Public Aid Code, probation officer, animal control officer or Illinois Department of Agriculture Bureau of Animal Health and Welfare field investigator, or any other foster parent, homemaker or child care worker having reasonable cause to believe a child known to them in their professional or official capacity may be an abused child or a

neglected child shall immediately report or cause a report to be made to the Department.

Any member of the clergy having reasonable cause to believe that a child known to that member of the clergy in his or her professional capacity may be an abused child as defined in item (c) of the definition of “abused child” in Section 3 of this Act shall immediately report or cause a report to be made to the Department.

Any physician, physician's assistant, registered nurse, licensed practical nurse, medical technician, certified nursing assistant, social worker, or licensed professional counselor of any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives having reasonable cause to believe a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child shall immediately report or cause a report to be made to the Department.

If an allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child as defined in Section 3 of this Act, the member shall direct or cause the school board to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse. For purposes of this paragraph, a school board member is granted the authority in his or her individual capacity to direct the superintendent of the school district or other equivalent school administrator to comply with the requirements of this Act concerning the reporting of child abuse.

Notwithstanding any other provision of this Act, if an employee of a school district has made a report or caused a report to be made to the Department under this Act involving the conduct of a current or former employee of the school district and a request is made by another school district for the provision of information concerning the job performance or qualifications of the current or former employee because he or she is an applicant for employment with the requesting school district, the general superintendent of the school district to which the request is being made must disclose to the requesting school district the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department, as required under this Act. Only the fact that an employee of the school district has made a report involving the conduct of the applicant or caused a report to be made to the Department may be disclosed by the general superintendent of the school district to which the request for information concerning the applicant is made, and this fact may be disclosed only in cases where the employee and the general superintendent have not been informed by the Department that the allegations were unfounded. An employee of a school district who is or has been the subject of a report made pursuant to this Act during his or her employment with the school district must be informed by that school district that if he or she applies for employment with another school district, the general superintendent of the former school district, upon the request of the school district to which the employee applies, shall notify that requesting school district that the employee is or was the subject of such a report.

Whenever such person is required to report under this Act in his capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with the provisions of this Act and may also notify the person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent to whom such notification has been made, exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department.

The privileged quality of communication between any professional person required to report and his patient or client shall not apply to situations involving abused or neglected children and shall not constitute grounds for failure to report as required by this Act or constitute grounds for failure to share information or documents with the Department during the course of a child abuse or neglect investigation. If requested by the professional, the Department shall confirm in writing that the information or documents disclosed by the professional were gathered in the course of a child abuse or neglect investigation.

A member of the clergy may claim the privilege under Section 8-803 of the Code of Civil Procedure.

Any office, clinic, or any other physical location that provides abortions, abortion referrals, or contraceptives shall provide to all office personnel copies of written information and training materials about abuse and neglect and the requirements of this Act that are provided to employees of the office, clinic, or physical location who are required to make reports to the Department under this Act, and instruct such office personnel to bring to the attention of an employee of the office, clinic, or physical location who is required to make reports to the Department under this Act any reasonable suspicion that a child known to him or her in his or her professional or official capacity may be an abused child or a neglected child. In addition to the above persons required to report suspected cases of abused or neglected children, any other person may make a report if such person has reasonable cause to believe a child may be an abused child or a neglected child.

Any person who enters into employment on and after July 1, 1986 and is mandated by virtue of that employment to report under this Act, shall sign a statement on a form prescribed by the Department, to the effect that the employee has knowledge and understanding of the reporting requirements of this Act. The statement shall be signed prior to commencement of the employment. The signed statement shall be retained by the employer. The cost of printing, distribution, and filing of the statement shall be borne by the employer.

The Department shall provide copies of this Act, upon request, to all employers

employing persons who shall be required under the provisions of this Section to report under this Act.

Any person who knowingly transmits a false report to the Department commits the offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the “Criminal Code of 1961”. A violation of this provision is a Class 4 felony.

Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in the preceding paragraph, is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation; except that if the person acted as part of a plan or scheme having as its object the prevention of discovery of an abused or neglected child by lawful authorities for the purpose of protecting or insulating any person or entity from arrest or prosecution, the person is guilty of a Class 4 felony for a first offense and a Class 3 felony for a second or subsequent offense (regardless of whether the second or subsequent offense involves any of the same facts or persons as the first or other prior offense).

A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian or custodian accepts and practices such beliefs.

A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code, as amended.

Nothing in this Act prohibits a mandated reporter who reasonably believes that an animal is being abused or neglected in violation of the Humane Care for Animals Act from reporting animal abuse or neglect to the Department of Agriculture's Bureau of Animal Health and Welfare.

A home rule unit may not regulate the reporting of child abuse or neglect in a manner inconsistent with the provisions of this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

For purposes of this Section “child abuse or neglect” includes abuse or neglect of an adult resident as defined in this Act.

Credits:

P.A. 86-601; 86-716; 86-835; 86-1004; 86-1028; 89-363, § 15; 89-507, § 90L-74; 89-706, § 275; 90-116, § 20; 91-259, § 15; 91-516, § 5; 92-16, § 78; 92-801, § 5; 93-137, § 5; 93-356, § 5; 93-431, § 5; 93-1041, § 905; 94-888, § 5; 95-10, § 5; 95-461, § 5; 95-876, § 270; 95-908, § 5; 96-494, § 10; 96-1446, § 10; 97-189, § 5; 97-254, § 5; 97-387, § 5; 97-711, § 5; 97-813, § 500; 97-1150, § 515; 98-67, § 5; 98-214, § 85; 98-

408, § 5; 98-756, § 550.

325 Ill. Comp. Stat. Ann. § 5/4.02 (2016). Failure to report suspected abuse or neglect.

§ 4.02. Any physician who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Illinois State Medical Disciplinary Board for action in accordance with paragraph 22 of Section 22 of the Medical Practice Act of 1987. Any dentist or dental hygienist who willfully fails to report suspected child abuse or neglect as required by this Act shall be referred to the Department of Professional Regulation for action in accordance with paragraph 19 of Section 23 of the Illinois Dental Practice Act. Any other person required by this Act to report suspected child abuse and neglect who willfully fails to report such is guilty of a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation.

Credits:

P.A. 86-1004; 91-197, § 5; 92-801, § 5.

720 Ill. Comp. Stat. Ann. § 5/11-20.2 (2016). Duty of commercial film and photographic print processors or computer technicians to report sexual depiction of children.

(a) Any commercial film and photographic print processor or computer technician who has knowledge of or observes, within the scope of his professional capacity or employment, any film, photograph, videotape, negative, slide, computer hard drive or any other magnetic or optical media which depicts a child whom the processor or computer technician knows or reasonably should know to be under the age of 18 where such child is:

(i) actually or by simulation engaged in any act of sexual penetration or sexual conduct with any person or animal; or

(ii) actually or by simulation engaged in any act of sexual penetration or sexual conduct involving the sex organs of the child and the mouth, anus, or sex organs of another person or animal; or which involves the mouth, anus or sex organs of the child and the sex organs of another person or animal; or

(iii) actually or by simulation engaged in any act of masturbation; or

(iv) actually or by simulation portrayed as being the object of, or otherwise engaged in, any act of lewd fondling, touching, or caressing involving another person or animal; or

(v) actually or by simulation engaged in any act of excretion or urination within a sexual context; or

(vi) actually or by simulation portrayed or depicted as bound, fettered, or subject to sadistic, masochistic, or sadomasochistic abuse in any sexual context; or

(vii) depicted or portrayed in any pose, posture or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the child or other person;

shall report or cause a report to be made pursuant to subsections (b) and (c) as soon as reasonably possible. Failure to make such report shall be a business offense with a fine of \$1,000.

(b) Commercial film and photographic film processors shall report or cause a report to be made to the local law enforcement agency of the jurisdiction in which the image or images described in subsection (a) are discovered.

(c) Computer technicians shall report or cause the report to be made to the local law enforcement agency of the jurisdiction in which the image or images described in subsection (a) are discovered or to the Illinois Child Exploitation e-Tipline at reportchildporn@atg.state.il.us.

(d) Reports required by this Act shall include the following information: (i) name, address, and telephone number of the person filing the report; (ii) the employer of the person filing the report, if any; (iii) the name, address and telephone number of the person whose property is the subject of the report, if known; (iv) the circumstances which led to the filing of the report, including a description of the reported content.

(e) If a report is filed with the Cyber Tipline at the National Center for Missing and Exploited Children or in accordance with the requirements of 42 U.S.C. 13032, the requirements of this Act will be deemed to have been met.

(f) A computer technician or an employer caused to report child pornography under this Section is immune from any criminal, civil, or administrative liability in connection with making the report, except for willful or wanton misconduct.

(g) For the purposes of this Section, a “computer technician” is a person who installs, maintains, troubleshoots, repairs or upgrades computer hardware, software, computer networks, peripheral equipment, electronic mail systems, or provides user assistance for any of the aforementioned tasks.

Credits:

P.A. 84-1280; 95-983, § 105; 96-1551, § 5.

735 Ill. Comp. Stat. Ann. § 5/8-803 (2016). Clergy.

Clergy. A clergyman or practitioner of any religious denomination accredited by the

religious body to which he or she belongs, shall not be compelled to disclose in any court, or to any administrative board or agency, or to any public officer, a confession or admission made to him or her in his or her professional character or as a spiritual advisor in the course of the discipline enjoined by the rules or practices of such religious body or of the religion which he or she professes, nor be compelled to divulge any information which has been obtained by him or her in such professional character or as such spiritual advisor.

Credits:
P.A. 82-280.

INDIANA

Ind. Code Ann. § 31-33-5-1 (2016). Duty to make report

Sec. 1. In addition to any other duty to report arising under this article, an individual who has reason to believe that a child is a victim of child abuse or neglect shall make a report as required by this article.

Credits:
P.L.1-1997, § 16.

Ind. Code Ann. § 31-33-5-2 (2016). Notification of individual in charge of institution, school, facility or agency; report

Sec. 2. (a) If an individual is required to make a report under this article in the individual's capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, the individual shall immediately notify the individual in charge of the institution, school, facility, or agency or the designated agent of the individual in charge of the institution, school, facility, or agency.

(b) An individual notified under subsection (a) shall report or cause a report to be made to:

- (1) the department; or
- (2) the local law enforcement agency.

Credits:
P.L.1-1997, § 16; P.L.106-2016, § 24, emergency effective July 1, 2016.

Ind. Code Ann. § 31-33-5-3 (2016). Effect of compliance on individual's own duty to report

This chapter does not relieve an individual of the obligation to report on the individual's

own behalf, unless a report has already been made to the best of the individual's belief.

Credits:

P.L.1-1997, § 16.

Ind. Code Ann. § 31-33-5-4 (2016). Immediate oral report to department or law enforcement agency

A person who has a duty under this chapter to report that a child may be a victim of child abuse or neglect shall immediately make an oral report to:

- (1) the department; or
- (2) the local law enforcement agency.

Credits:

P.L.1-1997, § 16; P.L.234-2005, § 107.

Ind. Code Ann. § 31-32-11-1 (2016). Admissibility of privileged communications.

The privileged communication between:

- (1) a husband and wife;
- (2) a health care provider and the health care provider's patient;
- (3) a:
 - (A) licensed social worker;
 - (B) licensed clinical social worker;
 - (C) licensed marriage and family therapist;
 - (D) licensed mental health counselor;
 - (E) licensed addiction counselor; or
 - (F) licensed clinical addiction counselor;and a client of any of the professionals described in clauses (A) through (F);
- (4) a school counselor and a student; or

(5) a school psychologist and a student;

is not a ground for excluding evidence in any judicial proceeding resulting from a report of a child who may be a victim of child abuse or neglect or relating to the subject matter of the report or failing to report as required by IC 31-33.

Credits:

P.L.1-1997, § 15; P.L.122-2009, § 30, eff. July 1, 2009.

Ind. Code Ann. § 31-33-7-4 (2016). Written report; content.

(a) The department shall make a written report of a child who may be a victim of child abuse or neglect not later than forty-eight (48) hours after receipt of the oral report required of individuals by IC 31-33-5-4.

(b) Written reports under this section must be made on forms supplied by the administrator. The written reports must include, if known, the following information:

(1) The names and addresses of the following:

(A) The child.

(B) The child's parents, guardian, custodian, or other person responsible for the child's care.

(2) The child's age and sex.

(3) The nature and apparent extent of the child's injuries, abuse, or neglect, including any evidence of prior:

(A) injuries of the child; or

(B) abuse or neglect of the child or the child's siblings.

(4) The name of the person allegedly responsible for causing the injury, abuse, or neglect.

(5) The source of the report.

(6) The person making the report and where the person can be reached.

(7) The actions taken by the reporting source, including the following:

(A) Taking of photographs and x-rays.

(B) Removal or keeping of the child.

(C) Notifying the coroner.

(8) The written documentation required by IC 31-34-2-3 if a child was taken into custody without a court order.

(9) Any other information that:

(A) the director requires by rule; or

(B) the person making the report believes might be helpful.

Credits:

P.L.1-1997, § 16; P.L.234-2005, § 111.

Ind. Code ann. § 31-33-18-2 (2016). Access to reports and other material.

The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

(1) Persons authorized by this article.

(2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.

(3) A police or other law enforcement agency, prosecuting attorney, or coroner in the case of the death of a child who is investigating a report of a child who may be a victim of child abuse or neglect.

(4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.

(5) An individual legally authorized to place a child in protective custody if:

(A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and

(B) the individual requires the information in the report or record to determine whether to place the child in protective custody.

(6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.

(7) An individual named in the report or record who is alleged to be abused or neglected

or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.

(8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 31-33-24-6.

(17) The statewide child fatality review committee established by IC 31-33-25-6.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

(ii) a person licensed to operate;

(iii) an employee of; or

(iv) a volunteer providing services at;

a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.

(20) A citizen review panel established under IC 31-25-2-20.4.

(21) The department of child services ombudsman established by IC 4-13-19-3.

(22) The state superintendent of public instruction with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(23) The state child fatality review coordinator employed by the state department of health under IC 16-49-5-1.

(24) A person who operates a child caring institution, group home, or secure private facility if all the following apply:

(A) The child caring institution, group home, or secure private facility is licensed

under IC 31-27.

(B) The report or other materials concern:(i) an employee of;
(ii) a volunteer providing services at; or
(iii) a child placed at;
the child caring institution, group home, or secure private facility.

(C) The allegation in the report occurred at the child caring institution, group home, or secure private facility.

(24) A person who operates a child placing agency if all the following apply:(A) The child placing agency is licensed under IC 31-27.

(B) The report or other materials concern:(i) a child placed in a foster home licensed by the child placing agency;
(ii) a person licensed by the child placing agency to operate a foster family home;
(iii) an employee of the child placing agency or a foster family home licensed by the child placing agency; or
(iv) a volunteer providing services at the child placing agency or a foster family home licensed by the child placing agency.

(C) The allegations in the report occurred in the foster family home or in the course of employment or volunteering at the child placing agency or foster family home.

(25) The National Center for Missing and Exploited Children.

Credits:

P.L.1-1997, § 16; P.L.70-2004, § 16; P.L.234-2005, § 155; P.L.145-2006, § 285;
P.L.146-2006, § 43; P.L.138-2007, § 66, emergency eff. July 1, 2007; P.L.182-2009(ss), § 380, emergency eff. July 1, 2009; P.L.48-2012, § 39, emergency eff. July 1, 2012;
P.L.119-2013, § 12, eff. July 1, 2013; P.L.123-2014, § 20, eff. July 1, 2014; P.L.46-2016, § 6, effective July 1, 2016.

Ind. Code Ann. § 31-33-22-1 (2016). Failure to make report.

(a) A person who knowingly fails to make a report required by IC 31-33-5-1 commits a Class B misdemeanor.

(b) A person who knowingly fails to make a report required by IC 31-33-5-2 commits a Class B misdemeanor. This penalty is in addition to the penalty imposed by subsection (a).

Credits:

P.L.1-1997, § 16.

Ind. Code Ann. § 31-33-22-3 (2016). False reports; criminal and civil liability; notification of prosecuting attorney

(a) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a previous unrelated conviction for making a report of child abuse or neglect knowing the report to be false.

(b) A person who intentionally communicates to:

(1) a law enforcement agency; or

(2) the department;

a report of child abuse or neglect knowing the report to be false is liable to the person accused of child abuse or neglect for actual damages. The finder of fact may award punitive damages and attorney's fees in an amount determined by the finder of fact against the person.

(c) The director or the director's designee shall, after review by the department's attorney, notify the prosecuting attorney whenever the director or the director's designee and the department's attorney have reason to believe that a person has violated this section.

(d) A person who:

(1) has reason to believe that the person is a victim of a false report of child abuse or neglect under this section; and

(2) is not named in a pending criminal charge or under assessment relating to the report;

may file a complaint with the prosecuting attorney. The prosecuting attorney shall review the relevant child abuse or neglect records of the department and any other relevant evidence.

Credits:

P.L.1-1997, § 16; P.L.234-2005, § 166; P.L.131-2009, § 55, emergency eff. July 1, 2009; P.L.158-2013, § 318, eff. July 1, 2014.

IOWA

Iowa Code Ann. § 232.69 (2016). Mandatory and permissive reporters--training required.

1. The classes of persons enumerated in this subsection shall make a report within twenty-four hours and as provided in section 232.70, of cases of child abuse. In addition, the classes of persons enumerated in this subsection shall make a report of abuse of a child who is under twelve years of age and may make a report of abuse of a child who is twelve years of age or older, which would be defined as child abuse under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child.

a. Every health practitioner who in the scope of professional practice, examines, attends, or treats a child and who reasonably believes the child has been abused. Notwithstanding section 139A.30, this provision applies to a health practitioner who receives information confirming that a child is infected with a sexually transmitted disease.

b. Any of the following persons who, in the scope of professional practice or in their employment responsibilities, examines, attends, counsels, or treats a child and reasonably believes a child has suffered abuse:

(1) A social worker.

(2) An employee or operator of a public or private health care facility as defined in section 135C.1.

(3) A certified psychologist.

(4) A licensed school employee, certified para-educator, holder of a coaching authorization issued under section 272.31, or an instructor employed by a community college.

(5) An employee or operator of a licensed child care center, registered child development home, head start program, family development and self-sufficiency grant program under section 216A.107, or healthy opportunities for parents to experience success-healthy families Iowa program under section 135.106.

(6) An employee or operator of a substance abuse program or facility licensed under chapter 125.

(7) An employee of a department of human services institution listed in section 218.1.

- (8) An employee or operator of a juvenile detention or juvenile shelter care facility approved under section 232.142.
- (9) An employee or operator of a foster care facility licensed or approved under chapter 237.
- (10) An employee or operator of a mental health center.
- (11) A peace officer.
- (12) A counselor or mental health professional.
- (13) An employee or operator of a provider of services to children funded under a federally approved medical assistance home and community-based services waiver.

2. Any other person who believes that a child has been abused may make a report as provided in section 232.70.

3. a. For the purposes of this subsection, “licensing board” means a board designated in section 147.13, the board of educational examiners created in section 272.2, or a licensing board as defined in section 272C.1.

b. A person required to make a report under subsection 1, other than a physician whose professional practice does not regularly involve providing primary health care to children, shall complete two hours of training relating to the identification and reporting of child abuse within six months of initial employment or self-employment involving the examination, attending, counseling, or treatment of children on a regular basis. Within one month of initial employment or self-employment, the person shall obtain a statement of the abuse reporting requirements from the person's employer or, if self-employed, from the department. The person shall complete at least two hours of additional child abuse identification and reporting training every five years.

c. If the person is an employee of a hospital or similar institution, or of a public or private institution, agency, or facility, the employer shall be responsible for providing the child abuse identification and reporting training. If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the child abuse identification and reporting training as provided in paragraph “d”.

d. The person may complete the initial or additional training requirements as part of any of the following that are applicable to the person:

- (1) A continuing education program required under chapter 272C and

approved by the appropriate licensing board.

(2) A training program using a curriculum approved by the abuse education review panel established by the director of public health pursuant to section 135.11.

(3) A training program using such an approved curriculum offered by the department of human services, the department of education, an area education agency, a school district, the Iowa law enforcement academy, or a similar public agency.

e. A licensing board with authority over the license of a person required to make a report under subsection 1 shall require as a condition of licensure that the person is in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person's completion of the training requirements. However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or of the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering child abuse in this state.

f. For persons required to make a report under subsection 1 who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of renewal of the facility's or program's licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.

g. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.

h. For persons required to make a report under subsection 1 who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the persons' compliance with the training requirements of this subsection.

Credits:

C66, 71, 73, 75, 77, § 235A.3; C79, 81, § 232.69; 83 Acts, ch 96, § 157, 159; 84 Acts, ch 1279, § 4, 6; 85 Acts, ch 173, § 3 - 5; 87 Acts, ch 153, § 3; 88 Acts, ch 1238, § 1; 89 Acts, ch 89, § 17; 89 Acts, ch 230, § 5; 89 Acts, ch 265, § 40; 94 Acts, ch 1130, § 3; 97

Acts, ch 85, § 1; 99 Acts, ch 192, § 27, 33; 2000 Acts, ch 1066, § 42; 2001 Acts, ch 122, § 2, 3; 2002 Acts, ch 1047, § 2, 20; 2002 Acts, ch 1142, § 1, 31; 2005 Acts, ch 121, § 2; 2007 Acts, ch 10, § 164, 165; 2008 Acts, ch 1072, § 3; 2013 Acts, ch 129, § 54.

Iowa Code Ann. § 232.70 (2016). Reporting procedure.

1. Each report made by a mandatory reporter, as defined in section 232.69, subsection 1, shall be made both orally and in writing. Each report made by a permissive reporter, as defined in section 232.69, subsection 2, may be oral, written, or both.
2. The employer or supervisor of a person who is a mandatory or permissive reporter shall not apply a policy, work rule, or other requirement that interferes with the person making a report of child abuse.
3. The oral report shall be made by telephone or otherwise to the department of human services. If the person making the report has reason to believe that immediate protection for the child is advisable, that person shall also make an oral report to an appropriate law enforcement agency.
4. The written report shall be made to the department of human services within forty-eight hours after such oral report.
5. Upon receipt of a report the department shall do all of the following:
 - a. Immediately, upon receipt of an oral report, make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68.
 - b. Notify the appropriate county attorney of the receipt of the report.
6. The oral and written reports shall contain the following information, or as much thereof as the person making the report is able to furnish:
 - a. The names and home address of the child and the child's parents or other persons believed to be responsible for the child's care;
 - b. The child's present whereabouts if not the same as the parent's or other person's home address;
 - c. The child's age;
 - d. The nature and extent of the child's injuries, including any evidence of previous injuries;
 - e. The name, age and condition of other children in the same home;
 - f. Any other information which the person making the report believes might be

helpful in establishing the cause of the injury to the child, the identity of the person or persons responsible for the injury, or in providing assistance to the child; and

g. The name and address of the person making the report.

7. A report made by a permissive reporter, as defined in section 232.69, subsection 2, shall be regarded as a report pursuant to this chapter whether or not the report contains all of the information required by this section and may be made to the department of human services, county attorney, or law enforcement agency. If the report is made to any agency other than the department of human services, such agency shall promptly refer the report to the department of human services.

8. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

9. Within twenty-four hours of receiving a report from a mandatory or permissive reporter, the department shall inform the reporter, orally or by other appropriate means, whether or not the department has commenced an assessment of the allegation in the report.

10. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph “a”, subparagraph (3) or (5), except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

11. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

- a. Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child’s department records.
- b. Refer the child for appropriate services.
- c. Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

Credits:

C66, 71, 73, 75, 77, § 235A.4; C79, 81, § 232.70] 83 Acts, ch 96, § 157, 159; 87 Acts, ch

153, § 4; 97 Acts, ch 176, § 2, 17; 2000 Acts, ch 1137, § 4, 14; 2001 Acts, ch 122, § 4; 2013 Acts, ch 115, § 2, 19; 2016 S.F. 2258, § 10, 11, eff. July 1, 2016.

Iowa Code Ann. § 232.71B (2016). Duties of the department upon receipt of report.

1. Commencement of assessment--purpose.

- a. If the department determines a report constitutes a child abuse allegation, the department shall promptly commence an appropriate assessment within twenty-four hours of receiving the report.
 - (1) Upon acceptance of a report of child abuse, the department shall commence a child abuse assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraphs (1) through (3) and subparagraphs (5) through (11), or which alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), that also alleges imminent danger, death, or injury to a child.
 - a. (2) Upon acceptance of a report of child abuse, the department shall commence a family assessment when the report alleges child abuse as defined in section 232.68, subsection 2, paragraph “a”, subparagraph (4), but does not allege imminent danger, death, or injury to a child.
- b.
- b. The primary purpose of the assessment shall be the protection of the child named in the report. The secondary purpose of the assessment shall be to engage the child's family in services to enhance family strengths and to address needs.

2. Notification of parents. The department, within five working days of commencing the assessment, shall provide written notification of the assessment to the child's parents. If a parent is alleged to have committed the child abuse, the notice shall inform the parents regarding the complaint or allegation made regarding the parent. The parents shall be informed in a manner that protects the confidentiality rights of an individual who reported the child abuse or provided information as part of the assessment process. However, if the department shows the court to the court's satisfaction that notification is likely to endanger the child or other persons, the court shall orally direct the department to withhold notification. Within one working day of issuing an oral directive, the court shall issue a written order restraining the notification. The department shall not reveal in the written notification to the parents or otherwise the identity of the reporter of child abuse to a subject of a child abuse report listed in section 235A.15, subsection 2, paragraph “a”.

3. Involvement of law enforcement. The department shall apply protocols, developed with the local child protection assistance team established pursuant to section 915.35, to prioritize the actions taken in response to child abuse reports and to work jointly with

child protection assistance teams and law enforcement agencies in performing assessment and investigative processes for child abuse reports in which a criminal act harming a child is alleged. The county attorney and appropriate law enforcement agencies shall also take any other lawful action which may be necessary or advisable for the protection of the child. If a report is determined not to constitute a child abuse allegation, but a criminal act harming a child is alleged, the department shall immediately refer the matter to the appropriate law enforcement agency.

c. If the department has reasonable cause to believe that a child under the placement, care, or supervision of the department is, or is at risk of becoming, a sex trafficking victim, the department shall do all of the following:

(1) Identify the child as a sex trafficking victim or at risk of becoming a sex trafficking victim and include documentation in the child's department records.

(2) Refer the child for appropriate services.

(3) Refer the child identified as a sex trafficking victim, within twenty-four hours, to the appropriate law enforcement agency having jurisdiction to investigate the allegation.

d. The department shall report a child under the placement, care, or supervision of the department who is reported as missing or abducted to law enforcement and to the national center for missing and exploited children within twenty-four hours of receipt of the report.

4. Assessment process. The assessment is subject to all of the following:

a. Identification of the nature, extent, and cause of the injuries, if any, to the child named in the report.

b. (1) A safety assessment and risk assessment. If at any time during a family assessment, a child is determined unsafe or in imminent danger, it appears that the immediate safety or well-being of a child is endangered, it appears that the family may flee or the child may disappear, or the facts otherwise warrant, the department shall immediately commence a child abuse assessment.

b. Identification of the person or persons responsible for the alleged child abuse.

c. A description of the name, age, and condition of other children in the same home as the child named in the report.

d. An evaluation of the home environment. If concerns regarding protection of children are identified by the child protection worker, the child protection worker shall evaluate the child named in the report and any other children in the same home as the parents or other persons responsible for their care.

e. An interview of the person alleged to have committed the child abuse, if the person's identity and location are known. The offer of an interview shall be made to the person prior to any consideration or determination being made that the person committed the alleged abuse. The person shall be informed of the complaint or allegation made regarding the person. The person shall be informed in a manner that protects the confidentiality rights of the individual who reported

the child abuse or provided information as part of the assessment process. The purpose of the interview shall be to provide the person with the opportunity to explain or rebut the allegations of the child abuse report or other allegations made during the assessment. The court may waive the requirement to offer the interview only for good cause. The person offered an interview, or the person's attorney on the person's behalf, may decline the offer of an interview of the person.

f. Unless otherwise prohibited under section 234.40 or 280.21, the use of corporal punishment by the person responsible for the care of a child which does not result in a physical injury to the child shall not be considered child abuse.

5. Home visit. The assessment may, with the consent of the parent or guardian, include a visit to the home of the child named in the report and an interview or observation of the child may be conducted. If permission to enter the home to interview or observe the child is refused, the juvenile court or district court upon a showing of probable cause may authorize the person making the assessment to enter the home and interview or observe the child.

6. Facility or school visit. The assessment may include a visit to a facility providing care to the child named in the report or to any public or private school subject to the authority of the department of education where the child named in the report is located. The administrator of a facility, or a public or private school shall cooperate with the child protection worker by providing confidential access to the child named in the report for the purpose of interviewing the child, and shall allow the child protection worker confidential access to other children for the purpose of conducting interviews in order to obtain relevant information. The child protection worker may observe a child named in a report in accordance with the provisions of section 232.68, subsection 3, paragraph “b”. A witness shall be present during an observation of a child. Any child aged ten years of age or older can terminate contact with the child protection worker by stating or indicating the child's wish to discontinue the contact. The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for cooperating in an assessment and allowing confidential access to a child.

7. Information requests.

a. The department may request information from any person believed to have knowledge of a child abuse case. The county attorney, any law enforcement or social services agency in the state, and any mandatory reporter, whether or not the reporter made the specific child abuse report, shall cooperate and assist in the assessment upon the request of the department.

b. In performing an assessment, the department may request criminal history data from the department of public safety on any person believed to be responsible for an injury to a child which, if confirmed, would constitute child abuse. The

department shall establish procedures for determining when a criminal history records check is necessary.

8. Protective disclosure. If the department determines that disclosure is necessary for the protection of a child, the department may disclose to a subject of a child abuse report referred to in section 235A.15, subsection 2, paragraph “a”, that an individual is listed in the child or dependent adult abuse registry or is required to register with the sex offender registry in accordance with chapter 692A.

9. Physical examination. If the department refers a child to a physician for a physical examination, the department shall contact the physician regarding the examination within twenty-four hours of making the referral. If the physician who performs the examination upon referral by the department reasonably believes the child has been abused, the physician shall report to the department within twenty-four hours of performing the examination.

10. Multidisciplinary team. In each county or multicounty area in which more than fifty child abuse reports are made per year, the department shall establish a multidisciplinary team, as defined in section 235A.13, subsection 8. Upon the department's request, a multidisciplinary team shall assist the department in the assessment, diagnosis, and disposition of a child abuse report.

11. Facility protocol.

a. The department shall apply a protocol, developed in consultation with facilities providing care to children, for conducting an assessment of reports of abuse of children allegedly caused by employees of facilities providing care to children. As part of such an assessment, the department shall notify the licensing authority for the facility, the governing body of the facility, and the administrator in charge of the facility of any of the following:

(1) A violation of facility policy noted in the assessment.

(2) An instance in which facility policy or lack of facility policy may have contributed to the reported incident of alleged child abuse.

(3) An instance in which general practice in the facility appears to differ from the facility's written policy.

b. The licensing authority, the governing body, and the administrator in charge of the facility shall take any lawful action which may be necessary or advisable to protect children receiving care.

12. Assessment report. The department, upon completion of the assessment, shall make a written report of the assessment, in accordance with all of the following:

- a. The written assessment shall incorporate the information required by subsection 4.
- b. The written assessment shall be completed within twenty business days of the receipt of the report.
- c. The written assessment shall include a description of the child's condition, identification of the injury or risk to which the child was exposed, the circumstances which led to the injury or risk to the child, and the identity of any person alleged to be responsible for the injury or risk to the child.
- d. The written assessment shall identify the strengths and needs of the child, and of the child's parent, home, and family.
- e. The written assessment shall identify services available from the department and informal and formal services and other support available in the community to address the strengths and needs identified in the assessment.
- f. Upon completion of the assessment, the department shall consult with the child's family in offering services to the child and the child's family to address strengths and needs identified in the assessment.
- g. The department shall notify each subject of the child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", of the results of the assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.
- h. If after completing the assessment process the child protection worker determines, with the concurrence of the worker's supervisor and the department's area administrator, that a report is a spurious report or that protective concerns are not present, the portions of the assessment report described under paragraphs "d" and "e" shall not be required.

13. Court-ordered and voluntary services. The department shall provide or arrange for and monitor services for abused children and their families on a voluntary basis or under a final or intermediate order of the juvenile court.

14. County attorney--juvenile court. The department shall provide the juvenile court and the county attorney with a copy of the portion of the written assessment pertaining to the child abuse report. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

15. False reports. If a fourth report is received from the same person who made three earlier reports which identified the same child as a victim of child abuse and the same person responsible for the care of the child as the alleged abuser and which were

determined by the department to be entirely false or without merit, the department may determine that the report is again false or without merit due to the report's spurious or frivolous nature and may in its discretion terminate its assessment of the report. If the department receives more than three reports which identify the same child as a victim of child abuse or the same person as the alleged abuser of a child, or which were made by the same person, and the department determined the reports to be entirely false or without merit, the department shall provide information concerning the reports to the county attorney for consideration of criminal charges under section 232.75, subsection 3.

15. Safety issue. If the department determines that a safety issue continues to require a child to reside outside of the child's home at the conclusion of a family assessment, the department shall transfer the assessment to the child abuse assessment pathway for a disposition.

16. Conclusion of family assessment. At the conclusion of a family assessment, the department shall transfer the case, if appropriate, to a contracted provider to review the service plan for the child and family. The contracted provider shall make a referral to the department abuse hotline if a family's noncompliance with a service plan places a child at risk. If any of the criteria for child abuse as defined in section 232.68, subsection 2, paragraph "a", are met, the department shall commence a child abuse assessment. If any of the criteria for a child in need of assistance, as defined in section 232.2, subsection 6, are met, the department shall determine whether to request a child in need of assistance petition.

17. County attorney — juvenile court. The department shall provide the juvenile court and the county attorney with a copy of the written child abuse assessment report, the written family assessment report for cases in which the department requests a child in need of assistance petition, or other reports for cases in which the department requests a child in need of assistance petition. The juvenile court and the county attorney shall notify the department of any action taken concerning an assessment provided by the department.

Credits:

97 Acts, ch 35, § 6, 25; 97 Acts, ch 176, § 24, 43; 2001 Acts, ch 122, § 5; 2002 Acts, ch 1074, § 1; 2003 Acts, ch 44, § 50; 2003 Acts, ch 47, § 1; 2003 Acts, ch 107, § 1; 2003 Acts, ch 123, § 1; 2003 Acts, ch 179, § 68; 2004 Acts, ch 1152, § 1, 2; 2009 Acts, ch 41, § 239; 2013 Acts, ch 115, § 3, 4, 19; 2016 S.F. 2258, § 12, 13, eff. July 1, 2016.

Iowa Code Ann. § 232.74 (2016). Evidence not privileged or excluded.

Sections 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner or mental health professional as to confidential communications, do not apply to evidence regarding a child's injuries or the cause of the injuries in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Credits:

C66, 71, 73, 75, 77, § 235A.8; C79, 81, § 232.74; 83 Acts, ch 37, § 1; 87 Acts, ch 153, § 6.

Iowa Code Ann. § 232.75 (2016). Sanctions.

1. Any person, official, agency, or institution required by this chapter to report a suspected case of child abuse who knowingly and willfully fails to do so is guilty of a simple misdemeanor.
2. Any person, official, agency, or institution required by section 232.69 to report a suspected case of child abuse who knowingly fails to do so or who knowingly interferes with the making of such a report in violation of section 232.70 is civilly liable for the damages proximately caused by such failure or interference.
3. A person who reports or causes to be reported to the department of human services false information regarding an alleged act of child abuse, knowing that the information is false or that the act did not occur, commits a simple misdemeanor.

Credits:

C75, 77, § 235A.9; C79, 81, § 232.75; 86 Acts, ch 1238, § 11; 87 Acts, ch 13, § 2; 2001 Acts, ch 122, § 6.

Iowa Code Ann. § 728.14 (2016). Commercial film and photographic print processor reports of depictions of minors engaged in prohibited sexual acts

<[Text subject to final changes by the Iowa Code Editor for Code 2013.]>

1. A commercial film and photographic print processor who has knowledge of or observes, within the scope of the processor's professional capacity or employment, a visual depiction of a minor whom the processor knows or reasonably should know to be under the age of eighteen, engaged in a prohibited sexual act or in the simulation of a prohibited sexual act, shall report the visual depiction to the county attorney immediately or as soon as possible as required in this section. The processor shall not report to the county attorney visual depictions involving mere nudity of the minor, but shall report visual depictions involving a prohibited sexual act. This section shall not be construed to require a processor to review all visual depictions delivered to the processor within the processor's professional capacity or employment.
2. For purposes of this section, “prohibited sexual act” means any of the following:
 - a. A sex act as defined in section 702.17.
 - b. An act of bestiality involving a minor.

- c. Fondling or touching the pubes or genitals of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
 - d. Fondling or touching the pubes or genitals of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the act.
 - e. Sadomasochistic abuse of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
 - f. Sadomasochistic abuse of a person by a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the abuse.
 - g. Nudity of a minor for the purpose of arousing or satisfying the sexual desires of a person who may view a visual depiction of the nude minor.
3. A person who violates this section is guilty of a simple misdemeanor.

Credits:

89 Acts, ch 263, § 4; 94 Acts, ch 1128, § 2; 2012 Acts, ch 1057, § 9.

KANSAS

Kan. Stat. Ann. § 38-2223 (2016). Reporting of certain abuse or neglect of children; persons reporting; reports, made to whom; penalties; immunity from liability

(a) *Persons making reports.* (1) When any of the following persons has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly as provided in subsections (b) and (c);

(A) The following persons providing medical care or treatment: Persons licensed to practice the healing arts, dentistry and optometry, persons engaged in postgraduate training programs approved by the state board of healing arts, licensed professional or practical nurses and chief administrative officers of medical care facilities; the following persons licensed by the state to provide mental health services: Licensed psychologists, licensed masters level psychologists, licensed clinical psychotherapists, licensed social workers, licensed marriage and family therapists, licensed clinical marriage and family

therapists, licensed professional counselors, licensed clinical professional counselors and registered alcohol and drug abuse counselors;

(C) teachers, school administrators or other employees of an educational institution which the child is attending and persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child;

(D) firefighters, emergency medical services personnel, law enforcement officers, juvenile intake and assessment workers, court services officers, community corrections officers, case managers appointed under K.S.A. 23-3508, and amendments thereto, and mediators appointed under K.S.A. 23-3502, and amendments thereto; and

(E) any person employed by or who works as a volunteer for any organization, whether for profit or not-for-profit, that provides social services to pregnant teenagers, including, but not limited to, counseling, adoption services and pregnancy education and maintenance.

(2) In addition to the reports required under subsection (a)(1), any person who has reason to suspect that a child may be a child in need of care may report the matter as provided in subsection (b) and (c).

(b) *Form of report.* (1) The report may be made orally and shall be followed by a written report if requested. Every report shall contain, if known: The names and addresses of the child and the child's parents or other persons responsible for the child's care; the location of the child if not at the child's residence; the child's gender, race and age; the reasons why the reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child, including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of the persons responsible for the harm.

(2) When reporting a suspicion that a child may be in need of care, the reporter shall disclose protected health information freely and cooperate fully with the secretary and law enforcement throughout the investigation and any subsequent legal process.

(c) *To whom made.* Reports made pursuant to this section shall be made to the secretary, except as follows:

(1) When the department of social and rehabilitation services is not open for business, reports shall be made to the appropriate law enforcement agency. On the next day that the department is open for business, the law enforcement agency shall report to the department any report received and any investigation initiated pursuant to K.S.A. 38-2226, and amendments thereto. The reports may be made orally or, on request of the secretary, in writing.

(2) Reports of child abuse or neglect occurring in an institution operated by the secretary of social and rehabilitation services or the commissioner of juvenile justice shall be made to the attorney general. All other reports of child abuse or neglect by persons employed by or of children of persons employed by the department of social and rehabilitation services shall be made to the appropriate law enforcement agency.

(d) *Death of child.* Any person who is required by this section to report a suspicion that a child is in need of care and who knows of information relating to the death of a child shall immediately notify the coroner as provided by K.S.A. 22a-242, and amendments thereto.

(e) *Violations.* (1) Willful and knowing failure to make a report required by this section is a class B misdemeanor. It is not a defense that another mandatory reporter made a report.

(2) Intentionally preventing or interfering with the making of a report required by this section is a class B misdemeanor.

(3) Any person who willfully and knowingly makes a false report pursuant to this section or makes a report that such person knows lacks factual foundation is guilty of a class B misdemeanor.

(f) *Immunity from liability.* Anyone who, without malice, participates in the making of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who participates in any activity or investigation relating to the report or who participates in any judicial proceeding resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

Credits:

L. 2006, ch. 200, § 18; L. 2011, ch. 44, § 1; L. 2012, ch. 162, § 64; May 31; L. 2014, ch. 115, § 61; L. 2016, ch. 53, § 1; July 1, 2016.

Kan. Stat. Ann. § 38-2213 (2016). Records of law enforcement agencies; limited disclosure; exchange of information; access; court ordered disclosure

(a) *Principle of limited disclosure.* Information contained in confidential law enforcement records concerning a child alleged or adjudicated to be in need of care may be disclosed as provided in this section. Disclosure shall in all cases be guided by the principle of providing access only to persons or entities with a need for information that is directly related to achieving the purposes of this code.

(b) *Free exchange of information.* Pursuant to K.S.A. 38-2210, and amendments thereto, a law enforcement agency shall participate in the free exchange of information concerning a child who is alleged or adjudicated to be in need of care.

(c) *Access to information in law enforcement records.* In order to discharge their official

duties, the following persons or entities shall have access to confidential law enforcement records concerning a child alleged or adjudicated to be in need of care.

- (1) The court having jurisdiction over the proceedings, including the presiding judge and any court personnel designated by the judge.
- (2) The secretary.
- (3) The commissioner of juvenile justice.
- (4) Law enforcement officers or county or district attorneys or their staff.
- (5) Any juvenile intake and assessment worker.
- (6) Members of a court-appointed multidisciplinary team.
- (7) Any other federal, state or local government executive branch entity, or any agent of such entity, having a need for such information in order to carry out such entity's responsibilities under law to protect children from abuse and neglect.
- (8) Persons or entities allowed access pursuant to subsection (f) of K.S.A. 38-2212, and amendments thereto.

(d) *Necessary access.* The following persons or entities shall have access to information from law enforcement records when reasonably necessary to carry out their lawful responsibilities, to maintain their personal safety and the personal safety of individuals in their care, or to educate, diagnose, treat, care for or protect a child alleged or adjudicated to be in need of care. Information authorized to be disclosed in this subsection shall not contain information which identifies a reporter of a child alleged or adjudicated to be a child in need of care.

- (1) Any individual, or public or private agency authorized by a properly constituted authority to diagnose, care for, treat or supervise a child who is the subject of a report or record of child abuse or neglect, including physicians, psychiatrists, nurses, nurse practitioners, psychologists, licensed social workers, child development specialists, physician assistants, community mental health workers, alcohol and drug abuse counselors, and licensed or registered child care providers.
- (2) School administrators shall have access to but shall not copy law enforcement records and may disclose information to teachers, paraprofessionals and other school personnel as necessary to meet the educational needs of the child or to protect the safety of students and school employees.
- (3) The department of health and environment or persons authorized by the department of health and environment pursuant to K.S.A. 65-512, and

amendments thereto, for the purposes of carrying out responsibilities relating to licensure or registration of child care providers as required by article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(e) *Legislative access.* Information from law enforcement records of a child alleged or adjudicated to be in need of care shall be available to members of the standing house or senate committee on judiciary, house committee on corrections and juvenile justice, house committee on appropriations, senate committee on ways and means, legislative post audit committee and any joint committee with authority to consider children's and families' issues, when carrying out such member's or committee's official functions in accordance with K.S.A. 75-4319 and amendments thereto, in a closed or executive meeting. Except in limited conditions established by 2/3 of the members of such committee, records and reports received by the committee shall not be further disclosed. Unauthorized disclosure may subject such member to discipline or censure from the house of representatives or senate.

(f) *Court order.* Notwithstanding the provisions of this section, a court of competent jurisdiction, after in camera inspection, may order disclosure of confidential law enforcement records pursuant to a determination that the disclosure is in the best interests of the child who is the subject of the reports or that the records are necessary for the proceedings of the court and otherwise admissible as evidence. The court shall specify the terms of disclosure and impose appropriate limitations.

Credits:

L. 1982, ch. 182, § 8; L. 1983, ch. 140, § 15; L. 1984, ch. 153, § 2; L. 1992, ch. 318, § 3; L. 1996, ch. 229, § 35; L. 1997, ch. 156, § 42; L. 2004, ch. 178, § 5; July 1.

Kan. Stat. Ann. § 38-2249 (2016). Rules of evidence

(a) In all proceedings under this code, the rules of evidence of the code of civil procedure shall apply, except that no evidence relating to the condition of a child shall be excluded solely on the ground that the matter is or may be the subject of a physician-patient privilege, psychologist-client privilege or social worker-client privilege.

(b) The judge presiding at all hearings under this code shall not consider or rely upon any report not properly admitted according to the rules of evidence, except as provided by K.S.A. 38-2219, and amendments thereto.

(c) In any proceeding in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, a recording of an oral statement of the child, or of any witness less than 13 years of age, made before the proceeding began, is admissible in evidence if:

(1) The court determines that the time, content and circumstances of the statement provide sufficient indicia of reliability;

- (2) no attorney for any party or interested party is present when the statement is made;
 - (3) the recording is both visual and aural and is recorded on film, videotape or by other electronic means;
 - (4) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;
 - (5) the statement is not made in response to questioning calculated to lead the child to make a particular statement or is clearly shown to be the child's statement and not made solely as a result of a leading or suggestive question;
 - (6) every voice on the recording is identified;
 - (7) the person conducting the interview of the child in the recording is present at the proceeding and is available to testify or be cross-examined by any party or interested party; and
 - (8) each party or interested party to the proceeding is afforded an opportunity to view the recording before it is offered into evidence.
- (d) On motion of any party to a proceeding pursuant to the code in which a child less than 13 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, the court may order that the testimony of the child, or of any witness less than 13 years of age, be taken:
- (1) In a room other than the courtroom and be televised by closed-circuit equipment in the courtroom to be viewed by the court and the parties and interested parties to the proceeding; or
 - (2) outside the courtroom and be recorded for showing in the courtroom before the court and the parties and interested parties to the proceeding if:
 - (A) The recording is both visual and aural and is recorded on film, videotape or by other electronic means;
 - (B) the recording equipment is capable of making an accurate recording, the operator of the equipment is competent and the recording is accurate and has not been altered;
 - (C) every voice on the recording is identified; and
 - (D) each party and interested party to the proceeding is afforded an opportunity to view the recording before it is shown in the courtroom.

(e) At the taking of testimony under subsection (d):

(1) Only an attorney for each party, interested party, the guardian ad litem for the child or other person whose presence would contribute to the welfare and well-being of the child and persons necessary to operate the recording or closed-circuit equipment may be present in the room with the child during the child's testimony;

(2) only the attorneys for the parties may question the child; and

(3) the persons operating the recording or closed-circuit equipment shall be confined to an adjacent room or behind a screen or mirror that permits such person to see and hear the child during the child's testimony, but does not permit the child to see or hear such person.

(f) If the testimony of a child is taken as provided by subsection (d), the child shall not be compelled to testify in court during the proceeding.

(g)(1) Any objection to a recording under subsection (d)(2) that such proceeding is inadmissible must be made by written motion filed with the court at least seven days before the commencement of the adjudicatory hearing. An objection under this subsection shall specify the portion of the recording which is objectionable and the reasons for the objection. Failure to file an objection within the time provided by this subsection shall constitute waiver of the right to object to the admissibility of the recording unless the court, in its discretion, determines otherwise.

(2) The provisions of this subsection shall not apply to any objection to admissibility for the reason that the recording has been materially altered.

Credits:

L. 2006, ch. 200, § 44; L. 2007, ch. 57, § 1; Apr. 5.

KENTUCKY

Ky. Rev. Stat. Ann. § 620.030 (2016). Duty to report dependency, neglect, or abuse; husband-wife and professional-client/patient privileges not grounds for refusal to report; exceptions; penalties

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected, or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of

suspected dependency, neglect, or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer, or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected, or abused, regardless of whether the person believed to have caused the dependency, neglect, or abuse is a parent, guardian, person exercising custodial control or supervision, or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect, or abuse, including any previous charges of dependency, neglect, or abuse, to this child or his or her siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) The cabinet upon request shall receive from any agency of the state or any other agency, institution, or facility providing services to the child or his or her family, such

cooperation, assistance, and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

(5) Any person who intentionally violates the provisions of this section shall be guilty of a:

- (a) Class B misdemeanor for the first offense;
- (b) Class A misdemeanor for the second offense; and
- (c) Class D felony for each subsequent offense.

Credits:

Enact. Acts 1986, ch. 423, § 64, effective July 1, 1987; 1988, ch. 258, § 2, effective July 15, 1988; 1988, ch. 350, § 43, effective April 10, 1988; 2007, ch. 85, § 330, effective June 26, 2007; 2008, ch. 72, § 4, effective July 15, 2008; 2013, ch. 25, § 2, effective June 25, 2013.

Ky. Rev. Stat. Ann. § 620.040 (2016). Duties of prosecutor, police, and cabinet; prohibition as to school personnel; multidisciplinary teams

(1) (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.

(d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law

enforcement agency or the Department of Kentucky State Police.

(2) (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.

(b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child.

Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

(c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.

(3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents, and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.

(4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.

(5) (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant, a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

(b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.

(c) Any appropriate law enforcement officer may take a child into protective

custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

(6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.

(7) (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.

(b) Membership of the multidisciplinary team shall include but shall not be limited to social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.

(c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.

(d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.

(e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.

(f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including

information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.

(g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.

(h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

Credits:

Enact. Acts 1986, ch. 423, § 65, effective July 1, 1987; 1988, ch. 258, § 3, effective July 15, 1988; 1988, ch. 350, § 44, effective April 10, 1988; 1990, ch. 39, § 1, effective July 13, 1990; 1992, ch. 434, § 2, effective July 14, 1992; 1994, ch. 217, § 1, effective July 15, 1994; 1996, ch. 18, § 5, effective July 15, 1996; 1998, ch. 426, § 617, effective July 15, 1998; 2000, ch. 14, § 63, effective July 14, 2000; 2000, ch. 144, § 6, effective July 14, 2000; 2000, ch. 164, § 1, effective July 14, 2000; 2005, ch. 99, § 665, effective June 20, 2005; 2007, ch. 85, § 331, effective June 26, 2007; 2013, ch. 25, § 3, effective June 25, 2013.

Ky. Rev. Stat. Ann. § 620.050 (2016). Immunity for good faith actions or reports; investigations; confidentiality of reports; exceptions; parent's access to records; sharing of information by children's advocacy centers; confidentiality of interview with child; exceptions; confidentiality of identifying information regarding reporting individual; internal review and report

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil

action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(3) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected, or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in District or Circuit Court regarding a dependent, neglected, or abused child.

(4) Upon receipt of a report of an abused, neglected, or dependent child pursuant to this chapter, the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation or assessment of family needs, take necessary action, and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect, or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(5) The report of suspected child abuse, neglect, or dependency and all information obtained by the cabinet or its delegated representative, as a result of an investigation or assessment made pursuant to this chapter, except for those records provided for in subsection (6) of this section, shall not be divulged to anyone except:

- (a) Persons suspected of causing dependency, neglect, or abuse;
- (b) The custodial parent or legal guardian of the child alleged to be dependent, neglected, or abused;
- (c) Persons within the cabinet with a legitimate interest or responsibility related to the case;
- (d) A licensed child-caring facility or child-placing agency evaluating placement for or serving a child who is believed to be the victim of an abuse, neglect, or dependency report;
- (e) Other medical, psychological, educational, or social service agencies, child care administrators, corrections personnel, or law enforcement agencies, including the county attorney's office, the coroner, and the local child fatality response team, that have a legitimate interest in the case;
- (f) A noncustodial parent when the dependency, neglect, or abuse is substantiated;
- (g) Members of multidisciplinary teams as defined by KRS 620.020 and which operate pursuant to KRS 431.600;
- (h) Employees or designated agents of a children's advocacy center; or

- (i) Those persons so authorized by court order.
- (j) The external child fatality and near fatality review panel established by KRS 620.055.

(6) (a) Files, reports, notes, photographs, records, electronic and other communications, and working papers used or developed by a children's advocacy center in providing services under this chapter are confidential and shall not be disclosed except to the following persons:

1. Staff employed by the cabinet, law enforcement officers, and Commonwealth's and county attorneys who are directly involved in the investigation or prosecution of the case;
2. Medical and mental health professionals listed by name in a release of information signed by the guardian of the child, provided that the information shared is limited to that necessary to promote the physical or psychological health of the child or to treat the child for abuse-related symptoms; and
3. The court and those persons so authorized by a court order.
4. The external child fatality and near fatality review panel established by KRS 620.055.

(b) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(7) Nothing in this section shall prohibit a parent or guardian from accessing records for his or her child providing that the parent or guardian is not currently under investigation by a law enforcement agency or the cabinet relating to the abuse of a child.

(8) Nothing in this section shall prohibit employees or designated agents of a children's advocacy center from disclosing information during a multidisciplinary team review of a child sexual abuse case as set forth under KRS 620.040. Persons receiving this information shall sign a confidentiality statement consistent with statutory prohibitions on disclosure of this information.

(9) Employees or designated agents of a children's advocacy center may confirm to another children's advocacy center that a child has been seen for services. If an information release has been signed by the guardian of the child, a children's advocacy center may disclose relevant information to another children's advocacy center.

(10) (a) An interview of a child recorded at a children's advocacy center shall not be duplicated, except that the Commonwealth's or county attorney prosecuting the case may:

1. Make and retain one (1) copy of the interview; and

2. Make one (1) copy for the defendant's counsel that the defendant's counsel shall not duplicate.

(b) The defendant's counsel shall file the copy with the court clerk at the close of the case.

(c) Unless objected to by the victim or victims, the court, on its own motion, or on motion of the attorney for the Commonwealth shall order all recorded interviews that are introduced into evidence or are in the possession of the children's advocacy center, law enforcement, the prosecution, or the court to be sealed.

(d) The provisions of this subsection shall not be construed as to contravene the Rules of Criminal Procedure relating to discovery.

(11) Identifying information concerning the individual initiating the report under KRS 620.030 shall not be disclosed except:

- (a) To law enforcement officials that have a legitimate interest in the case;

- (b) To the agency designated by the cabinet to investigate or assess the report;

- (c) To members of multidisciplinary teams as defined by KRS 620.020 that operated under KRS 431.600; or

- (d) Under a court order, after the court has conducted an in camera review of the record of the state related to the report and has found reasonable cause to believe that the reporter knowingly made a false report.

- (e) The external child fatality and near fatality review panel established by KRS 620.055.

(12) (a) Information may be publicly disclosed by the cabinet in a case where child abuse or neglect has resulted in a child fatality or near fatality.

(b) The cabinet shall conduct an internal review of any case where child abuse or neglect has resulted in a child fatality or near fatality and the cabinet had prior involvement with the child or family. The cabinet shall prepare a summary that includes an account of:

1. The cabinet's actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and

2. Any cooperation, assistance, or information from any agency of the

state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality.

(c) The cabinet shall submit a report by September 1 of each year containing an analysis of all summaries of internal reviews occurring during the previous year and an analysis of historical trends to the Governor, the General Assembly, and the state child fatality review team created under KRS 211.684.

(13) When an adult who is the subject of information made confidential by subsection (5) of this section publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality afforded by subsection (5) of this section is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed if disclosure is in the best interest of the child or is necessary for the administration of the cabinet's duties under this chapter.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

(15) In accordance with 42 U.S.C. sec. 671, the cabinet shall share information about a child in the custody of the cabinet with a relative or a parent of the child's sibling for the purposes of: (a) Evaluating or arranging a placement for the child; (b) Arranging appropriate treatment services for the child; or (c) Establishing visitation between the child and a relative, including a sibling of the child.

Credits:

Enact. Acts 1986, ch. 423, § 66, effective July 1, 1987; 1988, ch. 350, § 45, effective April 10, 1988; 1996, ch. 18, § 6, effective July 15, 1996; 1996, ch. 347, § 7, effective July 15, 1996; 1998, ch. 57, § 19, effective March 17, 1998; 1998, ch. 303, § 2, effective July 15, 1998; 2000, ch. 144, § 7, effective July 14, 2000; 2000, ch. 164, § 2, effective July 14, 2000; 2002, ch. 87, § 2, effective July 15, 2002; 2004, ch. 169, § 1, effective July 13, 2004; 2013, ch. 39, § 2, effective June 25, 2013; 2016, ch. 115, § 6, effective July 15, 2016.

Ky. Rev. Stat. Ann. § 620.990 (2016). Penalty

(1) Except as otherwise provided in this chapter, any person intentionally violating the provisions of this chapter shall be guilty of a Class B misdemeanor.

(2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.

Credits:

Enact. Acts 1986, ch. 423, § 96, effective July 1, 1987; 1988, ch. 350, § 62, effective April 10, 1988; 2008, ch. 72, § 5, effective July 15, 2008.

LOUISIANA

La. Child. Code Ann. Art. 603(15) (2012). Definitions

As used in this Title:

(15) “Mandatory reporter” is any of the following individuals performing their occupational duties:

(a) “Health practitioner” is any individual who provides health care services, including a physician, surgeon, physical therapist, dentist, resident, intern, hospital staff member, podiatrist, chiropractor, licensed nurse, nursing aide, dental hygienist, any emergency medical technician, a paramedic, optometrist, medical examiner, or coroner, who diagnoses, examines, or treats a child or his family.

(b) “Mental health/social service practitioner” is any individual who provides mental health care or social service diagnosis, assessment, counseling, or treatment, including a psychiatrist, psychologist, marriage or family counselor, social worker, member of the clergy, aide, or other individual who provides counseling services to a child or his family.

(c) “Member of the clergy” is any priest, rabbi, duly ordained clerical deacon or minister, Christian Science practitioner, or other similarly situated functionary of a religious organization, except that he is not required to report a confidential communication, as defined in Code of Evidence Article 511, from a person to a member of the clergy who, in the course of the discipline or practice of that church, denomination, or organization, is authorized or accustomed to hearing confidential communications, and under the discipline or tenets of the church, denomination, or organization has a duty to keep such communications

confidential. In that instance, he shall encourage that person to report the allegations to the appropriate authorities in accordance with Article 610.

(d) “Teaching or child care provider” is any person who provides or assists in the teaching, training, and supervision of a child, including any public or private teacher, teacher's aide, instructional aide, school principal, school staff member, bus driver, coach, professor, technical or vocational instructor, technical or vocational school staff member, college or university administrator, college or university staff member, social worker, probation officer, foster home parent, group home or other child care institutional staff member, personnel of residential home facilities, a licensed or unlicensed day care provider, or any individual who provides such services to a child in a voluntary or professional capacity.

(e) Police officers or law enforcement officials.

(f) “Commercial film and photographic print processor” is any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides for compensation.

(g) Mediators appointed pursuant to Chapter 6 of Title IV.

(h) A parenting coordinator appointed pursuant to R.S. 9:358.1 et seq.

(i) A court-appointed special advocates (CASA) volunteer under the supervision of a CASA program appointed pursuant to Chapter 4 of Title IV.

(j) “Organizational or youth activity provider” is any person who provides organized activities for children, including administrators, employees, or volunteers of any day camp, summer camp, youth center, or youth recreation programs or any other organization that provides organized activities for children.

Credits:

Acts 1991, No. 235, § 6, eff. Jan. 1, 1992; Acts 1992, No. 705, § 1, eff. July 6, 1992; Acts 1993, No. 634, § 1, eff. June 15, 1993; Acts 1995, No. 444, § 1, eff. June 17, 1995; Acts 1999, No. 449, §§ 1, 2, eff. July 1, 1999; Acts 1999, No. 769, § 1, eff. July 2, 1999; Acts 1999, No. 894, § 1, eff. Aug. 15, 1999; Acts 2001, No. 567, § 1, eff. Aug. 15, 2001; Acts 2003, No. 567, § 1, eff. Aug. 15, 2003; Acts 2003, No. 1187, § 1, eff. Aug. 15, 2003; Acts 2004, No. 398, § 1, eff. June 23, 2004; Acts 2005, No. 148, § 1, eff. Aug. 15, 2005; Acts 2005, No. 338, § 1, eff. Aug. 15, 2005; Acts 2006, No. 157, § 1, eff. Aug. 15, 2006; Acts 2006, No. 278, § 1, eff. Aug. 15, 2006; Acts 2007, No. 119, § 1, eff. June 25, 2007; Acts 2007, No. 265, § 1, eff. Aug. 15, 2007; Acts 2007, No. 334, § 1, eff. Aug. 15, 2007; Acts 2007, No. 396, § 1; Acts 2008, No. 394, § 1, eff. June 21, 2008; Acts 2012, No. 268, § 2, eff. May 25, 2012; Acts 2012, No. 380, § 1, eff. Aug. 1, 2012; Acts 2012, No. 446, § 6, eff. Aug. 1, 2012; Acts 2012, No. 614, § 2, eff. June 7, 2012; Acts 2013, No. 260, § 1, eff. Aug. 1, 2013; Acts 2014, No. 486, § 1, eff. Aug. 1, 2014; Acts 2014, No. 564, § 7, eff. Aug. 1, 2014; Acts 2014, No. 569, § 1, eff. Aug. 1, 2014;

Acts 2014, No. 602, § 7, eff. June 12, 2014; Acts 2015, No. 217, § 1, eff. Aug. 1, 2015.

La. Child. Code Ann. Art. 603.1 (2016). Required education; reporting child abuse.

Commencing May 1, 2006, every person graduating from any teacher preparation program in Louisiana shall have had in his curriculum instruction on the requirements of and how to report suspected child abuse cases pursuant to Children's Code Article 601 et seq., as well as instruction on how to identify the signs and symptoms of child neglect and abuse, including sexual abuse, in order to receive his teacher certification.

Credits:

Acts 2003, No. 769, § 1.

La. Child . Code Ann. art. 609 (2016). Mandatory and permitted reporting.

A. With respect to mandatory reporters:

- (1) Notwithstanding any claim of privileged communication, any mandatory reporter who has cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect or that abuse or neglect was a contributing factor in a child's death shall report in accordance with Article 610.
- (2) Violation of the duties imposed upon a mandatory reporter subjects the offender to criminal prosecution authorized by R.S. 14:403(A)(1).
- (3)
 - (a) To familiarize mandatory reporters, as defined by Children's Code Article 603(15), with their legal mandate for reporting suspected child abuse and neglect, such mandatory reporters shall be offered training on the statutory requirements and responsibility of reporting child abuse and neglect. This training shall be made available by the child welfare division of the Department of Children and Family Services or any other mechanism as approved by the department as long as it includes information on the reporting procedure and the consequences of failing to report.
 - (b) Each mandatory reporter may obtain mandatory reporting training as each mandatory reporter believes to be necessary in accordance with Subsubparagraph (a) or (d) of this Subparagraph.
 - (c) The appropriate state regulatory department, board, commission, or agency for each category of mandatory reporter may provide continuing education credit for the completion of the training pursuant to this Paragraph.
 - (d) Any entity, including but not limited to hospitals, educational and religious institutions, and nonprofits, may provide its employees, volunteers, or educational attendees with equivalent training pursuant to Subsubparagraph (a) of this Subparagraph.

B. With respect to permitted reporters, any other person having cause to believe that a child's physical or mental health or welfare is endangered as a result of abuse or neglect, including a judge of any court of this state, may report in accordance with Article 610.

C. The filing of a report, known to be false, may subject the offender to criminal prosecution authorized by R.S. 14:403(A)(3).

Credits:

Acts 1991, No. 235, § 6, eff. Jan. 1, 1992; Acts 1993, No. 637, § 1, eff. June 15, 1993; Acts 2013, No. 163, § 1, eff. Aug. 1, 2013.

La. Child . Code Ann. art. 610 (2016). Reporting procedure.

A. Reports of child abuse or neglect or that such was a contributing factor in a child's death, where the abuser is believed to be a parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, shall be made immediately to the department through the designated state child protection reporting hotline telephone number. Reports in which the abuse or neglect is believed to be perpetrated by someone other than a caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, and the caretaker is not believed to have any responsibility for the abuse or neglect shall be made immediately to a local or state law enforcement agency. Dual reporting to both the department through the designated state child protection reporting hotline telephone number and the local or state law enforcement agency is permitted.

B. The report shall contain the following information, if known:

- (1) The name, address, age, sex, and race of the child.
- (2) The nature, extent, and cause of the child's injuries or endangered condition, including any previous known or suspected abuse to this child or the child's siblings.
- (3) The name and address of the child's parent(s) or other caretaker.
- (4) The names and ages of all other members of the child's household.
- (5) The name and address of the reporter.
- (6) An account of how this child came to the reporter's attention.
- (7) Any explanation of the cause of the child's injury or condition offered by the child, the caretaker, or any other person.

(8) The number of times the reporter has filed a report on the child or the child's siblings.

(9) Any other information which the reporter believes might be important or relevant.

C. The report shall also name the person or persons who are thought to have caused or contributed to the child's condition, if known, and the report shall contain the name of such person if he is named by the child.

D. If the initial report was in oral form by a mandatory reporter, it shall be followed by a written report made within five days to the local child protection unit of the department or, if necessary to the local law enforcement agency. The reporter may use a form for the written report, which shall be developed, approved and made available by the Department of Children and Family Services. The form is optional and may be available electronically on the department's website.

E. (1) All reports made to any local or state law enforcement agency involving abuse or neglect in which the child's parent or caretaker, a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or a person living in the same residence with the parent or caretaker as a spouse whether married or not, is believed responsible, shall be promptly communicated to the local department through the designated state child protection reporting hotline telephone number in accordance with a written working agreement developed between the local law enforcement agency and the department.

(2) The department shall promptly communicate abuse or neglect cases not involving a parent, caretaker, or occupant of the household to the appropriate law enforcement agency in accordance with a written working agreement developed between the department and law enforcement agency. The department also shall report all cases of child death which involve a suspicion of abuse or neglect as a contributing factor in the child's death to the local and state law enforcement agencies, the office of the district attorney, and the coroner.

(3) Reports involving a felony-grade crime against a child shall be promptly communicated to the appropriate law enforcement authorities as part of the interagency protocols for multidisciplinary investigations of child abuse and neglect in each judicial district as provided in Children's Code Articles 509 and 510.

F. Any commercial film or photographic print processor who has knowledge of or observes, within the scope of this professional capacity or employment, any film, photograph, video tape, negative, or slide depicting a child who he knows or should know

is under the age of seventeen years, which constitutes child pornography as defined in Article 603, shall report immediately to the local law enforcement agency having jurisdiction over the case. The reporter shall provide a copy of the film, photograph, videotape, negative, or slide to the agency receiving the report.

<Text of par. G effective until appropriation of sufficient funds>

G. If a physician has cause to believe that a mother of an infant unlawfully used during pregnancy a controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the infant, without the consent of the infant's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall report the results, as soon as possible, in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

<Text of par. G effective upon appropriation of sufficient funds>

G. (1) If a physician has cause to believe that a newborn was exposed in utero to an unlawfully used controlled dangerous substance, as defined by R.S. 40:961 et seq., the physician shall order a toxicology test upon the newborn, without the consent of the newborn's parents or guardian, to determine whether there is evidence of prenatal neglect. If the test results are positive, the physician shall issue a report, as soon as possible, in accordance with this Article. If the test results are negative, all identifying information shall be obliterated if the record is retained, unless the parent approves the inclusion of identifying information. Positive test results shall not be admissible in a criminal prosecution.

(2) If there are symptoms of withdrawal in the newborn or other observable and harmful effects in his physical appearance or functioning that a physician has cause to believe are due to the chronic or severe use of alcohol by the mother during pregnancy, the physician shall issue a report in accordance with this Article.

H. (1) The provisions of this Paragraph shall be known and may be cited as The Alfred C. Williams Child Protection Act.

(2) Beginning May 1, 2017, and annually thereafter, the department shall provide to the legislature the following child-specific information regarding reports of child abuse or neglect reported to the department pursuant to the provisions of this Article: (a) The actual or estimated age, the sex, and the race of each child at the time the latest report was received.

(b) The parish location of primary case name of the latest report accepted for investigation received.

(c) The categories, levels, and final findings assigned to each allegation contained in reports received for each child.

(d) The number of cases accepted for investigation in which the child was an alleged or

valid victim during the report year.

(e) The number of cases accepted for investigation in which the child was a valid victim during the report year.

(f) The number of reports accepted for investigation prior to report year in which the child was an alleged or valid victim.

(g) The number of other alleged victims in reports accepted for investigation in each child's cases prior to report year.

(h) The number of reports accepted for investigation prior to the report year in which the child was a valid victim.

(i) The number of other validated victims in reports accepted for investigation in each child's cases prior to report year.

(j) The number of distinct reporter names for all investigations in which the child is an alleged or valid victim.

(3) For purposes of this Paragraph, the following words shall have the following meanings: (a) "Alleged victim" includes a child who is the subject of an investigation and for whom there is an allegation of abuse or neglect.

(b) "Valid victim" or "validated victim" includes an alleged victim for whom one or more allegations of abuse or neglect have been determined to be justified pursuant to Children's Code Article 615.

(4) The information provided in the annual report required by Subparagraph (2) of this Paragraph shall not include the name, street address, or other identifying information of any child, parent, sibling, or reporter.

(5) If the department fails to submit timely the report required by Subparagraph (2) of this Paragraph, then the legislature or either house thereof, through its authorized representative, may petition the Nineteenth Judicial District Court for writs of mandamus to compel the submission of the report. Any failure to obey a writ of mandamus issued by the court may be punishable by the court as contempt thereof.

Credits:

Acts 1991, No. 235, § 6, eff. Jan. 1, 1992; Acts 1997, No. 1103, § 1, eff. July 14, 1997; Acts 1999, No. 1178, § 1, eff. July 9, 1999; Acts 2004, No. 78, § 1, eff. May 28, 2004; Acts 2006, No. 157, § 1, eff. Aug. 15, 2006; Acts 2007, No. 396, § 1; Acts 2012, No. 268, § 2, eff. May 25, 2012; Acts 2012, No. 614, § 2, eff. June 7, 2012; Acts 2016, No. 302, § 1, eff. Aug. 1, 2016.

La. Rev. Stat. Ann. § 14:403 (2016). Abuse of children; reports; waiver of privilege.

A. (1) (a) Any person who, pursuant to Children's Code Article 609(A), is required to report the abuse or neglect of a child and knowingly and willfully fails to so report shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(b) Any person who, pursuant to Children's Code Article 609(A), is

required to report the sexual abuse of a child, or the abuse or neglect of a child which results in the serious bodily injury, neurological impairment, or death of the child, and knowingly and willfully fails to so report shall be fined not more than three thousand dollars, imprisoned, with or without hard labor, for not more than three years, or both. For purposes of this Subparagraph, “serious bodily injury” means injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

(2) Any person, any employee of a local child protection unit of the Department of Children and Family Services, any employee of any local law enforcement agency, any employee or agent of any state department, or any school employee who knowingly and willfully violates the provisions of Chapter 5 of Title VI of the Children's Code, or who knowingly and willfully obstructs the procedures for receiving and investigating reports of child abuse or neglect or sexual abuse, or who discloses without authorization confidential information about or contained within such reports shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(3) Any person who reports a child as abused or neglected or sexually abused to the department or to any law enforcement agency, knowing that such information is false, shall be fined not more than five hundred dollars, imprisoned for not more than six months, or both.

(4)(a) Notwithstanding the provisions of Subparagraphs (1)(a) and (b) of this Subsection, any person who is eighteen years of age or older who witnesses the sexual abuse of a child and knowingly or willfully fails to report the abuse to law enforcement or to the Department of Children and Family Services as required by Children's Code Article 610, shall be fined not more than ten thousand dollars, imprisoned, with or without hard labor, for not more than five years, or both.

(b) For purposes of this Paragraph, “sexual abuse” shall include but is not limited to the perpetration or the attempted perpetration of R.S. 14:41, 42, 42.1, 43, 43.1, 43.2, 43.3, 46.2, 46.3, 78, 78.1, 80, 81, 81.1, 81.2, 89, or 89.1.

B. In any proceeding concerning the abuse or neglect or sexual abuse of a child or the cause of such condition, evidence may not be excluded on any ground of privilege, except in the case of communications between an attorney and his client or between a priest, rabbi, duly ordained minister or Christian Science practitioner and his communicant.

Credits:

Added by Acts 1964, No. 116, §§ 1-5; Amended by Acts 1970, No. 636, § 1; Acts 1972, No. 556, § 1; Acts 1974, No. 384, § 1; Acts 1974, No. 596, § 1; Acts 1975, No. 737, § 1; Acts 1979, No. 664, § 1; Acts 1979, No. 769, § 1; Acts 1980, No. 495, § 1; Acts 1983, No. 529, § 1; Acts 1984, No. 690, § 1; Acts 1985, No. 864, § 1, eff. July 23, 1985; Acts

1985, No. 339, § 1, eff. July 9, 1985; Acts 1985, No. 615, § 1; Acts 1985, No. 198, § 1, eff. July 6, 1985; Acts 1985, No. 658, § 1; Acts 1986, No. 428, § 1, eff. July 2, 1986; Acts 1986, No. 1006, § 1; Acts 1987, No. 626, § 1; Acts 1988, No. 437, § 1; Acts 1989, No. 595, § 1; Acts 1990, No. 439, § 1, eff. July 18, 1990; Acts 1992, No. 705, § 3, eff. July 6, 1992; Acts 2010, No. 877, § 3, eff. July 1, 2010; Acts 2012, No. 268, § 1, eff. May 25, 2012; Acts 2012, No. 614, § 1, eff. June 7, 2012; Acts 2016, No. 302, § 2, eff. Aug. 1, 2016.

La. Rev. Stat. Ann. § 46:56(F)(8)(b) (2016). Applications and client case records; definitions; confidentiality; waiver; penalty.

F. The following information shall not be subject to waiver and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the programs of the department:

(8) . . . (b) The department shall not disclose identifying information concerning an individual who initiated a report or complaint of alleged child abuse or neglect, except that the department shall disclose such information pursuant to a court order after such court has reviewed, in camera, the department's case record and finds reason to believe that the reporter knowingly made a false report.

. . .

Credits

Acts 1992, No. 447, § 4, eff. June 20, 1992; Acts 1993, No. 625, § 1, eff. June 15, 1993; Acts 1993, No. 892, § 1, eff. June 23, 1993; Acts 1995, No. 521, § 3, eff. Jan. 1, 1996; Acts 1997, No. 79, § 1, eff. Aug. 15, 1997; Acts 1997, No. 903, § 1, eff. July 10, 1997; Acts 1997, No. 1129, § 1, eff. July 14, 1997; Acts 1997, No. 1172, § 7, eff. June 30, 1997; Acts 1997, No. 1463, § 1, eff. Aug. 15, 1997; Acts 1999, No. 750, § 1, eff. July 2, 1999; Acts 1999, No. 1217, § 1, eff. July 9, 1999; Acts 1999, No. 1326, § 1, eff. July 12, 1999; Acts 2001, No. 732, § 1, eff. June 25, 2001; Acts 2003, No. 483, § 1, eff. Aug. 15, 2003; Acts 2004, No. 260, § 1, eff. June 15, 2004; Acts 2005, No. 333, § 1, eff. June 30, 2005; Acts 2007, No. 119, § 2, eff. June 25, 2007; Acts 2010, No. 861, § 20, eff. Aug. 15, 2010; Acts 2012, No. 255, § 7, eff. Aug. 1, 2012; Acts 2013, No. 384, § 7(H); Acts 2014, No. 811, § 24, eff. June 23, 2014.

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Me. Rev. Stat. Ann. tit. 22, § 4011-A (2016). Reporting of suspected abuse or neglect.

1. Required report to department. The following adult persons shall immediately

report or cause a report to be made to the department when the person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred:

Whenever a person is required to report in a capacity as a member of the staff of a medical or public or private institution, agency or facility, that person immediately shall notify either the person in charge of the institution, agency or facility or a designated agent who then shall cause a report to be made. The staff also may make a report directly to the department.

A. When acting in a professional capacity:

- (1)** An allopathic or osteopathic physician, resident or intern;
- (2)** An emergency medical services person;
- (3)** A medical examiner;
- (4)** A physician's assistant;
- (5)** A dentist;
- (6)** A dental hygienist;
- (7)** A dental assistant;
- (8)** A chiropractor;
- (9)** A podiatrist;
- (10)** A registered or licensed practical nurse;
- (11)** A teacher;
- (12)** A guidance counselor;
- (13)** A school official;
- (14)** A youth camp administrator or counselor;
- (15)** A social worker;
- (16)** A court-appointed special advocate or guardian ad litem for the child;
- (17)** A homemaker;

- (18) A home health aide;
- (19) A medical or social service worker;
- (20) A psychologist;
- (21) Child care personnel;
- (22) A mental health professional;
- (23) A law enforcement official;
- (24) A state or municipal fire inspector;
- (25) A municipal code enforcement official;
- (26) A commercial film and photographic print processor;
- (27) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (28) A chair of a professional licensing board that has jurisdiction over mandated reporters;
- (29) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
- (30) A sexual assault counselor;
- (31) A family or domestic violence victim advocate; and
- (32) A school bus driver or school bus attendant;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the child, regardless of whether the person receives compensation; and

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected.

2. Required report to district attorney. When, while acting in a professional capacity, any person required to report under this section knows or has reasonable cause to suspect that a child has been abused or neglected by a person not responsible for the child or that a suspicious child death has been caused by a person not responsible for the child, the person immediately shall report or cause a report to be made to the appropriate district attorney's office.

3. Optional report. Any person may make a report if that person knows or has reasonable cause to suspect that a child has been or is likely to be abused or neglected or that there has been a suspicious child death.

4. Mental health treatment. When a licensed mental health professional is required to report under subsection 1 and the knowledge or reasonable cause to suspect that a child has been or is likely to be abused or neglected or that a suspicious child death has occurred comes from treatment of a person responsible for the abuse, neglect or death, the licensed mental health professional shall report to the department in accordance with subsection 1 and under the following conditions.

A. The department shall consult with the licensed mental health professional who has made the report and shall attempt to reach agreement with the mental health professional as to how the report is to be pursued. If agreement is not reached, the licensed mental health professional may request a meeting under paragraph B.

B. Upon the request of the licensed mental health professional who has made the report, after the department has completed its investigation of the report under section 4021 or has received a preliminary protection order under section 4034 and when the department plans to initiate or has initiated a jeopardy order under section 4035 or plans to refer or has referred the report to law enforcement officials, the department shall convene at least one meeting of the licensed mental health professional who made the report, at least one representative from the department, a licensed mental health professional with expertise in child abuse or neglect and a representative of the district attorney's office having jurisdiction over the report, unless that office indicates that prosecution is unlikely.

C. The persons meeting under paragraph B shall make recommendations regarding treatment and prosecution of the person responsible for the abuse, neglect or death. The persons making the recommendations shall take into account the nature, extent and severity of abuse or neglect, the safety of the child and the community and needs of the child and other family members for treatment of the effects of the abuse or neglect and the willingness of the person responsible for the abuse, neglect or death to engage in treatment. The persons making the recommendations may review or revise these recommendations at their discretion.

The intent of this subsection is to encourage offenders to seek and effectively utilize treatment and, at the same time, provide any necessary protection and

treatment for the child and other family members.

5. Photographs of visible trauma. Whenever a person is required to report as a staff member of a law enforcement agency or a hospital, that person shall make reasonable efforts to take, or cause to be taken, color photographs of any areas of trauma visible on a child.

A. The taking of photographs must be done with minimal trauma to the child and in a manner consistent with professional standards. The parent's or custodian's consent to the taking of photographs is not required.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for child welfare services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject matter when necessary and relevant to an investigation of a report of suspected abuse or neglect or to subsequent child protection proceedings.

6. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, “cruelty, abuse or neglect” has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

7. Children under 6 months of age or otherwise nonambulatory. A person required to make a report under subsection 1 shall report to the department if a child who is under 6 months of age or otherwise nonambulatory exhibits evidence of the following:

A. Fracture of a bone;

B. Substantial bruising or multiple bruises;

C. Subdural hematoma;

D. Burns;

E. Poisoning; or

F. Injury resulting in substantial bleeding, soft tissue swelling or impairment of an organ.

This subsection does not require the reporting of injuries occurring as a result of the

delivery of a child attended by a licensed medical practitioner or the reporting of burns or other injuries occurring as a result of medical treatment following the delivery of the child while the child remains hospitalized following the delivery.

8. Required report of residence with nonfamily. A person required to make a report under subsection 1 shall report to the department if the person knows or has reasonable cause to suspect that a child is not living with the child's family. Although a report may be made at any time, a report must be made immediately if there is reason to suspect that a child has been living with someone other than the child's family for more than 6 months or if there is reason to suspect that a child has been living with someone other than the child's family for more than 12 months pursuant to a power of attorney or other nonjudicial authorization.

9. Training requirement. A person required to make a report under subsection 1 shall complete at least once every 4 years mandated reporter training approved by the department.

Credits:

2015 ch. 117, § 1, 2 (AMD); 2015 ch. 178, § 1 (AMD); 2015 ch. 274, § 7; 2016 ch. 407, § 1.

Me. Rev. Stat. Ann. tit. 22, § 4011-B (2016). Reporting of prenatal exposure to drugs

1. Reporting of infants with prenatal exposure to drugs. A health care provider involved in the delivery or care of an infant who the provider knows or has reasonable cause to suspect has been born affected by illegal substance abuse or is suffering from withdrawal symptoms resulting from prenatal drug exposure, whether or not the prenatal exposure was to legal or illegal drugs, shall notify the department of that condition in the infant. The report required by this subsection must be made in the same manner as reports of abuse or neglect required by this subchapter.

A. This section, and any notification made pursuant to this section, may not be construed to establish a definition of "abuse" or "neglect."

B. This section, and any notification made pursuant to this section, may not be construed to require prosecution for any illegal action, including, but not limited to, the act of exposing a fetus to drugs or other substances.

2. Definition. For purposes of this section, "health care provider" means a person described in section 4011-A, subsection 1, paragraph A, subparagraphs (1) to (10), (15), (17) to (20) or (22) or any person who assists in the delivery or birth of a child for compensation, including, but not limited to, a midwife.

Credits:

2013, ch. 192, § 3 (AMD)

Me. Rev. Stat. Ann. tit. 22, § 4009 (2016). Penalty for violations

A person who knowingly violates a provision of this chapter commits a civil violation for which a forfeiture of not more than \$500 may be adjudged.

Credits:

1. AG Opinion 2008-02, 2008 Me. AG LEXIS 4. 2. No. 2008-02, 2008 Me. AG LEXIS 5

Me. Rev. Stat. Ann. tit. 22, § 4012 (2016). Reporting procedures.

1. Immediate report. Reports regarding abuse or neglect must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department.

Hospitals, medical personnel and law enforcement personnel may submit emergency reports through password-protected e-mail submissions. A faxed report may also be accepted when preceded by a telephone call informing the department of the incoming fax transmission.

2. Information required. The reports shall include the following information if within the knowledge of the person reporting:

- A.** The name and address of the child and the persons responsible for his care or custody;
- B.** The child's age and sex;
- C.** The nature and extent of abuse or neglect, including a description of injuries and any explanation given for them;
- D.** A description of sexual abuse or exploitation;
- E.** Family composition and evidence of prior abuse or neglect of the child or his siblings;
- F.** The source of the report, the person making the report, his occupation and where he can be contacted;
- G.** The actions taken by the reporting source, including a description of photographs or x rays taken; and
- H.** Any other information that the person making the report believes may be helpful.

Credits:

2011 ch. 402, § 2 (AMD)

Me. Rev. Stat. Ann. tit. 22, § 4014 (2016). Immunity from liability

1. Reporting and proceedings. A person, including an agent of the department, participating in good faith in reporting under this subchapter or participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team, is immune from any criminal or civil liability for the act of reporting or participating in the investigation or proceeding. Good faith does not include instances when a false report is made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding.

2. Photographs and x rays. A person participating in good faith in taking photographs or x rays under this subchapter is immune from civil liability for invasion of privacy that might otherwise result from these actions.

3. Presumption of good faith. In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

Me. Rev. Stat. Ann. tit. 22, § 4015 (2016). Privileged or confidential communications.

The husband-wife and physician and psychotherapist-patient privileges under the Maine Rules of Evidence and the confidential quality of communication under Title 16, section 53-B; Title 20-A, sections 4008 and 6001, to the extent allowed by applicable federal law; Title 24-A, section 4224; Title 32, sections 1092-A and 7005; and Title 34-B, section 1207, are abrogated in relation to required reporting, cooperating with the department or a guardian ad litem in an investigation or other child protective activity or giving evidence in a child protection proceeding. Information released to the department pursuant to this section must be kept confidential and may not be disclosed by the department except as provided in section 4008.

Statements made to a licensed mental health professional in the course of counseling, therapy or evaluation where the privilege is abrogated under this section may not be used against the client in a criminal proceeding. Nothing in this section may limit any responsibilities of the professional pursuant to this Act.

Credits:
2016 ch. 429, § 7 (AMD)

Me. Rev. Stat. Ann. tit. 22, § 4016 (2016). Confidentiality of employee records

Notwithstanding Title 5, section 554, subsection 2, paragraph E or any other provision of

law, the confidentiality of employee records is abrogated in relation to required reporting, cooperating with the department or guardian ad litem in an investigation or other child protective activity or giving evidence in a child protective proceeding.

Credits:

Maine Revised Statutes Annotated by LexisNexis®

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Me. Rev. Stat. Ann. tit. 22, § 4017 (2016). Discrimination

No person may be discriminated against by any employer in any way for participating in good faith in reporting under this subchapter or in a related child protection investigation or proceeding.

Credits:

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Me. Rev. Stat. Ann. tit. 22, § 3477 (2016). Persons mandated to report suspected abuse, neglect or exploitation.

1. Report required. The following persons immediately shall report to the department when the person knows or has reasonable cause to suspect that an incapacitated or dependent adult has been or is likely to be abused, neglected or exploited:

A. While acting in a professional capacity:

- (1) An allopathic or osteopathic physician;
- (2) A medical resident or intern;
- (3) A medical examiner;
- (4) A physician's assistant;
- (5) A dentist, dental hygienist or dental assistant;
- (6) A chiropractor;
- (7) A podiatrist;
- (8) A registered or licensed practical nurse;
- (9) A certified nursing assistant;

- (10) A social worker;
- (11) A psychologist;
- (12) A pharmacist;
- (13) A physical therapist;
- (14) A speech therapist;
- (15) An occupational therapist;
- (16) A mental health professional;
- (17) A law enforcement official, corrections officer or other person holding a certification from the Maine Criminal Justice Academy;
- (18) Emergency room personnel;
- (19) An ambulance attendant;
- (20) An emergency medical technician or other licensed medical service provider;
- (21) Unlicensed assistive personnel;
- (22) A humane agent employed by the Department of Agriculture, Conservation and Forestry;
- (23) A clergy member acquiring the information as a result of clerical professional work except for information received during confidential communications;
- (24) A sexual assault counselor;
- (25) A family or domestic violence victim advocate;
- (26) A naturopathic doctor;
- (27) A respiratory therapist;
- (28) A court-appointed guardian or conservator; or
- (29) A chair of a professional licensing board that has jurisdiction over mandated reporters;

B. Any person who has assumed full, intermittent or occasional responsibility for the care or custody of the incapacitated or dependent adult, regardless of whether the person receives compensation;

C. Any person affiliated with a church or religious institution who serves in an administrative capacity or has otherwise assumed a position of trust or responsibility to the members of that church or religious institution, while acting in that capacity, regardless of whether the person receives compensation; or

D. Any person providing transportation services as a volunteer or employee of an agency, business or other entity, whether or not the services are provided for compensation.

The duty to report under this subsection applies to individuals who must report directly to the department. A supervisor or administrator of a person making a report under this section may not impede or inhibit the reporting, and a person making a report may not be subject to any sanction for making a report. Internal procedures to facilitate reporting consistent with this chapter and to ensure confidentiality of and apprise supervisors and administrators of reports may be established as long as those procedures are consistent with this chapter.

1-A. Permitted reporters. An animal control officer, as defined in Title 7, section 3907, subsection 4, may report to the department when that person has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation.

2. Reports. Reports regarding abuse, neglect or exploitation must be made immediately by telephone to the department and must be followed by a written report within 48 hours if requested by the department. The reports must contain the name and address of the involved adult; information regarding the nature and extent of the abuse, neglect or exploitation; the source of the report; the person making the report; that person's occupation; and where that person can be contacted. The report may contain any other information that the reporter believes may be helpful.

3. Confidentiality in case of treatment of individual suspected of causing abuse, neglect or exploitation. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of causing the abuse, neglect or exploitation;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the abused, neglected or

exploited adult's life or health is not immediately threatened.

4. Confidentiality in case of treatment of individual suspected of being abused, neglected or exploited. This section does not require any person acting in that person's professional capacity to report when all of the following requirements are met:

A. The factual basis for knowing or suspecting abuse, neglect or exploitation of an adult covered under this subchapter derives from the professional's treatment of the individual suspected of being abused, neglected or exploited;

B. The treatment was sought by the individual for a problem relating to the abuse, neglect or exploitation; and

C. In the opinion of the person required to report, the individual is not incapacitated and the individual's life or health is not immediately threatened.

5. Permissive reporting of animal cruelty, abuse or neglect. Notwithstanding any other provision of state law imposing a duty of confidentiality, a person listed in subsection 1 may report a reasonable suspicion of animal cruelty, abuse or neglect to the local animal control officer or to the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902. For purposes of this subsection, the reporter shall disclose only such limited confidential information as is necessary for the local animal control officer or animal welfare program employee to identify the animal's location and status and the owner's name and address. For purposes of this subsection, “cruelty, abuse or neglect” has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B. A reporter under this subsection may assert immunity from civil and criminal liability under Title 34-B, chapter 1, subchapter 6.

6. Photographs of visible trauma. Whenever a person required to report as a staff member of a law enforcement agency or a hospital sees areas of trauma on an incapacitated or dependent adult, that person shall make reasonable efforts to take, or cause to be taken, color photographs of those areas of trauma.

A. The taking of photographs must be done with minimal trauma to the incapacitated or dependent adult and in a manner consistent with professional forensic standards. Consent to the taking of photographs is not required from the adult's legal guardian or by a health care power of attorney.

B. Photographs must be made available to the department as soon as possible. The department shall pay the reasonable costs of the photographs from funds appropriated for adult protective services.

C. The person shall notify the department as soon as possible if that person is unable to take, or cause to be taken, these photographs.

D. Designated agents of the department may take photographs of any subject

matter when necessary and relevant to an investigation of a report of suspected abuse, neglect or exploitation or to subsequent adult protection proceedings.

7. Information about duty to report. Whenever possible, the department and state licensing boards of professionals required to report under this section shall collaborate to facilitate the dissemination of information regarding the duty to report and the reporting procedure.

Credits:

2007 ch. 139, § 1 (AMD); 2007 ch. 140, § 4 (AMD); 2007 ch. 577, § 5 (AMD); 2011 ch. 291, §§ 2, 3, 4 (AMD)

MARYLAND

Md. Code Ann., Fam. Law § 5-704 (2016). Reports of suspected abuse or neglect; health practitioners, police officers, educators, and human service workers

Persons required to notify authorities and report suspected instances of abuse or neglect

(a) Notwithstanding any other provision of law, including any law on privileged communications, each health practitioner, police officer, educator, or human service worker, acting in a professional capacity in this State:

(1) who has reason to believe that a child has been subjected to abuse or neglect, shall notify the local department or the appropriate law enforcement agency; and

(2) if acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, shall immediately notify and give all information required by this section to the head of the institution or the designee of the head.

Oral and written reports

(b)(1) An individual who notifies the appropriate authorities under subsection (a) of this section shall make:

(i) an oral report, by telephone or direct communication, as soon as possible to the local department or appropriate law enforcement agency; and

(ii) a written report:

1. to the local department not later than 48 hours after the contact,

examination, attention, or treatment that caused the individual to believe that the child had been subjected to abuse or neglect; and

2. with a copy to the local State's Attorney.

(2)(i) An agency to which an oral report of suspected abuse or neglect is made under paragraph (1) of this subsection shall immediately notify the other agency.

(ii) This paragraph does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

Contents of report

(c) Insofar as is reasonably possible, an individual who makes a report under this section shall include in the report the following information:

(1) the name, age, and home address of the child;

(2) the name and home address of the child's parent or other person who is responsible for the child's care;

(3) the whereabouts of the child;

(4) the nature and extent of the abuse or neglect of the child, including any evidence or information available to the reporter concerning possible previous instances of abuse or neglect; and

(5) any other information that would help to determine:

(i) the cause of the suspected abuse or neglect; and

(ii) the identity of any individual responsible for the abuse or neglect.

Credits:

1987, ch. 635, § 2; 1989, ch. 730, §§ 1, 2; 1997, chs. 367, 368; 1998, ch. 21, § 1; 2000, ch. 61, § 1; 2003, ch. 308; 2011, chs. 398, 399; 2013, ch. 380.

Md. Code Ann., Fam. Law § 5-704.1 (2016). Report of child at substantial risk of sexual abuse.

In general

(a) An individual may notify the local department or the appropriate law enforcement agency if the individual has reason to believe that a parent, guardian, or caregiver of a

child allows the child to reside with or be in the regular presence of an individual, other than the child's parent or guardian, who:

- (1) is registered under Title 11, Subtitle 7 of the Criminal Procedure Article based on the commission of an offense against a child; and
- (2) based on additional information, poses a substantial risk of sexual abuse to the child.

Oral and written reports

(b)(1) A report under subsection (a) of this section may be oral or in writing.

- (2) If acting as a staff member of a hospital, public health agency, child care institution, juvenile detention center, school, or similar institution, an individual who notifies the appropriate authorities under subsection (a) of this section immediately shall notify and give all of the information required by this section to the head of the institution or the designee of the head of the institution.

Contents of report

(c) To the extent reasonably possible, an individual who makes a report under this section shall include in the report the following information:

- (1) the name, age, and home address of the child;
- (2) the name and home address of the child's parent or other person who is responsible for the child's care;
- (3) the whereabouts of the child;
- (4) the nature and extent of the substantial risk of sexual abuse of the child, including any evidence or information available to the reporter concerning possible previous instances of sexual abuse; and
- (5) any other information that would help to determine:
 - (i) the cause of the substantial risk of sexual abuse; and
 - (ii) the identity of any individual responsible for the substantial risk of sexual abuse.

Credits:

2010, chs. 185, 186.

Md. Code Ann., Fam. Law § 5-705 (2016). Reports of suspected abuse

or neglect; other persons.

Persons required to notify authorities and report suspected instances of abuse or neglect; exceptions

(a)(1) Except as provided in paragraphs (2) and (3) of this subsection, notwithstanding any other provision of law, including a law on privileged communications, a person in this State other than a health practitioner, police officer, or educator or human service worker who has reason to believe that a child has been subjected to abuse or neglect shall notify the local department or the appropriate law enforcement agency.

(2) A person is not required to provide notice under paragraph (1) of this subsection:

(i) in violation of the privilege described under § 9-108 of the Courts Article;

(ii) if the notice would disclose matter communicated in confidence by a client to the client's attorney or other information relating to the representation of the client; or

(iii) in violation of any constitutional right to assistance of counsel.

(3) A minister of the gospel, clergyman, or priest of an established church of any denomination is not required to provide notice under paragraph (1) of this subsection if the notice would disclose matter in relation to any communication described in § 9-111 of the Courts Article and:

(i) the communication was made to the minister, clergyman, or priest in a professional character in the course of discipline enjoined by the church to which the minister, clergyman, or priest belongs; and

(ii) the minister, clergyman, or priest is bound to maintain the confidentiality of that communication under canon law, church doctrine, or practice.

Agency to notify the other agency

(b)(1) An agency to which a report of suspected abuse or neglect is made under subsection (a) of this section shall immediately notify the other agency.

(2) This subsection does not prohibit a local department and an appropriate law enforcement agency from agreeing to cooperative arrangements.

Oral or written report

(c) A report made under subsection (a) of this section may be oral or in writing.

Contents of report

(d)(1) To the extent possible, a report made under subsection (a) of this section shall include the information required by § 5-704(c) of this subtitle.

(2) A report made under subsection (a) of this section shall be regarded as a report within the provisions of this subtitle, whether or not the report contains all of the information required by § 5-704(c) of this subtitle.

Credits:

1987, ch. 635, § 2; 1988, chs. 769, 770; 1989, ch. 5, § 1; 1991, ch. 55, § 1; 2003, ch. 308; 2011, chs. 398, 399.

Md. Code Ann., Fam. Law § 5-705.1 (2016). Abuse or neglect occurring outside the State.

“Local department” defined

(a) In this section, “local department” means a department of social services for a county in this State.

Provisions of this subtitle apply to reporting suspected abuse or neglect occurring outside of this State

(b) The following provisions of this subtitle shall apply to the reporting of suspected abuse or neglect under this section:

(1) except as provided in subsection (a) of this section, the definitions set forth in § 5-701 of this subtitle;

(2) the provisions relating to the confidentiality of reports specified in § 5-707(a)(1) and (2) of this subtitle; and

(3) the provisions relating to immunity from civil liability or criminal penalty specified in § 5-708 of this subtitle.

Persons required to report suspected abuse or neglect occurring outside of this State to local department

(c)(1) If suspected abuse or neglect is alleged to have occurred outside of this State and the victim is currently a child who lives outside of this State, a person who would be required to report suspected abuse or neglect under the provisions of § 5-704 or § 5-705 of this subtitle shall report the suspected abuse or neglect to any local department in accordance with paragraph (2) of this subsection.

(2) A person described in § 5-704 of this subtitle shall make:

National Center for Prosecution of Child Abuse
National District Attorneys Association

(i) an oral report, by telephone or direct communication, as soon as possible; and

(ii) a written report not later than 48 hours after the contact, examination, attention, or treatment that caused the person to believe that the child had been subjected to abuse or neglect.

(3) A person described in § 5-705 of this subtitle shall make an oral or a written report.

(4) To the extent possible, a report under this subsection shall include the information specified in § 5-704(c) of this subtitle.

Local department shall forward report to appropriate agency

(d) Promptly after receiving a report of suspected abuse or neglect under this section, the local department shall forward the report to the appropriate agency outside of this State that is authorized to receive and investigate reports of suspected abuse or neglect.

Credits:

2003, ch. 308; 2005, ch. 464, § 2; 2006, ch. 365, § 2; 2013, ch. 380.

MASSACHUSETTS

Mass. Gen. Laws. ch. 119 § 21 (2016). Definitions applicable to Secs. 21 to 51H

As used in sections 21 to 51H, inclusive, the following words shall have the following meanings, unless the context clearly otherwise requires:--

“51A report”, a report filed with the department under section 51A that details suspected child abuse or neglect.

“Advocate”, an employee of a governmental or non-governmental organization or entity providing appropriate services, or a similar employee of the department of children and families who has been trained to work and advocate for the needs of sexually exploited children.

“Appropriate services”, the assessment, planning and care provided by a state agency or non-governmental organization or entity, through congregate care facilities, whether publicly or privately funded, emergency residential assessment services, family-based foster care or the community, including food, clothing, medical care, counseling and appropriate crisis intervention services, provided: (i) that such agency, organization or

entity has expertise in providing services to sexually exploited children or children who are otherwise human trafficking victims; and (ii) that such services are provided in accordance with such regulations that the department of children and families may adopt or the policies of such department.

“Child”, a person under the age of 18.

“Child advocate”, the child advocate appointed under chapter 18C.

“Child in need of services”, a child between the ages of 6 and 17 who: (a) repeatedly runs away from the home of a parent or legal guardian; (b) repeatedly fails to obey the lawful and reasonable commands of a parent or legal guardian, thereby interfering with the parent's or legal guardian's ability to adequately care for and protect the child; (c) repeatedly fails to obey lawful and reasonable school regulations; (d) when not otherwise excused from attendance in accordance with lawful and reasonable school regulations, willfully fails to attend school for more than 8 school days in a quarter; or (e) is a sexually exploited child.

“Commissioner”, the commissioner of children and families.

“Custody”, the power to: (1) determine a child's place of abode, medical care and education; (2) control visits to a child; and (3) consent to enlistments, marriages and other contracts otherwise requiring parental consent. If a parent or guardian objects to the carrying out of any power conferred by this paragraph, that parent or guardian may take application to the committing court and the court shall review and make an order on the matter.

“Department”, the department of children and families.

“Mandated reporter”, a person who is: (i) a physician, medical intern, hospital personnel engaged in the examination, care or treatment of persons, medical examiner, psychologist, emergency medical technician, dentist, nurse, chiropractor, podiatrist, optometrist, osteopath, allied mental health and human services professional licensed under section 165 of chapter 112, drug and alcoholism counselor, psychiatrist or clinical social worker; (ii) a public or private school teacher, educational administrator, guidance or family counselor, child care worker, person paid to care for or work with a child in any public or private facility, or home or program funded by the commonwealth or licensed under chapter 15D that provides child care or residential services to children or that provides the services of child care resource and referral agencies, voucher management agencies or family child care systems or child care food programs, licenser of the department of early education and care or school attendance officer; (iii) a probation officer, clerk-magistrate of a district court, parole officer, social worker, foster parent, firefighter, police officer; (iv) a priest, rabbi, clergy member, ordained or licensed minister, leader of any church or religious body, accredited Christian Science practitioner, person performing official duties on behalf of a church or religious body that are recognized as the duties of a priest, rabbi, clergy, ordained or licensed minister, leader

of any church or religious body, accredited Christian Science practitioner, or person employed by a church or religious body to supervise, educate, coach, train or counsel a child on a regular basis; (v) in charge of a medical or other public or private institution, school or facility or that person's designated agent; or (vi) the child advocate.

“Parent”, a mother or father, unless another relative has been designated as a parent as defined in section 1 of chapter 118 for the purposes of receiving benefits from the department of transitional assistance.

“Relative”, the father or mother of a child; a stepfather, stepmother, stepbrother, stepsister, or any blood relative of a child, including those of the half blood, except cousins who are more distantly related than first cousins; any adoptive relative of equal propinquity to the foregoing; or a spouse of any such persons.

“Serious bodily injury”, bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

“Sexually exploited child”, any person under the age of 18 who has been subjected to sexual exploitation because such person:

(1) is the victim of the crime of sexual servitude pursuant to section 50 of chapter 265 or is the victim of the crime of sex trafficking as defined in 22 United States Code 7105;

(2) engages, agrees to engage or offers to engage in sexual conduct with another person in return for a fee, in violation of subsection (a) of section 53A of chapter 272, or in exchange for food, shelter, clothing, education or care;

(3) is a victim of the crime, whether or not prosecuted, of inducing a minor into prostitution under by section 4A of chapter 272; or

(4) engages in common night walking or common streetwalking under section 53 of chapter 272.

“Young adult”, a person between the ages of 18 and 22.

Credits:

1972, 785, § 7; 1973, 1073, § 3; 1973, 1076, § 1A; 1978, 552, § 28; 1996, 151, § 276; 2008, 176, § 83; 2008, 215, §§ 63, 64, 64½, 64A; 2010, 359, § 18; 2011, 178, §§ 6–8; 2012, 240, §§ 3, 4; 2013, 3, § 5B.

Mass. Gen. Laws. ch. 119 § 51A (2016). Reporting of suspected abuse or neglect; mandated reporters; collection of physical evidence; penalties; content of reports; liability; privileged communication

(a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the department orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233.

If a mandated reporter is a member of the staff of a medical or other public or private institution, school or facility, the mandated reporter may instead notify the person or designated agent in charge of such institution, school or facility who shall become responsible for notifying the department in the manner required by this section.

A mandated reporter may, in addition to filing a report under this section, contact local law enforcement authorities or the child advocate about the suspected abuse or neglect.

(b) For the purpose of reporting under this section, hospital personnel may have photographs taken of the areas of trauma visible on the child without the consent of the child's parents or guardians. These photographs or copies thereof shall be sent to the department with the report.

If hospital personnel collect physical evidence of abuse or neglect of the child, the local district attorney, local law enforcement authorities, and the department shall be immediately notified. The physical evidence shall be processed immediately so that the department may make an informed determination within the time limits in section 51B. If there is a delay in processing, the department shall seek a waiver under subsection (d) of section 51B.

(c) Notwithstanding subsection (g), whoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2 1/2 years and a fine of not more than \$2,000 for the third and subsequent offenses.

Any mandated reporter who has knowledge of child abuse or neglect that resulted in

serious bodily injury to or death of a child and willfully fails to report such abuse or neglect shall be punished by a fine of up to \$5,000 or imprisonment in the house of correction for not more than 2 1/2 years or by both such fine and imprisonment; and, upon a guilty finding or a continuance without a finding, the court shall notify any appropriate professional licensing authority of the mandated reporter's violation of this paragraph.

(d) A report filed under this section shall contain: (i) the names and addresses of the child and the child's parents or other person responsible for the child's care, if known; (ii) the child's age; (iii) the child's sex; (iv) the nature and extent of the child's injuries, abuse, maltreatment or neglect, including any evidence of prior injuries, abuse, maltreatment or neglect; (v) the circumstances under which the person required to report first became aware of the child's injuries, abuse, maltreatment or neglect; (vi) whatever action, if any, was taken to treat, shelter or otherwise assist the child; (vii) the name of the person or persons making the report; (viii) any other information that the person reporting believes might be helpful in establishing the cause of the injuries; (ix) the identity of the person or persons responsible for the neglect or injuries; and (x) other information required by the department.

(e) A mandated reporter who has reasonable cause to believe that a child has died as a result of any of the conditions listed in subsection (a) shall report the death to the district attorney for the county in which the death occurred and the office of the chief medical examiner as required by clause (16) of section 3 of chapter 38. Any person who fails to file a report under this subsection shall be punished by a fine of not more than \$1,000.

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

(g) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or for contacting local law enforcement authorities or the child advocate, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

(h) No employer shall discharge, discriminate or retaliate against a mandated reporter who, in good faith, files a report under this section, testifies or is about to testify in any proceeding involving child abuse or neglect. Any employer who discharges, discriminates or retaliates against that mandated reporter shall be liable to the mandated reporter for treble damages, costs and attorney's fees.

(i) Within 30 days of receiving a report from a mandated reporter, the department shall notify the mandated reporter, in writing, of its determination of the nature, extent and

cause or causes of the injuries to the child and the services that the department intends to provide to the child or the child's family.

(j) Any privilege relating to confidential communications, established by sections 135 to 135B, inclusive, of chapter 112 or by sections 20A and 20B of chapter 233, shall not prohibit the filing of a report under this section or a care and protection petition under section 24, except that a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner need not report information solely gained in a confession or similarly confidential communication in other religious faiths. Nothing in the general laws shall modify or limit the duty of a priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner to report suspected child abuse or neglect under this section when the priest, rabbi, clergy member, ordained or licensed minister, leader of a church or religious body or accredited Christian Science practitioner is acting in some other capacity that would otherwise make him a mandated reporter.

(k) A mandated reporter who is professionally licensed by the commonwealth shall complete training to recognize and report suspected child abuse or neglect.

Credits:

1973, 1076, § 5; 1975, 276, § 4; 1977, 501; 1977, 942; 1978, 215, § 1; 1979, 312, § 1; 1980, 434; 1981, 91, § 2; 1982, 102; 1983, 222; 1984, 83, §§ 1, 2; 1985, 209; 1986, 230, §§ 1, 2; 1989, 219; 1989, 535, § 5; 1990, 474, § 1; 1991, 280; 1992, 115, § 1; 1993, 50, § 23; 1997, 197; 2002, 107, §§ 1–4; 2008, 176, §§ 95–97; 2011, 178, § 10.

Mass. Gen. Laws. ch. 18C § 11 (2016). Comprehensive plan for response to child abuse and neglect; advice of experts; contents

(a) The child advocate, in consultation with the advisory board and the interagency child welfare task force established by section 215 of chapter 6, shall formulate a comprehensive plan, with periodic benchmarks and cost estimates, to recommend a coordinated, system-wide response to child abuse and neglect, including related mental health, substance abuse and domestic violence issues. The comprehensive plan shall look forward 5 years or more, shall be updated annually to plan for the ensuing 5-year period, shall assess previous efforts and, if appropriate, shall include legislative and regulatory recommendations, such as changes to the issues itemized in the comprehensive plan.

(b) The child advocate may seek advice broadly from individuals with expertise in child welfare in formulating the plan and consult with, social workers of the department, pediatricians, child psychiatrists, early childhood education and adolescent behavior specialists, parents of children who have received services from the commonwealth, and persons who, as children, were clients of the department.

(c) The comprehensive plan shall be filed annually with the governor, the clerks of the senate and the house, the senate and house committees on ways and means, and the joint committee on children, families and persons with disabilities.

(d) The comprehensive plan shall examine the status of and address the following issues:-

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(1) racial disproportionality and disparity of the department's client population, including the effectiveness of reforms designed to address overrepresentation of children of color within that population;

(2) the needs of families whose children are truant, runaways, or whose conduct interferes with their parent's ability to adequately care for and protect them. The plan shall propose a system of community-based programs to assist these children and families by providing services on a continuum of increasing intensity with the goal of keeping children out of the juvenile justice and child protection systems. The plan shall examine: (i) the existing complex system of services available from multiple public and private agencies; (ii) the differences in service delivery throughout the state; (iii) the need for immediate response to stabilize a family in crisis and to connect the family to services in their own community; and (iv) the collection and analysis of information needed to evaluate and identify gaps in service to such children and families throughout the commonwealth;

(3) mandated reporting, including: (i) the quality and quantity of training provided to mandated reporters; (ii) standards for training based on best practices for recognizing and reporting suspected child abuse and neglect; and (iii) the use of the following as forums for training mandated reporters: online programs, training offered by state agencies, and existing programs of professional training such as those required for initial licensure or certification and relicensure or recertification, continuing education programs or in-service training;

(4) screening of child abuse and neglect reports, including: (i) centralizing the reporting and screening processes; (ii) a single, 24-hour, toll-free telephone number for all oral reports, a single fax number or mailing address for all written reports and internet-based filing of reports; (iii) multiple reports filed about a particular child or family; (iv) a determination of when and under what conditions reports may have been inappropriately screened out and the impact of those decisions; and (v) direct, electronic access to the National Crime Information Center for criminal history records and warrants;

(5) child protection teams, which are multidisciplinary teams that provide specialized medical examinations of children who present signs of abuse or neglect and that include pediatricians or pediatric nurses and psychologists or social workers who have been trained to recognize child abuse and neglect, including statewide expansion to regional hospitals, all hospitals with emergency rooms and all pediatric care hospitals;

(6) the shortage of experts in the commonwealth who specialize in the prevention, diagnosis and treatment of abused or neglected children, with recommendations to

train pediatricians and pediatric nurse practitioners to become clinical experts who are knowledgeable and competent in all areas of child abuse and neglect, including: the identification, assessment, and treatment of physical abuse, sexual abuse, neglect, emotional abuse and neglect and factitious illness by proxy; multi-disciplinary training with law enforcement, state and local agencies and child advocacy centers; collection of forensic evidence; court testimony; research; and child advocacy;

(7) family engagement model or other nationally recognized models to strengthen child welfare practice, including: (i) the evaluation of the model and its use of differential response and risk assessment tools to determine how effectively findings of abuse or neglect are made; (ii) the cost to implement the model state-wide; (iii) the combination of departmental functions such that an individual social worker investigates, assesses and provides ongoing case management, particularly as that combination impacts incidents requiring specialized investigatory skills; (iv) delays in the fair hearing process; and (v) time limits allowed for screenings, investigations and assessments;

(8) social worker caseloads and teaming, including: (i) the effects of teaming on caseloads and of caseloads on teaming; (ii) the cost of state-wide adoption of various standard caseload ratios; (iii) a potential multi-year plan to reduce caseloads; and (iv) duties handled by social workers that may be more affordably and efficiently handled by other staff;

(9) law enforcement involvement, including: (i) how effectively the department and law enforcement collaborate and whether there is room for improvement or coordination of resources; (ii) protocols for mandatory reporting of certain abuse or neglect to local law enforcement and district attorneys and (iii) potential alignment with efforts to prevent or prosecute domestic violence and with the procedures used in the investigation of sexual abuse, such as the sexual abuse intervention network and the sexual assault nurse examiners program;

(10) schools of social work, including: (i) how effectively social work and related degree programs teach child welfare practice; (ii) greater cooperation between the department and higher education to study child welfare issues; (iii) the capacity of public and private schools to meet increased demand for social work and related degrees, including concentrations in child welfare; and (iv) a timeline for inclusion of child welfare concentrations in bachelor's and master's degree programs at public institutions of higher education;

(11) social worker qualifications, including the infrastructure needed to support a more qualified workforce, such as full implementation of proposed programs at the child welfare institute and the transferability of certificate coursework to degree-granting programs;

(12) confidentiality, including research of legal and ethical considerations to be

addressed if information relative to cases of child abuse and neglect is shared between the office and other executive agencies;

(13) health service needs of the department's client population and health consultation needs of the department, including: (i) the need for physical and behavioral health services and consultation, including those related to mental health and substance abuse treatment; (ii) coordination and consultation among executive agencies; (iii) proposed best-practice models for more effective client behavioral health services; and (iv) oversight and peer review of the safety and effectiveness of the use of psychotropic drugs by children involved with executive agencies;

(14) critiques of the department, including: (i) potential alignment of a internal or external audit unit with the department's continuous quality improvement and quality service review initiatives; and (ii) dissemination of the findings of these critiques to policy makers within and outside of the department;

(15) criminal offender record information reviews, including: (i) the use of these reviews in out-of-home, kinship and foster placements and (ii) areas for improved efficiency and equality;

(16) permanency planning for those who, due to their age, are transitioning out of the child welfare system to assist with health care, housing, higher education, long-term interpersonal connections and other needs for independent living;

(17) examine the frequency of transitions in the treatment plans and living placements of foster children;

(18) provide an analysis of the administrative and cost requirements and recommendations to create a personal needs and individual development account for each child in foster care over the age of 14;

(19) review the process of adopting children in foster care and recommend streamlined procedures to reduce the time required to complete the adoption process;

(20) the impact on child welfare efforts of the early and periodic screening, diagnostic and treatment services provision and reasonable promptness provision of the federal Medicaid law, 42 U.S.C. 1396a(a)(10)(A),-(a)(43), 1396d(r)(5),-(a)(4)(B), and 1396a(a)(8)(2005), respectively;

(21) oversight provided by MassHealth and its contractors of medical and behavioral health expenditures made on behalf of the department's client population;

(22) federal funding available for child welfare purposes and factors affecting that

funding, including: (i) the Title IV-E saturation rate for foster children, (ii) the determination of AFDC status for the non-TANF population, and (iii) expedited judicial determinations made within the required time frames;

(23) an estimate of the expenditure necessary to implement an annual adjustment to the daily rate for maintenance payments to foster care, adoptive and guardianship families, to provide care so as to meet the rate recommended periodically by the United States Department of Agriculture; and

(24) the effectiveness of the state's child abuse laws as they relate to defining, prohibiting, preventing and reporting cases of emotional abuse of children, including recommendations to increase public and professional education and awareness of the symptoms and impact of emotional abuse.

Mass. Gen. Laws. ch. 265 § 13B 1/2 (2016). Commission of indecent assault and battery on a child under the age of 14 during commission of certain offenses or by mandated reporters; penalties

Whoever commits an indecent assault and battery on a child under the age of 14 and:

(a) the indecent assault and battery was committed during the commission or attempted commission of the following offenses:-- (1) armed burglary as set forth in section 14 of chapter 266; (2) unarmed burglary as set forth in section 15 of said chapter 266; (3) breaking and entering as set forth in section 16 of said chapter 266; (4) entering without breaking as set forth in section 17 of said chapter 266; (5) breaking and entering into a dwelling house as set forth in section 18 of said chapter 266; (6) kidnapping as set forth in section 26 of chapter 265; (7) armed robbery as set forth in section 17 of said chapter 265; (8) unarmed robbery as set forth in section 19 of said chapter 265; (9) assault and battery with a dangerous weapon or assault with a dangerous weapon, as set forth in sections 15A and 15B of said chapter 265; (10) home invasion as set forth in section 18C of said chapter 265; or (11) posing or exhibiting child in state of nudity or sexual conduct as set forth in section 29A of chapter 272; or

(b) at the time of commission of said indecent assault and battery, the defendant was a mandated reporter as is defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

In a prosecution under this section, a child under the age of 14 years shall be deemed incapable of consenting to any conduct of the defendant for which such defendant is being prosecuted.

Mass. Gen. Laws. ch. 265 § 23A (2016). Rape and abuse of child aggravated by age difference between defendant and victim or by when committed by mandated reporters; penalties

Whoever unlawfully has sexual intercourse or unnatural sexual intercourse, and abuses a child under 16 years of age and:

- (a) there exists more than a 5 year age difference between the defendant and the victim and the victim is under 12 years of age;
- (b) there exists more than a 10 year age difference between the defendant and the victim where the victim is between the age of 12 and 16 years of age; or
- (c) at the time of such intercourse, was a mandated reporter as defined in section 21 of chapter 119, shall be punished by imprisonment in the state prison for life or for any term of years, but not less than 10 years. The sentence imposed on such person shall not be reduced to less than 10 years, or suspended, nor shall any person convicted under this section be eligible for probation, parole, work release, or furlough or receive any deduction from his sentence for good conduct until he shall have served 10 years of such sentence. Prosecutions commenced under this section shall neither be continued without a finding nor placed on file.

Credits:
2008, 205, § 2.

MICHIGAN

Mich. Comp. Laws Ann. § 722.623 (2016). Required reporting of child abuse, neglect, or exposure to or contact with methamphetamine production to department; transmission of report to other agencies; reporting of suspected exposure to or contact with methamphetamine production to local law enforcement agency

(1) An individual is required to report under this act as follows:

- (a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school

administrator, school counselor or teacher, law enforcement officer, member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act. If the reporting person is a member of the staff of a hospital, agency, or school, the reporting person shall notify the person in charge of the hospital, agency, or school of his or her finding and that the report has been made, and shall make a copy of the written report available to the person in charge. A notification to the person in charge of a hospital, agency, or school does not relieve the member of the staff of the hospital, agency, or school of the obligation of reporting to the department as required by this section. One report from a hospital, agency, or school is adequate to meet the reporting requirement. A member of the staff of a hospital, agency, or school shall not be dismissed or otherwise penalized for making a report required by this act or for cooperating in an investigation.

(b) A department employee who is 1 of the following and has reasonable cause to suspect child abuse or neglect shall make a report of suspected child abuse or neglect to the department in the same manner as required under subdivision (a):

- (i) Eligibility specialist.
- (ii) Family independence manager.
- (iii) Family independence specialist.
- (iv) Social services specialist.
- (v) Social work specialist.
- (vi) Social work specialist manager.
- (vii) Welfare services specialist.

(c) Any employee of an organization or entity that, as a result of federal funding statutes, regulations, or contracts, would be prohibited from reporting in the absence of a state mandate or court order. A person required to report under this subdivision shall report in the same manner as required under subdivision (a).

(2) The written report shall contain the name of the child and a description of the abuse or neglect. If possible, the report shall contain the names and addresses of the child's parents, the child's guardian, the persons with whom the child resides, and the child's age. The report shall contain other information available to the reporting person that might establish the cause of the abuse or neglect, and the manner in which the abuse or neglect occurred.

- (3) The department shall inform the reporting person of the required contents of the written report at the time the oral report is made by the reporting person.
- (4) The written report required in this section shall be mailed or otherwise transmitted to the county department of the county in which the child suspected of being abused or neglected is found.
- (5) Upon receipt of a written report of suspected child abuse or neglect, the department may provide copies to the prosecuting attorney and the probate court of the counties in which the child suspected of being abused or neglected resides and is found.
- (6) If an allegation, written report, or subsequent investigation of suspected child abuse or child neglect indicates a violation of sections 136b and 145c, sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.136b, 750.145c, and 750.520b to 750.520g, or section 7401c of the public health code, 1978 PA 368, MCL 333.7401c, involving methamphetamine has occurred, or if the allegation, written report, or subsequent investigation indicates that the suspected child abuse or child neglect was committed by an individual who is not a person responsible for the child's health or welfare, including, but not limited to, a member of the clergy, a teacher, or a teacher's aide, the department shall transmit a copy of the allegation or written report and the results of any investigation to a law enforcement agency in the county in which the incident occurred. If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect is a child care provider and the department believes that the report has basis in fact, the department shall, within 24 hours of completion, transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a child.
- (7) If a local law enforcement agency receives an allegation or written report of suspected child abuse or child neglect or discovers evidence of or receives a report of an individual allowing a child to be exposed to or to have contact with methamphetamine production, and the allegation, written report, or subsequent investigation indicates that the child abuse or child neglect or allowing a child to be exposed to or to have contact with methamphetamine production, was committed by a person responsible for the child's health or welfare, the local law enforcement agency shall refer the allegation or provide a copy of the written report and the results of any investigation to the county department of the county in which the abused or neglected child is found, as required by subsection (1)(a). If an allegation, written report, or subsequent investigation indicates that the individual who committed the suspected abuse or neglect or allowed a child to be exposed to or to have contact with methamphetamine production, is a child care provider and the local law enforcement agency believes that the report has basis in fact, the local law enforcement agency shall transmit a copy of the written report or the results of the investigation to the child care regulatory agency with authority over the child care provider's child care organization or adult foster care location authorized to care for a

child. Nothing in this subsection or subsection (1) shall be construed to relieve the department of its responsibilities to investigate reports of suspected child abuse or child neglect under this act.

(8) For purposes of this act, the pregnancy of a child less than 12 years of age or the presence of a venereal disease in a child who is over 1 month of age but less than 12 years of age is reasonable cause to suspect child abuse and neglect have occurred.

(9) In conducting an investigation of child abuse or child neglect, if the department suspects that a child has been exposed to or has had contact with methamphetamine production, the department shall immediately contact the law enforcement agency in the county in which the incident occurred.

Credits:

Pub Acts 1975, No. 238, § 3, imd eff September 2, 1975, by § 16 eff October 1, 1975; amended by Pub Acts 1978, No. 252, eff March 30, 1979; 1978, No. 573, eff March 30, 1979; 1980, No. 511, imd eff January 26, 1981; 1984, No. 418, eff March 29, 1985; 1988, No. 372, eff March 30, 1989; 1994, No. 177, imd eff June 20, 1994; 2002, No. 10, imd eff February 14, 2002; 2002, No. 661, imd eff December 23, 2002; 2002, No. 693, imd eff December 30, 2002, by enacting § 1 eff March 1, 2003; Pub Acts 2006, No. 264, imd eff July 6, 2006; 2006, No. 583, imd eff January 3, 2007; 2008, No. 300, imd eff October 8, 2008, by enacting § 1 eff October 1, 2008; 2008, No. 510, imd eff January 13, 2009; Pub Acts 2014, No. 344, eff January 14, 2015; Pub Acts 2016, No. 35, eff March 8, 2016.

Mich. Comp. Laws Ann. § 722.623a (2012). Required reports of controlled substances in the bodies of newborn infants

Sec. 3a. In addition to the reporting requirement in section 3, a person who is required to report suspected child abuse or neglect under section 3(1) and who knows, or from the child's symptoms has reasonable cause to suspect, that a newborn infant has any amount of alcohol, a controlled substance, or a metabolite of a controlled substance in his or her body shall report to the department in the same manner as required under section 3. A report is not required under this section if the person knows that the alcohol, controlled substance, or metabolite, or the child's symptoms, are the result of medical treatment administered to the newborn infant or his or her mother.

Mich. Comp. Laws Ann. § 722.624 (2016). Reports by those not required to report.

Sec. 4. In addition to those persons required to report child abuse or neglect under section 3, any person, including a child, who has reasonable cause to suspect child abuse or neglect may report the matter to the department or a law enforcement agency.

Credits:

Pub Acts 1975, No. 238, § 4, imd eff September 2, 1975, by § 16 eff October 1, 1975; amended by Pub Acts 1984, No. 418, eff March 29, 1985.

Mich. comp. laws Ann. § 722.625 (2016). Reporting persons, identity, immunity from liability, good faith.

Sec. 5. Except for records available under section 7(2)(a), (b), and (n), the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. A person acting in good faith who makes a report, cooperates in an investigation, or assists in any other requirement of this act is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

Credits:

Pub Acts 1975, No. 238, § 5, imd eff September 2, 1975, by § 16 eff October 1, 1975; amended by Pub Acts 1988, No. 372, eff March 30, 1989; 1994, No. 393, imd eff December 29, 1994; 1998, No. 428, imd eff December 30, 1998, by enacting § 2 eff April 1, 1999; 2004, No. 563, imd eff January 3, 2005.

Mich. Comp. Laws Ann. § 722.631 (2016). Privileged communications; reporting of suspected abuse or neglect by member of clergy.

Any legally recognized privileged communication except that between attorney and client or that made to a member of the clergy in his or her professional character in a confession or similarly confidential communication is abrogated and shall not constitute grounds for excusing a report otherwise required to be made or for excluding evidence in a civil child protective proceeding resulting from a report made pursuant to this act. This section does not relieve a member of the clergy from reporting suspected child abuse or child neglect under section 3 if that member of the clergy receives information concerning suspected child abuse or child neglect while acting in any other capacity listed under section 3.

Credits:

Pub Acts 1975, No. 238, § 11, imd eff September 2, 1975, by § 16 eff October 1, 1975; amended by Pub Acts 2002, No. 693, imd eff December 30, 2002, by enacting § 1 eff March 1, 2003.

Mich. Comp. Laws Ann. § 722.633 (2016). Failure to report; dissemination of information; failure to expunge record; false report.

(1) A person who is required by this act to report an instance of suspected child abuse or neglect and who fails to do so is civilly liable for the damages proximately caused by the failure.

(2) A person who is required by this act to report an instance of suspected child abuse or neglect and who knowingly fails to do so is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) Except as provided in section 7, a person who disseminates, or who permits or encourages the dissemination of, information contained in the central registry and in reports and records made as provided in this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and is civilly liable for the damages proximately caused by the dissemination.

(4) A person who willfully maintains a report or record required to be expunged under section 7 is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(5) A person who intentionally makes a false report of child abuse or neglect under this act knowing that the report is false is guilty of a crime as follows:

(a) If the child abuse or neglect reported would not constitute a crime or would constitute a misdemeanor if the report were true, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(b) If the child abuse or neglect reported would constitute a felony if the report were true, the person is guilty of a felony punishable by the lesser of the following:

(i) The penalty for the child abuse or neglect falsely reported.

(ii) Imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

Credits:

Pub Acts 1975, No. 238, § 13, imd eff September 2, 1975, by § 16 eff October 1, 1975; amended by Pub Acts 1978, No. 252, eff March 30, 1979; 1984, No. 418, eff March 29, 1985; 1988, No. 372, eff March 30, 1989; 1993, No. 56, imd eff June 9, 1993; 1994, No. 393, imd eff December 29, 1994; 1996, No. 309, imd eff June 20, 1996, by § 2 eff January 1, 1997 (see 1996 note below); 2002, No. 14, imd eff February 19, 2002.

MINNESOTA

Minn. Stat. Ann. § 245A.145 (2016). Child care program reporting notification

Subdivision 1. Policies and procedures.

(a) All licensed child care providers must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements in section 626.556 and must develop policies and procedures for reporting complaints about the operation of a child care program. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment; the county licensing agency for family and group family child care providers; and the state licensing agency for child care centers.

(b) The policies and procedures required in paragraph (a) must:

- (1) be provided to the parents of all children at the time of enrollment in the child care program; and
- (2) be made available upon request.

Subd. 2. Licensing agency phone number displayed. By July 1, 2002, a new or renewed child care license must include a statement that informs parents who have concerns about their child's care that they may call the licensing agency. The commissioner shall print the telephone number for the licensing agency in bold and large font on the license issued to child care providers.

Credits:

2002 c 248 s 1; 2007 c 112 s 19.

Minn. Stat. Ann. § 626.556 (2016). Reporting of maltreatment of minors.

Subdivision 1. Public policy. The legislature hereby declares that the public policy of this state is to protect children whose health or welfare may be jeopardized through physical abuse, neglect, or sexual abuse. While it is recognized that most parents want to keep their children safe, sometimes circumstances or conditions interfere with their ability to do so. When this occurs, families are best served by interventions that engage their protective capacities and address immediate safety concerns and ongoing risks of child maltreatment. In furtherance of this public policy, it is the intent of the legislature under this section to strengthen the family and make the home, school, and community safe for children by promoting responsible child care in all settings; and to provide, when necessary, a safe temporary or permanent home environment for physically or sexually abused or neglected children.

In addition, it is the policy of this state to require the reporting of neglect, physical or sexual abuse of children in the home, school, and community settings; to provide for the voluntary reporting of abuse or neglect of children; to require a family assessment, when

appropriate, as the preferred response to reports not alleging substantial child endangerment; to require an investigation when the report alleges substantial child endangerment; and to provide protective, family support, and family preservation services when needed in appropriate cases.

Subd. 2. Definitions. As used in this section, the following terms have the meanings given them unless the specific content indicates otherwise:

(a) “Family assessment” means a comprehensive assessment of child safety, risk of subsequent child maltreatment, and family strengths and needs that is applied to a child maltreatment report that does not allege substantial child endangerment. Family assessment does not include a determination as to whether child maltreatment occurred but does determine the need for services to address the safety of family members and the risk of subsequent maltreatment.

(b) “Investigation” means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245B; under sections 144.50 to 144.58 and 241.021; in a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10; or in a nonlicensed personal care provider association as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(c) “Substantial child endangerment” means a person responsible for a child's care, and in the case of sexual abuse includes a person who has a significant relationship to the child as defined in section 609.341, or a person in a position of authority as defined in section 609.341, who by act or omission commits or attempts to commit an act against a child under their care that constitutes any of the following:

- (1) egregious harm as defined in section 260C.007, subdivision 14;
- (2) sexual abuse as defined in paragraph (d);
- (3) abandonment under section 260C.301, subdivision 2;
- (4) neglect as defined in paragraph (f), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;
- (5) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

- (6) manslaughter in the first or second degree under section 609.20 or 609.205;
- (7) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;
- (8) solicitation, inducement, and promotion of prostitution under section 609.322;
- (9) criminal sexual conduct under sections 609.342 to 609.3451;
- (10) solicitation of children to engage in sexual conduct under section 609.352;
- (11) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;
- (12) use of a minor in sexual performance under section 617.246; or
- (13) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.301, subdivision 3, paragraph (a).

(d) “Sexual abuse” means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Sexual abuse includes threatened sexual abuse.

(e) “Person responsible for the child's care” means (1) an individual functioning within the family unit and having responsibilities for the care of the child such as a parent, guardian, or other person having similar care responsibilities, or (2) an individual functioning outside the family unit and having responsibilities for the care of the child such as a teacher, school administrator, other school employees or agents, or other lawful custodian of a child having either full-time or short-term care responsibilities including, but not limited to, day care, babysitting whether paid or unpaid, counseling, teaching, and coaching.

(f) “Neglect” means the commission or omission of any of the acts specified under clauses (1) to (9), other than by accidental means:

(1) failure by a person responsible for a child's care to supply a child with necessary food, clothing, shelter, health, medical, or other care required for the child's physical or mental health when reasonably able to do so;

(2) failure to protect a child from conditions or actions that seriously endanger the child's physical or mental health when reasonably able to do so, including a growth delay, which may be referred to as a failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(3) failure to provide for necessary supervision or child care arrangements appropriate for a child after considering factors as the child's age, mental ability, physical condition, length of absence, or environment, when the child is unable to care for the child's own basic needs or safety, or the basic needs or safety of another child in their care;

(4) failure to ensure that the child is educated as defined in sections 120A.22 and 260C.163, subdivision 11, which does not include a parent's refusal to provide the parent's child with sympathomimetic medications, consistent with section 125A.091, subdivision 5;

(5) nothing in this section shall be construed to mean that a child is neglected solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child in lieu of medical care; except that a parent, guardian, or caretaker, or a person mandated to report pursuant to subdivision 3, has a duty to report if a lack of medical care may cause serious danger to the child's health. This section does not impose upon persons, not otherwise legally responsible for providing a child with necessary food, clothing, shelter, education, or medical care, a duty to provide that care;

(6) prenatal exposure to a controlled substance, as defined in section 253B.02, subdivision 2, used by the mother for a nonmedical purpose, as evidenced by withdrawal symptoms in the child at birth, results of a toxicology test performed on the mother at delivery or the child at birth, or medical effects or developmental delays during the child's first year of life that medically indicate prenatal exposure to a controlled substance;

(7) "medical neglect" as defined in section 260C.007, subdivision 6, clause (5);

(8) chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the care of the child that adversely affects the child's basic needs and safety; or

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(g) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 121A.67 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following that are done in anger or without regard to the safety of the child:

- (1) throwing, kicking, burning, biting, or cutting a child;
- (2) striking a child with a closed fist;
- (3) shaking a child under age three;
- (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
- (5) unreasonable interference with a child's breathing;
- (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
- (7) striking a child under age one on the face or head;
- (8) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
- (9) unreasonable physical confinement or restraint not permitted under

section 609.379, including but not limited to tying, caging, or chaining; or

(10) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.

(h) "Report" means any report received by the local welfare agency, police department, county sheriff, or agency responsible for assessing or investigating maltreatment pursuant to this section.

(i) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 245B;

(2) a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or

(3) a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16, and 256B.0625, subdivision 19a.

(j) "Operator" means an operator or agency as defined in section 245A.02.

(k) "Commissioner" means the commissioner of human services.

(l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.

(m) "Mental injury" means an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child's ability to function within a normal range of performance and behavior with due regard to the child's culture.

(n) "Threatened injury" means a statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury. Threatened injury includes, but is not limited to, exposing a child to a person responsible for the child's care, as defined in paragraph (e), clause (1), who has:

(1) subjected a child to, or failed to protect a child from, an overt act or condition that constitutes egregious harm, as defined in section 260C.007, subdivision 14, or a similar law of another jurisdiction;

(2) been found to be palpably unfit under section 260C.301, paragraph (b), clause (4), or a similar law of another jurisdiction;

(3) committed an act that has resulted in an involuntary termination of parental rights under section 260C.301, or a similar law of another jurisdiction; or

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under section 260C.201, subdivision 11, paragraph (d), clause (1), or a similar law of another jurisdiction.

A child is the subject of a report of threatened injury when the responsible social services agency receives birth match data under paragraph (o) from the Department of Human Services.

(o) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (n), the Department of Human Services shall send the data to the responsible social services agency. The data is known as “birth match” data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.301, subdivision 3.

(p) Persons who conduct assessments or investigations under this section shall take into account accepted child-rearing practices of the culture in which a child participates and accepted teacher discipline practices, which are not injurious to the child's health, welfare, and safety.

(q) “Accidental” means a sudden, not reasonably foreseeable, and unexpected occurrence or event which:

(1) is not likely to occur and could not have been prevented by exercise of due care; and

(2) if occurring while a child is receiving services from a facility, happens when the facility and the employee or person providing services in the facility are in compliance with the laws and rules relevant to the occurrence or event.

(r) “Nonmaltreatment mistake” means:

- (1) at the time of the incident, the individual was performing duties identified in the center's child care program plan required under Minnesota Rules, part 9503.0045;
- (2) the individual has not been determined responsible for a similar incident that resulted in a finding of maltreatment for at least seven years;
- (3) the individual has not been determined to have committed a similar nonmaltreatment mistake under this paragraph for at least four years;
- (4) any injury to a child resulting from the incident, if treated, is treated only with remedies that are available over the counter, whether ordered by a medical professional or not; and
- (5) except for the period when the incident occurred, the facility and the individual providing services were both in compliance with all licensing requirements relevant to the incident.

This definition only applies to child care centers licensed under Minnesota Rules, chapter 9503. If clauses (1) to (5) apply, rather than making a determination of substantiated maltreatment by the individual, the commissioner of human services shall determine that a nonmaltreatment mistake was made by the individual.

Subd. 3. Persons mandated to report. (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person is:

- (1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or
- (2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local

welfare agency, or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing. The county sheriff and the head of every local welfare agency, agency responsible for assessing or investigating reports, and police department shall each designate a person within their agency, department, or office who is responsible for ensuring that the notification duties of this paragraph and paragraph (b) are carried out. Nothing in this subdivision shall be construed to require more than one report from any institution, facility, school, or agency.

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, or the county sheriff if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse. The police department or the county sheriff, upon receiving a report, shall immediately notify the local welfare agency or agency responsible for assessing or investigating the report, orally and in writing. The local welfare agency or agency responsible for assessing or investigating the report, upon receiving a report, shall immediately notify the local police department or the county sheriff orally and in writing.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 245B; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Any person mandated to report shall receive a summary of the disposition of any report made by that reporter, including whether the case has been opened for child protection or other services, or if a referral has been made to a community organization, unless release would be detrimental to the best interests of the child. Any person who is not mandated to report shall, upon request to the local welfare agency, receive a concise summary of the disposition of any report made by that reporter, unless release would be detrimental to the best interests of the child.

(e) For purposes of this section, “immediately” means as soon as possible but in no event longer than 24 hours.

Subd. 3a. Report of deprivation of parental rights or kidnapping. A person mandated

to report under subdivision 3, who knows or has reason to know of a violation of section 609.25 or 609.26, shall report the information to the local police department or the county sheriff. Receipt by a local welfare agency of a report or notification of a report of a violation of section 609.25 or 609.26 shall not be construed to invoke the duties of subdivision 10, 10a, or 10b.

Subd. 3b. Agency responsible for assessing or investigating reports of maltreatment.

The Department of Education is the agency responsible for assessing or investigating allegations of child maltreatment in schools as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10.

Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.

(a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.46.

(d) The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.

Subd. 3d. Authority to interview. The agency responsible for assessing or investigating reports of child maltreatment has the authority to interview the child, the person or persons responsible for the child's care, the alleged perpetrator, and any other person with knowledge of the abuse or neglect for the purpose of gathering the facts, assessing safety and risk to the child, and formulating a plan.

Subd. 3e. Agency responsible for assessing or investigating reports of sexual abuse.

The local welfare agency is the agency responsible for investigating allegations of sexual abuse if the alleged offender is the parent, guardian, sibling, or an individual functioning within the family unit as a person responsible for the child's care, or a person with a

significant relationship to the child if that person resides in the child's household.

Subd. 3f. Law enforcement agency responsible for investigating maltreatment. The local law enforcement agency has responsibility for investigating any report of child maltreatment if a violation of a criminal statute is alleged. Law enforcement and the responsible agency must coordinate their investigations or assessments as required under subdivision 10.

Subd. 4. Immunity from liability. (a) The following persons are immune from any civil or criminal liability that otherwise might result from their actions, if they are acting in good faith:

(1) any person making a voluntary or mandated report under subdivision 3 or under section 626.5561 or assisting in an assessment under this section or under section 626.5561;

(2) any person with responsibility for performing duties under this section or supervisor employed by a local welfare agency, the commissioner of an agency responsible for operating or supervising a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in sections 256B.04, subdivision 16; and 256B.0625, subdivision 19a, complying with subdivision 10d; and

(3) any public or private school, facility as defined in subdivision 2, or the employee of any public or private school or facility who permits access by a local welfare agency, the Department of Education, or a local law enforcement agency and assists in an investigation or assessment pursuant to subdivision 10 or under section 626.5561.

(b) A person who is a supervisor or person with responsibility for performing duties under this section employed by a local welfare agency, the commissioner of human services, or the commissioner of education complying with subdivisions 10 and 11 or section 626.5561 or any related rule or provision of law is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j).

(c) This subdivision does not provide immunity to any person for failure to make a required report or for committing neglect, physical abuse, or sexual abuse of a child.

(d) If a person who makes a voluntary or mandatory report under subdivision 3 prevails in a civil action from which the person has been granted immunity under this subdivision, the court may award the person attorney fees and costs.

Subd. 4a. Retaliation prohibited. (a) An employer of any person required to make reports under subdivision 3 shall not retaliate against the person for reporting in good faith abuse or neglect pursuant to this section, or against a child with respect to whom a report is made, because of the report.

(b) The employer of any person required to report under subdivision 3 who retaliates against the person because of a report of abuse or neglect is liable to that person for actual damages and, in addition, a penalty up to \$10,000.

(c) There shall be a rebuttable presumption that any adverse action within 90 days of a report is retaliatory. For purposes of this paragraph, the term “adverse action” refers to action taken by an employer of a person required to report under subdivision 3 which is involved in a report against the person making the report or the child with respect to whom the report was made because of the report, and includes, but is not limited to:

(1) discharge, suspension, termination, or transfer from the facility, institution, school, or agency;

(2) discharge from or termination of employment;

(3) demotion or reduction in remuneration for services; or

(4) restriction or prohibition of access to the facility, institution, school, agency, or persons affiliated with it.

Subd. 5. Malicious and reckless reports. Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury, plus costs and reasonable attorney fees.

Subd. 6. Failure to report. (a) A person mandated by this section to report who knows or has reason to believe that a child is neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, and fails to report is guilty of a misdemeanor.

(b) A person mandated by this section to report who knows or has reason to believe that two or more children not related to the perpetrator have been physically or sexually abused, as defined in subdivision 2, by the same perpetrator within the preceding ten years, and fails to report is guilty of a gross misdemeanor.

(c) A parent, guardian, or caretaker who knows or reasonably should know that the child's health is in serious danger and who fails to report as required by subdivision 2, paragraph (c), is guilty of a gross misdemeanor if the child suffers substantial or great bodily harm because of the lack of medical care. If the child dies because of the lack of medical care, the person is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both. The provision in section 609.378, subdivision 1, paragraph (a), clause (1), providing that a parent, guardian, or caretaker may, in good faith, select and depend on spiritual means or prayer for treatment or care of a child, does not exempt a parent, guardian, or caretaker from the duty to report under this subdivision.

Subd. 6a. Failure to notify. If a local welfare agency receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local police department or county sheriff as required by subdivision 3, paragraph (a) or (b), the person within the agency who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees. If a local police department or a county sheriff receives a report under subdivision 3, paragraph (a) or (b) and fails to notify the local welfare agency as required by subdivision 3, paragraph (a) or (b), the person within the police department or county sheriff's office who is responsible for ensuring that notification is made shall be subject to disciplinary action in keeping with the agency's existing policy or collective bargaining agreement on discipline of employees.

Subd. 7. Report. (a) An oral report shall be made immediately by telephone or otherwise. An oral report made by a person required under subdivision 3 to report shall be followed within 72 hours, exclusive of weekends and holidays, by a report in writing to the appropriate police department, the county sheriff, the agency responsible for assessing or investigating the report, or the local welfare agency, unless the appropriate agency has informed the reporter that the oral information does not constitute a report under subdivision 10. The local welfare agency shall determine if the report is accepted for an assessment or investigation as soon as possible but in no event longer than 24 hours after the report is received. Any report shall be of sufficient content to identify the child, any person believed to be responsible for the abuse or neglect of the child if the person is known, the nature and extent of the abuse or neglect and the name and address of the reporter. If requested, the local welfare agency or the agency responsible for assessing or investigating the report shall inform the reporter within ten days after the report is made, either orally or in writing, whether the report was accepted for assessment or investigation. Written reports received by a police department or the county sheriff shall be forwarded immediately to the local welfare agency or the agency responsible for assessing or investigating the report. The police department or the county sheriff may keep copies of reports received by them. Copies of written reports received by a local welfare department or the agency responsible for assessing or investigating the report shall be forwarded immediately to the local police department or the county sheriff.

(b) Notwithstanding paragraph (a), the commissioner of education must inform

the parent, guardian, or legal custodian of the child who is the subject of a report of alleged maltreatment in a school facility within ten days of receiving the report, either orally or in writing, whether the commissioner is assessing or investigating the report of alleged maltreatment.

(c) A written copy of a report maintained by personnel of agencies, other than welfare or law enforcement agencies, which are subject to chapter 13 shall be confidential. An individual subject of the report may obtain access to the original report as provided by subdivision 11.

Subd. 8. Evidence not privileged. No evidence relating to the neglect or abuse of a child or to any prior incidents of neglect or abuse involving any of the same persons accused of neglect or abuse shall be excluded in any proceeding arising out of the alleged neglect or physical or sexual abuse on the grounds of privilege set forth in section 595.02, subdivision 1, paragraph (a), (d), or (g).

Subd. 9. Mandatory reporting to medical examiner or coroner. When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department, or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving services or treatment for mental illness, developmentally disabled, chemical dependency, or emotional disturbance from an agency, facility, or program as defined in section 245.91, the medical examiner or coroner shall also notify and report findings to the ombudsman established under sections 245.91 to 245.97.

Subd. 10. Duties of local welfare agency and local law enforcement agency upon receipt of report. (a) Upon receipt of a report, the local welfare agency shall determine whether to conduct a family assessment or an investigation as appropriate to prevent or provide a remedy for child maltreatment. The local welfare agency:

- (1) shall conduct an investigation on reports involving substantial child endangerment;
- (2) shall begin an immediate investigation if, at any time when it is using a family assessment response, it determines that there is reason to believe that substantial child endangerment or a serious threat to the child's safety exists;
- (3) may conduct a family assessment for reports that do not allege substantial child endangerment. In determining that a family assessment is

appropriate, the local welfare agency may consider issues of child safety, parental cooperation, and the need for an immediate response; and

(4) may conduct a family assessment on a report that was initially screened and assigned for an investigation. In determining that a complete investigation is not required, the local welfare agency must document the reason for terminating the investigation and notify the local law enforcement agency if the local law enforcement agency is conducting a joint investigation.

If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, or sexual abuse by a person with a significant relationship to the child when that person resides in the child's household or by a sibling, the local welfare agency shall immediately conduct a family assessment or investigation as identified in clauses (1) to (4). In conducting a family assessment or investigation, the local welfare agency shall gather information on the existence of substance abuse and domestic violence and offer services for purposes of preventing future child maltreatment, safeguarding and enhancing the welfare of the abused or neglected minor, and supporting and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse, physical abuse, or neglect or endangerment, under section 609.378, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. In cases of alleged child maltreatment resulting in death, the local agency may rely on the fact-finding efforts of a law enforcement investigation to make a determination of whether or not maltreatment occurred. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

If the family assessment or investigation indicates there is a potential for abuse of alcohol or other drugs by the parent, guardian, or person responsible for the child's care, the local welfare agency shall conduct a chemical use assessment pursuant to Minnesota Rules, part 9530.6615.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse, sexual abuse, or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97. The commissioner of education shall inform the ombudsman established under

sections 245.91 to 245.97 of reports regarding a child defined as a client in section 245.91 that maltreatment occurred at a school as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10.

(c) Authority of the local welfare agency responsible for assessing or investigating the child abuse or neglect report, the agency responsible for assessing or investigating the report, and of the local law enforcement agency for investigating the alleged abuse or neglect includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged offender. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found or the child may be transported to, and the interview conducted at, a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency. The interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official. For family assessments, it is the preferred practice to request a parent or guardian's permission to interview the child prior to conducting the child interview, unless doing so would compromise the safety assessment. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 32 of the Minnesota Rules of Procedure for Juvenile Courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare, local law enforcement agency, or the agency responsible for assessing or investigating a report of maltreatment determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the local social services agency or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or

assessment has been concluded, unless a school employee or agent is alleged to have maltreated the child. Until that time, the local welfare or law enforcement agency or the agency responsible for assessing or investigating a report of maltreatment shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged offender is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the alleged offender or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the alleged offender or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner of human services, the ombudsman for mental health and developmental disabilities, the local welfare agencies responsible for investigating reports, the commissioner of education, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

(h) The local welfare agency responsible for conducting a family assessment or investigation shall collect available and relevant information to determine child safety, risk of subsequent child maltreatment, and family strengths and needs and share not public information with an Indian's tribal social services agency without violating any law of the state that may otherwise impose duties of confidentiality on the local welfare agency in order to implement the tribal state agreement. The local welfare agency or the agency responsible for investigating the report shall collect available and relevant information to ascertain whether maltreatment occurred and whether protective services are needed. Information collected includes, when relevant, information with regard to the person reporting the alleged maltreatment, including the nature of the reporter's relationship to the child and to the alleged offender, and the basis of the reporter's knowledge for the report; the child allegedly being maltreated; the alleged offender; the child's caretaker; and other collateral sources having relevant information related to the alleged maltreatment. The local welfare agency or the agency responsible for assessing or investigating the report may make a determination of no maltreatment early in an assessment, and close the case and retain immunity, if the collected information shows no basis for a full assessment or investigation.

Information relevant to the assessment or investigation must be asked for, and may include:

(1) the child's sex and age, prior reports of maltreatment, information relating to developmental functioning, credibility of the child's statement, and whether the information provided under this clause is consistent with other information collected during the course of the assessment or investigation;

(2) the alleged offender's age, a record check for prior reports of maltreatment, and criminal charges and convictions. The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation;

(3) collateral source information regarding the alleged maltreatment and care of the child. Collateral information includes, when relevant: (i) a medical examination of the child; (ii) prior medical records relating to the alleged maltreatment or the care of the child maintained by any facility, clinic, or health care professional and an interview with the treating professionals; and (iii) interviews with the child's caretakers, including the child's parent, guardian, foster parent, child care provider, teachers, counselors, family members, relatives, and other persons who may have knowledge regarding the alleged maltreatment and the care of the child; and

(4) information on the existence of domestic abuse and violence in the home of the child, and substance abuse.

Nothing in this paragraph precludes the local welfare agency, the local law enforcement agency, or the agency responsible for assessing or investigating the report from collecting other relevant information necessary to conduct the assessment or investigation. Notwithstanding sections 13.384 or 144.291 to 144.298, the local welfare agency has access to medical data and records for purposes of clause (3). Notwithstanding the data's classification in the possession of any other agency, data acquired by the local welfare agency or the agency responsible for assessing or investigating the report during the course of the assessment or investigation are private data on individuals and must be maintained in accordance with subdivision 11. Data of the commissioner of education collected or maintained during and for the purpose of an investigation of alleged maltreatment in a school are governed by this section, notwithstanding the data's classification as educational, licensing, or personnel data under chapter 13.

In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect investigative reports and data that are relevant to a report of maltreatment and are from local law enforcement and the school facility.

(i) Upon receipt of a report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. The face-to-face contact with the child and primary caregiver shall occur immediately if substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(j) When conducting an investigation, the local welfare agency shall use a question and answer interviewing format with questioning as nondirective as possible to elicit spontaneous responses. For investigations only, the following interviewing methods and procedures must be used whenever possible when collecting information:

(1) audio recordings of all interviews with witnesses and collateral sources; and

(2) in cases of alleged sexual abuse, audio-video recordings of each interview with the alleged victim and child witnesses.

(k) In conducting an assessment or investigation involving a school facility as defined in subdivision 2, paragraph (i), the commissioner of education shall collect available and relevant information and use the procedures in paragraphs (i), (k), and subdivision 3d, except that the requirement for face-to-face observation of the child and face-to-face interview of the alleged offender is to occur in the initial stages of the assessment or investigation provided that the commissioner may also base the assessment or investigation on investigative reports and data received from the school facility and local law enforcement, to the extent those investigations satisfy the requirements of paragraphs (i) and (k), and subdivision 3d.

Subd. 10a. Law enforcement agency responsibility for investigation; welfare agency reliance on law enforcement fact-finding; welfare agency offer of services. (a) If the report alleges neglect, physical abuse, or sexual abuse by a person who is not a parent, guardian, sibling, person responsible for the child's care functioning within the family unit, or a person who lives in the child's household and who has a significant relationship to the child, in a setting other than a facility as defined in subdivision 2, the local welfare agency shall immediately notify the appropriate law enforcement agency, which shall conduct an investigation of the alleged abuse or neglect if a violation of a criminal statute is alleged.

(b) The local agency may rely on the fact-finding efforts of the law enforcement investigation conducted under this subdivision to make a determination whether or not threatened injury or other maltreatment has occurred under subdivision 2 if an alleged offender has minor children or lives with minors.

(c) If a child is the victim of an alleged crime under paragraph (a), the law enforcement agency shall immediately notify the local welfare agency, which shall offer appropriate social services for the purpose of safeguarding and enhancing the welfare of the abused or neglected minor.

Subd. 10b. Duties of commissioner; neglect or abuse in facility. (a) This section applies to the commissioners of human services, health, and education. The commissioner of the agency responsible for assessing or investigating the report shall immediately assess or investigate if the report alleges that:

(1) a child who is in the care of a facility as defined in subdivision 2 is neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in that facility, or has been so neglected or abused, or been the victim of maltreatment in a facility by an

individual in that facility within the three years preceding the report; or

(2) a child was neglected, physically abused, sexually abused, or is the victim of maltreatment in a facility by an individual in a facility defined in subdivision 2, while in the care of that facility within the three years preceding the report.

The commissioner of the agency responsible for assessing or investigating the report shall arrange for the transmittal to the commissioner of reports received by local agencies and may delegate to a local welfare agency the duty to investigate reports. In conducting an investigation under this section, the commissioner has the powers and duties specified for local welfare agencies under this section. The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may interview any children who are or have been in the care of a facility under investigation and their parents, guardians, or legal custodians.

(b) Prior to any interview, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall notify the parent, guardian, or legal custodian of a child who will be interviewed in the manner provided for in subdivision 10d, paragraph (a). If reasonable efforts to reach the parent, guardian, or legal custodian of a child in an out-of-home placement have failed, the child may be interviewed if there is reason to believe the interview is necessary to protect the child or other children in the facility. The commissioner of the agency responsible for assessing or investigating the report or local agency must provide the information required in this subdivision to the parent, guardian, or legal custodian of a child interviewed without parental notification as soon as possible after the interview. When the investigation is completed, any parent, guardian, or legal custodian notified under this subdivision shall receive the written memorandum provided for in subdivision 10d, paragraph (c).

(c) In conducting investigations under this subdivision the commissioner or local welfare agency shall obtain access to information consistent with subdivision 10, paragraphs (h), (i), and (j). In conducting assessments or investigations under this subdivision, the commissioner of education shall obtain access to reports and investigative data that are relevant to a report of maltreatment and are in the possession of a school facility as defined in subdivision 2, paragraph (i), notwithstanding the classification of the data as educational or personnel data under chapter 13. This includes, but is not limited to, school investigative reports, information concerning the conduct of school personnel alleged to have committed maltreatment of students, information about witnesses, and any protective or corrective action taken by the school facility regarding the school personnel alleged to have committed maltreatment.

(d) The commissioner may request assistance from the local social services agency.

Subd. 10c. Duties of local social service agency upon receipt of report of medical neglect. If the report alleges medical neglect as defined in section 260C.007, subdivision 6, clause (5), the local welfare agency shall, in addition to its other duties under this section, immediately consult with designated hospital staff and with the parents of the infant to verify that appropriate nutrition, hydration, and medication are being provided; and shall immediately secure an independent medical review of the infant's medical charts and records and, if necessary, seek a court order for an independent medical examination of the infant. If the review or examination leads to a conclusion of medical neglect, the agency shall intervene on behalf of the infant by initiating legal proceedings under section 260C.141 and by filing an expedited motion to prevent the withholding of medically indicated treatment.

Subd. 10d. Notification of neglect or abuse in facility. (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 245B, or a school as defined in sections 120A.05, subdivisions 9, 11, and 13; and 124D.10; or a nonlicensed personal care provider organization as defined in section 256B.04, subdivision 16, and 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation. In the case of maltreatment within a school facility, as defined in sections 120A.05, subdivisions 9, 11, and 13, and 124D.10, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated. The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Subd. 10e. Determinations. (a) The local welfare agency shall conclude the family assessment or the investigation within 45 days of the receipt of a report. The conclusion of the assessment or investigation may be extended to permit the completion of a criminal investigation or the receipt of expert information requested within 45 days of the receipt of the report.

(b) After conducting a family assessment, the local welfare agency shall determine whether services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment.

(c) After conducting an investigation, the local welfare agency shall make two determinations: first, whether maltreatment has occurred; and second, whether child protective services are needed.

(d) If the commissioner of education conducts an assessment or investigation, the commissioner shall determine whether maltreatment occurred and what corrective or protective action was taken by the school facility. If a determination is made that maltreatment has occurred, the commissioner shall report to the employer, the school board, and any appropriate licensing entity the determination that maltreatment occurred and what corrective or protective action was taken by the school facility. In all other cases, the commissioner shall inform the school board or employer that a report was received, the subject of the report, the date of the initial report, the category of maltreatment alleged as defined in paragraph (f), the fact that maltreatment was not determined, and a summary of the specific reasons for the determination.

(e) When maltreatment is determined in an investigation involving a facility, the investigating agency shall also determine whether the facility or individual was responsible, or whether both the facility and the individual were responsible for the maltreatment using the mitigating factors in paragraph (i). Determinations under this subdivision must be made based on a preponderance of the evidence and are private data on individuals or nonpublic data as maintained by the commissioner of education.

(f) For the purposes of this subdivision, “maltreatment” means any of the following acts or omissions:

- (1) physical abuse as defined in subdivision 2, paragraph (g);
- (2) neglect as defined in subdivision 2, paragraph (f);
- (3) sexual abuse as defined in subdivision 2, paragraph (d);
- (4) mental injury as defined in subdivision 2, paragraph (m); or
- (5) maltreatment of a child in a facility as defined in subdivision 2, paragraph (i).

(g) For the purposes of this subdivision, a determination that child protective services are needed means that the local welfare agency has documented conditions during the assessment or investigation sufficient to cause a child protection worker, as defined in section 626.559, subdivision 1, to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child's care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.

(h) This subdivision does not mean that maltreatment has occurred solely because the child's parent, guardian, or other person responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or

care of disease or remedial care of the child, in lieu of medical care. However, if lack of medical care may result in serious danger to the child's health, the local welfare agency may ensure that necessary medical services are provided to the child.

(i) When determining whether the facility or individual is the responsible party, or whether both the facility and the individual are responsible for determined maltreatment in a facility, the investigating agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were according to, and followed the terms of, an erroneous physician order, prescription, individual care plan, or directive; however, this is not a mitigating factor when the facility or caregiver was responsible for the issuance of the erroneous order, prescription, individual care plan, or directive or knew or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) comparative responsibility between the facility, other caregivers, and requirements placed upon an employee, including the facility's compliance with related regulatory standards and the adequacy of facility policies and procedures, facility training, an individual's participation in the training, the caregiver's supervision, and facility staffing levels and the scope of the individual employee's authority and discretion; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

The evaluation of the facility's responsibility under clause (2) must not be based on the completeness of the risk assessment or risk reduction plan required under section 245A.66, but must be based on the facility's compliance with the regulatory standards for policies and procedures, training, and supervision as cited in Minnesota Statutes and Minnesota Rules.

(j) Notwithstanding paragraph (i), when maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under sections 245A.06 or 245A.07 apply.

(k) Individual counties may implement more detailed definitions or criteria that indicate which allegations to investigate, as long as a county's policies are consistent with the definitions in the statutes and rules and are approved by the county board. Each local welfare agency shall periodically inform mandated reporters under subdivision 3 who work in the county of the definitions of

maltreatment in the statutes and rules and any additional definitions or criteria that have been approved by the county board.

Subd. 10f. Notice of determinations. Within ten working days of the conclusion of a family assessment, the local welfare agency shall notify the parent or guardian of the child of the need for services to address child safety concerns or significant risk of subsequent child maltreatment. The local welfare agency and the family may also jointly agree that family support and family preservation services are needed. Within ten working days of the conclusion of an investigation, the local welfare agency or agency responsible for assessing or investigating the report shall notify the parent or guardian of the child, the person determined to be maltreating the child, and if applicable, the director of the facility, of the determination and a summary of the specific reasons for the determination. When the investigation involves a child foster care setting that is monitored by a private licensing agency under section 245A.16, the local welfare agency responsible for assessing or investigating the report shall notify the private licensing agency of the determination and shall provide a summary of the specific reasons for the determination. The notice to the private licensing agency must include identifying private data, but not the identity of the reporter of maltreatment. The notice must also include a certification that the information collection procedures under subdivision 10, paragraphs (h), (i), and (j), were followed and a notice of the right of a data subject to obtain access to other private data on the subject collected, created, or maintained under this section. In addition, the notice shall include the length of time that the records will be kept under subdivision 11c. The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section. The notice must also state that a finding of maltreatment may result in denial of a license application or background study disqualification under chapter 245C related to employment or services that are licensed by the Department of Human Services under chapter 245A, the Department of Health under chapter 144 or 144A, the Department of Corrections under section 241.021, and from providing services related to an unlicensed personal care provider organization under chapter 256B.

Subd. 10g. Interstate data exchange. All reports and records created, collected, or maintained under this section by a local social service agency or law enforcement agency may be disclosed to a local social service or other child welfare agency of another state when the agency certifies that:

- (1) the reports and records are necessary in order to conduct an investigation of actions that would qualify as sexual abuse, physical abuse, or neglect under this section; and
- (2) the reports and records will be used only for purposes of a child protection assessment or investigation and will not be further disclosed to any other person or agency.

The local social service agency or law enforcement agency in this state shall keep

a record of all records or reports disclosed pursuant to this subdivision and of any agency to which the records or reports are disclosed. If in any case records or reports are disclosed before a determination is made under subdivision 10e, or a disposition of any criminal proceedings is reached, the local social service agency or law enforcement agency in this state shall forward the determination or disposition to any agency that has received any report or record under this subdivision.

Subd. 10h. Child abuse data; release to family court services. The responsible authority or its designee of a local welfare agency may release private or confidential data on an active case involving assessment or investigation of actions that are defined as sexual abuse, physical abuse, or neglect under this section to a court services agency if:

- (1) the court services agency has an active case involving a common client or clients who are the subject of the data; and
- (2) the data are necessary for the court services agency to effectively process the court services' case, including investigating or performing other duties relating to the case required by law.

The data disclosed under this subdivision may be used only for purposes of the active court services case described in clause (1) and may not be further disclosed to any other person or agency, except as authorized by law.

Subd. 10i. Administrative reconsideration; review panel. (a) Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made. For investigations, except as provided under paragraph (e), an individual or facility that the commissioner of human services, a local social service agency, or the commissioner of education determines has maltreated a child, an interested person acting on behalf of the child, regardless of the determination, who contests the investigating agency's final determination regarding maltreatment, may request the investigating agency to reconsider its final determination regarding maltreatment. The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination regarding maltreatment or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child. If mailed, the request for reconsideration must be postmarked and sent to the investigating agency within 15 calendar days of the individual's or facility's receipt of the final determination. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 15 calendar days after the individual's or facility's receipt of the final determination. Effective January 1, 2002, an individual who was determined to have maltreated a child under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of

disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the investigating agency within 30 calendar days of the individual's receipt of the maltreatment determination and notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the investigating agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045 may submit to the commissioner of human services or the commissioner of education a written request for a hearing under that section. Section 256.045 also governs hearings requested to contest a final determination of the commissioner of education. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

(d) Except as provided under paragraph (f), if an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under section 256.045, the commissioner of human services shall assure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and requested reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, subdivision 2a, the scope of the contested case hearing shall include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing regarding the maltreatment determination and disqualification shall not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination as provided under this subdivision, and reconsideration of a disqualification as provided under section 245C.22, shall also not be conducted when:

- (1) a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;
- (2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and
- (3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 626.556, subdivision 10i, and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 626.556, subdivision 10i, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) For purposes of this subdivision, “interested person acting on behalf of the child” means a parent or legal guardian; stepparent; grandparent; guardian ad litem; adult stepbrother, stepsister, or sibling; or adult aunt or uncle; unless the person has been determined to be the perpetrator of the maltreatment.

Subd. 10j. Release of data to mandated reporters. A local social services or child protection agency, or the agency responsible for assessing or investigating the report of

maltreatment, may provide relevant private data on individuals obtained under this section to mandated reporters who have an ongoing responsibility for the health, education, or welfare of a child affected by the data, in the best interests of the child. Mandated reporters with ongoing responsibility for the health, education, or welfare of a child affected by the data include the child's teachers or other appropriate school personnel, foster parents, health care providers, respite care workers, therapists, social workers, child care providers, residential care staff, crisis nursery staff, probation officers, and court services personnel. Under this section, a mandated reporter need not have made the report to be considered a person with ongoing responsibility for the health, education, or welfare of a child affected by the data. Data provided under this section must be limited to data pertinent to the individual's responsibility for caring for the child.

Subd. 10k. Release of certain investigative records to other counties. Records maintained under subdivision 11c, paragraph (a), may be shared with another local welfare agency that requests the information because it is conducting an investigation under this section of the subject of the records.

Subd. 10l. Documentation. When a case is closed that has been open for services, the local welfare agency shall document the outcome of the family assessment or investigation, including a description of services provided and the removal or reduction of risk to the child, if it existed.

Subd. 10m. Provision of child protective services. The local welfare agency shall create a written plan, in collaboration with the family whenever possible, within 30 days of the determination that child protective services are needed or upon joint agreement of the local welfare agency and the family that family support and preservation services are needed. Child protective services for a family are voluntary unless ordered by the court.

Subd. 10n. Required referral to early intervention services. A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county and annually report the information to the legislature beginning March 15, 2014. Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

Subd. 11. Records. (a) Except as provided in paragraph (b) and subdivisions 10b, 10d, 10g, and 11b, all records concerning individuals maintained by a local welfare agency or agency responsible for assessing or investigating the report under this section, including any written reports filed under subdivision 7, shall be private data on individuals, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. All records concerning determinations of maltreatment by a facility are nonpublic data as maintained by the Department of Education, except insofar as copies of reports are required by subdivision 7 to be sent to the local police department or the county sheriff. Reports maintained by any police department or the county sheriff shall be private data on individuals except the reports shall be made

available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners. Section 13.82, subdivisions 8, 9, and 14, apply to law enforcement data other than the reports. The local social services agency or agency responsible for assessing or investigating the report shall make available to the investigating, petitioning, or prosecuting authority, including county medical examiners or county coroners or their professional delegates, any records which contain information relating to a specific incident of neglect or abuse which is under investigation, petition, or prosecution and information relating to any prior incidents of neglect or abuse involving any of the same persons. The records shall be collected and maintained in accordance with the provisions of chapter 13. In conducting investigations and assessments pursuant to this section, the notice required by section 13.04, subdivision 2, need not be provided to a minor under the age of ten who is the alleged victim of abuse or neglect. An individual subject of a record shall have access to the record in accordance with those sections, except that the name of the reporter shall be confidential while the report is under assessment or investigation except as otherwise permitted by this subdivision. Any person conducting an investigation or assessment under this section who intentionally discloses the identity of a reporter prior to the completion of the investigation or assessment is guilty of a misdemeanor. After the assessment or investigation is completed, the name of the reporter shall be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by the court that the report was false and that there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure.

(b) Upon request of the legislative auditor, data on individuals maintained under this section must be released to the legislative auditor in order for the auditor to fulfill the auditor's duties under section 3.971. The auditor shall maintain the data in accordance with chapter 13.

(c) The commissioner of education must be provided with all requested data that are relevant to a report of maltreatment and are in possession of a school facility as defined in subdivision 2, paragraph (i), when the data is requested pursuant to an assessment or investigation of a maltreatment report of a student in a school. If the commissioner of education makes a determination of maltreatment involving an individual performing work within a school facility who is licensed by a board or other agency, the commissioner shall provide necessary and relevant information to the licensing entity to enable the entity to fulfill its statutory duties. Notwithstanding section 13.03, subdivision 4, data received by a licensing entity under this paragraph are governed by section 13.41 or other applicable law governing data of the receiving entity, except that this section applies to the classification of and access to data on the reporter of the maltreatment.

Subd. 11a. Disclosure of information not required in certain cases. When interviewing a minor under subdivision 10, an individual does not include the parent or guardian of the minor for purposes of section 13.04, subdivision 2, when the parent or

guardian is the alleged perpetrator of the abuse or neglect.

Subd. 11b. Data received from law enforcement. Active law enforcement investigative data received by a local welfare agency or agency responsible for assessing or investigating the report under this section are confidential data on individuals. When this data become inactive in the law enforcement agency, the data are private data on individuals.

Subd. 11c. Welfare, court services agency, and school records maintained.

Notwithstanding sections 138.163 and 138.17, records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, court services agencies, or schools under this section shall be destroyed as provided in paragraphs (a) to (d) by the responsible authority.

(a) For family assessment cases and cases where an investigation results in no determination of maltreatment or the need for child protective services, the assessment or investigation records must be maintained for a period of four years. Records under this paragraph may not be used for employment, background checks, or purposes other than to assist in future risk and safety assessments.

(b) All records relating to reports which, upon investigation, indicate either maltreatment or a need for child protective services shall be maintained for at least ten years after the date of the final entry in the case record.

(c) All records regarding a report of maltreatment, including any notification of intent to interview which was received by a school under subdivision 10, paragraph (d), shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed under this subdivision.

(d) Private or confidential data released to a court services agency under subdivision 10h must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency or agency responsible for assessing or investigating the report shall order destruction of the data when other records relating to the assessment or investigation are destroyed under this subdivision.

Subd. 11d. Disclosure in child fatality or near-fatality cases. (a) The definitions in this paragraph apply to this section.

(1) “Child fatality” means the death of a child from suspected abuse, neglect, or maltreatment.

(2) “Near fatality” means a case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury

caused by suspected abuse, neglect, or maltreatment.

(3) “Findings and information” means a written summary described in paragraph (c) of actions taken or services rendered by a local social services agency following receipt of a report.

(b) Notwithstanding any other provision of law and subject to this subdivision, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:

(1) a person is criminally charged with having caused the child fatality or near fatality; or

(2) a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's death.

(c) Findings and information disclosed under this subdivision consist of a written summary that includes any of the following information the agency is able to provide:

(1) the dates, outcomes, and results of any actions taken or services rendered;

(2) the results of any review of the state child mortality review panel, a local child mortality review panel, a local community child protection team, or any public agency; and

(3) confirmation of the receipt of all reports, accepted or not accepted, by the local welfare agency for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the agency's determination.

(d) Nothing in this subdivision authorizes access to the private data in the custody of a local social services agency, or the disclosure to the public of the records or content of any psychiatric, psychological, or therapeutic evaluations, or the disclosure of information that would reveal the identities of persons who provided information related to suspected abuse, neglect, or maltreatment of the child.

(e) A person whose request is denied may apply to the appropriate court for an order compelling disclosure of all or part of the findings and information of the public agency. The application must set forth, with reasonable particularity, factors supporting the application. The court has jurisdiction to issue these orders. Actions under this section must be set down for immediate hearing, and subsequent proceedings in those actions must be given priority by the appellate

courts.

(f) A public agency or its employees acting in good faith in disclosing or declining to disclose information under this section are immune from criminal or civil liability that might otherwise be incurred or imposed for that action.

Subd. 12. Duties of facility operators. Any operator, employee, or volunteer worker at any facility who intentionally neglects, physically abuses, or sexually abuses any child in the care of that facility may be charged with a violation of section 609.255, 609.377, or 609.378. Any operator of a facility who knowingly permits conditions to exist which result in neglect, physical abuse, sexual abuse, or maltreatment of a child in a facility while in the care of that facility may be charged with a violation of section 609.378. The facility operator shall inform all mandated reporters employed by or otherwise associated with the facility of the duties required of mandated reporters and shall inform all mandatory reporters of the prohibition against retaliation for reports made in good faith under this section.

Subd. 13. Repealed by Laws 1988, c. 625, § 9.

Subd. 14. Conflict of interest. (a) A potential conflict of interest related to assisting in an assessment under this section resulting in a direct or shared financial interest with a child abuse and neglect treatment provider or resulting from a personal or family relationship with a party in the investigation must be considered by the local welfare agency in an effort to prevent unethical relationships.

(b) A person who conducts an assessment under this section or section 626.5561 may not have:

(1) any direct or shared financial interest or referral relationship resulting in a direct shared financial gain with a child abuse and neglect treatment provider; or

(2) a personal or family relationship with a party in the investigation.

If an independent assessor is not available, the person responsible for making the determination under this section may use the services of an assessor with a financial interest, referral, or personal or family relationship.

Subd. 15. Auditing. The commissioner of human services shall regularly audit for accuracy the data reported by counties on maltreatment of minors.

Subd. 16. Commissioner's duty to provide oversight; quality assurance reviews; annual summary of reviews. (a) The commissioner shall develop a plan to perform quality assurance reviews of local welfare agency screening practices and decisions. The commissioner shall provide oversight and guidance to counties to ensure consistent application of screening guidelines, thorough and appropriate screening decisions, and correct documentation and maintenance of reports. Quality assurance reviews must begin

no later than September 30, 2015.

(b) The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues.

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Miss. Code Ann. § 43-21-353 (2016). Reporting abuse or neglect.

(1) Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, public or private school employee or any other person having reasonable cause to suspect that a child is a neglected child or an abused child, shall cause an oral report to be made immediately by telephone or otherwise and followed as soon thereafter as possible by a report in writing to the Department of Human Services, and immediately a referral shall be made by the Department of Human Services to the youth court intake unit, which unit shall promptly comply with Section 43-21-357. In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual(s) responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the specific complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed. Where appropriate, the Department of Human Services shall additionally make a referral to the youth court prosecutor.

Upon receiving a report that a child has been sexually abused, or burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Human Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred and shall notify the appropriate prosecutor within forty-eight (48) hours, and the Department of Human Services shall have the duty to provide the law enforcement agency all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the Department of Human Services shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor's office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available. The Department of Human Services shall advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to the department within seventy-two (72) hours and shall update such report as information

becomes available.

(2) Any report to the Department of Human Services shall contain the names and addresses of the child and his parents or other persons responsible for his care, if known, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries and any other information that might be helpful in establishing the cause of the injury and the identity of the perpetrator.

(3) The Department of Human Services shall maintain a statewide incoming wide-area telephone service or similar service for the purpose of receiving reports of suspected cases of child abuse; provided that any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer or public or private school employee who is required to report under subsection (1) of this section shall report in the manner required in subsection (1).

(4) Reports of abuse and neglect made under this chapter and the identity of the reporter are confidential except when the court in which the investigation report is filed, in its discretion, determines the testimony of the person reporting to be material to a judicial proceeding or when the identity of the reporter is released to law enforcement agencies and the appropriate prosecutor pursuant to subsection (1). Reports made under this section to any law enforcement agency or prosecutorial officer are for the purpose of criminal investigation and prosecution only and no information from these reports may be released to the public except as provided by Section 43-21-261. Disclosure of any information by the prosecutor shall be according to the Mississippi Uniform Rules of Circuit and County Court Procedure. The identity of the reporting party shall not be disclosed to anyone other than law enforcement officers or prosecutors without an order from the appropriate youth court. Any person disclosing any reports made under this section in a manner not expressly provided for in this section or Section 43-21-261, shall be guilty of a misdemeanor and subject to the penalties prescribed by Section 43-21-267.

(5) All final dispositions of law enforcement investigations described in subsection (1) of this section shall be determined only by the appropriate prosecutor or court. All final dispositions of investigations by the Department of Human Services as described in subsection (1) of this section shall be determined only by the youth court. Reports made under subsection (1) of this section by the Department of Human Services to the law enforcement agency and to the district attorney's office shall include the following, if known to the department:

- (a) The name and address of the child;
- (b) The names and addresses of the parents;
- (c) The name and address of the suspected perpetrator;
- (d) The names and addresses of all witnesses, including the reporting party if a

material witness to the abuse;

(e) A brief statement of the facts indicating that the child has been abused and any other information from the agency files or known to the family protection worker or family protection specialist making the investigation, including medical records or other records, which may assist law enforcement or the district attorney in investigating and/or prosecuting the case; and

(f) What, if any, action is being taken by the Department of Human Services.

(6) In any investigation of a report made under this chapter of the abuse or neglect of a child as defined in Section 43-21-105(m), the Department of Human Services may request the appropriate law enforcement officer with jurisdiction to accompany the department in its investigation, and in such cases the law enforcement officer shall comply with such request.

(7) Anyone who willfully violates any provision of this section shall be, upon being found guilty, punished by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by imprisonment in jail not to exceed one (1) year, or both.

(8) If a report is made directly to the Department of Human Services that a child has been abused or neglected in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office within forty-eight (48) hours of such report. The Department of Human Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Human Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Human Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken.

(9) If a child protective investigation does not result in an out-of-home placement, a child protective investigator must provide information to the parent or guardians about community service programs that provide respite care, voluntary guardianship or other support services for families in crisis.

Miss. Code Ann. § 43-21-355 (2016). Civil and criminal immunity.

Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, school attendance officer, public school district employee, nonpublic school employee, licensed professional counselor or any other person participating in the making of a required report pursuant to Section 43-21-353 or participating in the judicial proceeding resulting therefrom shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Credits:

Laws, 1979, ch. 506, § 42; Laws, 1980, ch. 550, § 18; Laws, 1982, Ex Sess, ch. 17, § 22; Laws, 1993, ch. 522, § 2; Laws, 1994, ch. 591, § 4; Laws, 2004, ch. 489, § 4; Laws, 2006, ch. 430, § 1; Laws, 2006, ch. 600, § 5, eff from and after July 1, 2006.

Miss. Code Ann. § 43-47-7 (2016). Reports of abuse, neglect, exploitation.

(1)(a) Except as otherwise provided by Section 43-47-37 for vulnerable persons in care facilities, any person including, but not limited to, the following, who knows or suspects that a vulnerable person has been or is being abused, neglected or exploited shall immediately report such knowledge or suspicion to the Department of Human Services or to the county department of human services where the vulnerable person is located:

- (i) Attorney, physician, osteopathic physician, medical examiner, chiropractor or nurse engaged in the admission, examination, care or treatment of vulnerable persons;
- (ii) Health professional or mental health professional other than one listed in subparagraph (i);
- (iii) Practitioner who relies solely on spiritual means for healing;
- (iv) Social worker, family protection worker, family protection specialist or other professional care, residential or institutional staff;
- (v) State, county or municipal criminal justice employee or law enforcement officer;
- (vi) Human rights advocacy committee or long-term care ombudsman council member; or

(vii) Accountant, stockbroker, financial advisor or consultant, insurance agent or consultant, investment advisor or consultant, financial planner, or any officer or employee of a bank, savings and loan, credit union or any other financial service provider.

(b) To the extent possible, a report made pursuant to paragraph (a) must contain, but need not be limited to, the following information:

(i) Name, age, race, sex, physical description and location of each vulnerable person alleged to have been abused, neglected or exploited.

(ii) Names, addresses and telephone numbers of the vulnerable person's family members.

(iii) Name, address and telephone number of each alleged perpetrator.

(iv) Name, address and telephone number of the caregiver of the vulnerable person, if different from the alleged perpetrator.

(v) Description of the neglect, exploitation, physical or psychological injuries sustained.

(vi) Actions taken by the reporter, if any, such as notification of the criminal justice agency.

(vii) Any other information available to the reporting person which may establish the cause of abuse, neglect or exploitation that occurred or is occurring.

In addition to the above, any person or entity holding or required to hold a license as specified in Title 73, Professions and Vocations, Mississippi Code of 1972, shall be required to give his, her or its name, address and telephone number in the report of the alleged abuse, neglect or exploitation.

(c) The department, or its designees, shall report to an appropriate criminal investigative or prosecutive authority any person required by this section to report or who fails to comply with this section. A person who fails to make a report as required under this subsection or who, because of the circumstances, should have known or suspected beyond a reasonable doubt that a vulnerable person suffers from exploitation, abuse, neglect or self-neglect but who knowingly fails to comply with this section shall, upon conviction, be guilty of a misdemeanor and shall be punished by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by imprisonment in the county jail for not more than six (6) months, or both such fine and imprisonment. However, for purposes of this subsection (1), any

recognized legal financial transaction shall not be considered cause to report the knowledge or suspicion of the financial exploitation of a vulnerable person. If a person convicted under this section is a member of a profession or occupation that is licensed, certified or regulated by the state, the court shall notify the appropriate licensing, certifying or regulating entity of the conviction.

(2) Reports received by law enforcement authorities or other agencies shall be forwarded immediately to the Department of Human Services or the county department of human services. The Department of Human Services shall investigate the reported abuse, neglect or exploitation immediately and shall file a preliminary report of its findings with the Office of the Attorney General within forty-eight (48) hours if immediate attention is needed, or seventy-two (72) hours if the vulnerable person is not in immediate danger and shall make additional reports as new information or evidence becomes available. The Department of Human Services, upon request, shall forward a statement to the person making the initial report required by this section as to what action is being taken, if any.

(3) The report may be made orally or in writing, but where made orally, it shall be followed up by a written report. A person who fails to report or to otherwise comply with this section, as provided herein, shall have no civil or criminal liability, other than that expressly provided for in this section, to any person or entity in connection with any failure to report or to otherwise comply with the requirements of this section.

(4) Anyone who makes a report required by this section or who testifies or participates in any judicial proceedings arising from the report or who participates in a required investigation or evaluation shall be presumed to be acting in good faith and in so doing shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed. However, the immunity provided under this subsection shall not apply to any suspect or perpetrator of any abuse, neglect or exploitation.

(5) A person who intentionally makes a false report under the provisions of this section may be found liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

(6) The Executive Director of the Department of Human Services shall establish a statewide central register of reports made pursuant to this section. The central register shall be capable of receiving reports of vulnerable persons in need of protective services seven (7) days a week, twenty-four (24) hours a day. To effectuate this purpose, the executive director shall establish a single toll-free statewide phone number that all persons may use to report vulnerable persons in need of protective services, and that all persons authorized by subsection (7) of this section may use for determining the existence of prior reports in order to evaluate the condition or circumstances of the vulnerable person before them. Such oral reports and evidence of previous reports shall be transmitted to the appropriate county department of human services. The central register shall include, but not be limited to, the following information: the name and identifying information of the individual reported, the county department of human services responsible for the investigation of each such report, the names, affiliations and

purposes of any person requesting or receiving information which the executive director believes might be helpful in the furtherance of the purposes of this chapter, the name, address, birth date, social security number of the perpetrator of abuse, neglect and/or exploitation, and the type of abuse, neglect and/or exploitation of which there was substantial evidence upon investigation of the report. The central register shall inform the person making reports required under this section of his or her right to request statements from the department as to what action is being taken, if any.

Each person, business, organization or other entity, whether public or private, operated for profit, operated for nonprofit or a voluntary unit of government not responsible for law enforcement providing care, supervision or treatment of vulnerable persons shall conduct criminal history records checks on each new employee of the entity who provides, and/or would provide direct patient care or services to adults or vulnerable persons, as provided in Section 43-11-13.

The department shall not release data that would be harmful or detrimental to the vulnerable person or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

(7) Reports made pursuant to this section, reports written or photographs taken concerning such reports in the possession of the Department of Human Services or the county department of human services shall be confidential and shall only be made available to:

- (a) A physician who has before him a vulnerable person whom he reasonably suspects may be abused, neglected or exploited, as defined in Section 43-47-5;
- (b) A duly authorized agency having the responsibility for the care or supervision of a subject of the report;
- (c) A grand jury or a court of competent jurisdiction, upon finding that the information in the record is necessary for the determination of charges before the grand jury;
- (d) A district attorney or other law enforcement official.

Notwithstanding the provisions of paragraph (b) of this subsection, the department may not disclose a report of the abandonment, exploitation, abuse, neglect or self-neglect of a vulnerable person to the vulnerable person's guardian, attorney-in-fact, surrogate decision maker, or caregiver who is a perpetrator or alleged perpetrator of the abandonment, exploitation, abuse or neglect of the vulnerable person.

Any person given access to the names or other information identifying the subject of the report, except the subject of the report, shall not divulge or make public

such identifying information unless he is a district attorney or other law enforcement official and the purpose is to initiate court action. Any person who willfully permits the release of any data or information obtained pursuant to this section to persons or agencies not permitted to such access by this section shall be guilty of a misdemeanor.

(8) Upon reasonable cause to believe that a caretaker or other person has abused, neglected or exploited a vulnerable person, the department shall promptly notify the district attorney of the county in which the vulnerable person is located and the Office of the Attorney General, except as provided in Section 43-47-37(2).

Credits:

Laws, 1986, ch. 468, § 4; reenacted, Laws, 1989, ch. 381, § 4; Laws, 1990, ch. 493, § 3; Laws, 1991, ch. 431 § 2; Laws, 1996, ch. 351, § 2; Laws, 2001, ch. 603, § 2; Laws, 2004, ch. 489, § 7; Laws, 2006, ch. 600, § 9; Laws, 2009, ch. 468, § 1; Laws, 2010, ch. 357, § 4, eff from and after July 1, 2010.

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Mo. Rev. Stat. § 210.115 (2016). Reports of abuse, neglect, and under age eighteen deaths--persons required to report--deaths required to report--deaths required to be reported to the division or child fatality review panel, when--report made to another state, when

1. When any physician, medical examiner, coroner, dentist, chiropractor, optometrist, podiatrist, resident, intern, nurse, hospital or clinic personnel that are engaged in the examination, care, treatment or research of persons, and any other health practitioner, psychologist, mental health professional, social worker, day care center worker or other child-care worker, juvenile officer, probation or parole officer, jail or detention center personnel, teacher, principal or other school official, minister as provided by section 352.400, RSMo, peace officer or law enforcement official, or other person with responsibility for the care of children has reasonable cause to suspect 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, that person shall immediately report or cause a report to be made to the division in accordance with the provisions of sections 210.109 to 210.183. As used in this section, the term “abuse” is not limited to abuse inflicted by a person responsible for the child's care, custody and control as specified in section 210.110, but shall also include abuse inflicted by any other person.

2. Whenever such person is required to report pursuant to sections 210.109 to 210.183 in an official capacity as a staff member of a medical institution, school facility, or other agency, whether public or private, the person in charge or a designated agent shall be notified immediately. The person in charge or a designated agent shall then become responsible for immediately making or causing such report to be made to the division. Nothing in this section, however, is meant to preclude any person from reporting abuse or neglect.

3. Notwithstanding any other provision of sections 210.109 to 210.183, any child who does not receive specified medical treatment by reason of the legitimate practice of the religious belief of the child's parents, guardian, or others legally responsible for the child, for that reason alone, shall not be found to be an abused or neglected child, and such parents, guardian or other persons legally responsible for the child shall not be entered into the central registry. However, the division may accept reports concerning such a child and may subsequently investigate or conduct a family assessment as a result of that report. Such an exception shall not limit the administrative or judicial authority of the state to ensure that medical services are provided to the child when the child's health requires it.

4. In addition to those persons and officials required to report actual or suspected abuse or neglect, any other person may report in accordance with sections 210.109 to 210.183 if such person has reasonable cause to suspect 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.

5. Any person or official required to report pursuant to this section, including employees of the division, who has probable cause to suspect that a child who is or may be under the age of eighteen, who is eligible to receive a certificate of live birth, has died shall report that fact to the appropriate medical examiner or coroner. If, upon review of the circumstances and medical information, the medical examiner or coroner determines that the child died of natural causes while under medical care for an established natural disease, the coroner, medical examiner or physician shall notify the division of the child's death and that the child's attending physician shall be signing the death certificate. In all other cases, the medical examiner or coroner shall accept the report for investigation, shall immediately notify the division of the child's death as required in section 58.452, RSMo, and shall report the findings to the child fatality review panel established pursuant to section 210.192.

6. Any person or individual required to report may also report the suspicion of abuse or neglect to any law enforcement agency or juvenile office. Such report shall not, however, take the place of reporting or causing a report to be made to the division.

7. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the

person required to report such abuse or neglect may, in lieu of reporting to the Missouri division of family services, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the Missouri division of family services.

8. If an individual required to report suspected instances of abuse or neglect pursuant to this section has reason to believe that the victim of such abuse or neglect is a resident of another state or was injured as a result of an act which occurred in another state, the person required to report such abuse or neglect may, in lieu of reporting to the Missouri children's division, make such a report to the child protection agency of the other state with the authority to receive such reports pursuant to the laws of such other state. If such agency accepts the report, no report is required to be made, but may be made, to the children's division.

Credits:

L. 1975 H.B. 578 § 2; A.L. 1980 S.B. 574; A.L. 1982 H.B. 1171, et al; A.L. 1991 H.B. 185; A.L. 1993 S.B. 253 merged with S.B. 394; A.L. 1994 S.B. 595; A.L. 1998 H.B. 1556; A.L. 2000 S.B. 757 & 602; A.L. 2002 S.B. 923, et al; A.L. 2003 H.B. 445; A.L. 2013 H.B. 505, § A, eff. Aug. 28, 2013; A.L. 2014 H.B. 1299, § A, eff. Aug. 28, 2014.

Mo. Rev. Stat. § 352.400 (2016). Minister or religious organization to report suspected child abuse or neglect, when--privileged communications

1. As used in this section, the following words and phrases shall mean:

(1) **“Abuse”**, any physical injury, sexual abuse, or emotional abuse, injury or harm to a child under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo;

(2) **“Child”**, any person regardless of physical or mental condition, under eighteen years of age;

(3) **“Minister”**, any person while practicing as a minister of the gospel, clergyperson, priest, rabbi, Christian Science practitioner, or other person serving in a similar capacity for any religious organization who is responsible for or who has supervisory authority over one who is responsible for the care, custody, and control of a child or has access to a child;

(4) **“Neglect”**, failure to provide the proper or necessary support or services by those responsible for the care, custody, and control of a child, under circumstances required to be reported pursuant to sections 210.109 to 210.183,

RSMo;

(5) “**Religious organization**”, any society, sect, persuasion, mission, church, parish, congregation, temple, convention or association of any of the foregoing, diocese or presbytery, or other organization, whether or not incorporated, that meets at more or less regular intervals for worship of a supreme being or higher power, or for mutual support or edification in piety or with respect to the idea that a minimum standard of behavior from the standpoint of overall morality is to be observed, or for the sharing of common religious bonds and convictions;

(6) “**Report**”, the communication of an allegation of abuse or neglect pursuant to sections 210.109 to 210.183, RSMo.

2. When a minister or agent designated pursuant to subsection 3 of this section has reasonable cause to suspect that a child has been or may be subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, the minister or designated agent shall immediately report or cause a report to be made as provided in sections 210.109 to 210.183, RSMo. Notwithstanding any other provision of this section or sections 210.109 to 210.183, RSMo, a minister shall not be required to report concerning a privileged communication made to him or her in his or her professional capacity.

3. A religious organization may designate an agent or agents required to report pursuant to sections 210.109 to 210.183, RSMo, in an official capacity on behalf of the religious organization. In the event a minister, official or staff member of a religious organization has probable cause to believe that the child has been subjected to abuse or neglect under circumstances required to be reported pursuant to sections 210.109 to 210.183, RSMo, and the minister, official or staff member of the religious organization does not personally make a report pursuant to sections 210.109 to 210.183, RSMo, the designated agent of the religious organization shall be notified. The designated agent shall then become responsible for making or causing the report to be made pursuant to sections 210.109 to 210.183, RSMo. This section shall not preclude any person from reporting abuse or neglect as otherwise provided by law.

Credits:

L. 2002 S.B. 923, et al; A.L. 2003 H.B. 445.

Mo. Rev. Stat. § 568.110 (2016). Professional’s duty to report on film, photographs, videotapes, failure to report, penalty--exceptions

1. Any film and photographic print processor, computer provider, installer or repair person, or any Internet service provider who has knowledge of or observes, within the scope of the person's professional capacity or employment, any film, photograph, videotape, negative, slide, or computer-generated image or picture depicting a child under the age of eighteen years engaged in an act of sexual conduct shall report such instance to

the law enforcement agency having jurisdiction over the case immediately or as soon as practically possible.

2. Failure to make such report shall be a class B misdemeanor.

3. Nothing in this section shall be construed to require a provider of electronic communication services or remote computing services to monitor any user, subscriber or customer of the provider, or the content of any communication of any user, subscriber or customer of the provider.

Credits:

L. 1984 H.B. 1255; A.L. 2000 S.B. 757 & 602.

Mo. Rev. Stat. § 210.140 (2016). Privileged communication not recognized, exception

Any legally recognized privileged communication, except that between attorney and client or involving communications made to a minister or clergyperson, shall not apply to situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required or permitted by sections 210.110 to 210.165, to cooperate with the division in any of its activities pursuant to sections 210.110 to 210.165, or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

Credits:

L. 1975 H.B. 578 § 7; A.L. 1980 S.B. 574; A.L. 2001 S.B. 267.

Mo. Rev. Stat. § 210.155 (2016). Division to provide programs and information--division to continuously inform persons required to report and public as to toll free telephones available for abuse reports

1. The division shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to sections 210.110 to 210.165 and the public of the nature, problem, and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families; and to encourage self-reporting and the voluntary acceptance of such services. In addition, those mandated to report pursuant to this act shall be informed by the division of their duties, options, and responsibilities in accordance with this act.

2. The division shall conduct ongoing training programs in relation to sections 210.110 to 210.165 for agency staff.

3. The division shall continuously publicize to mandated reporters of abuse or neglect and to the public the existence and the number of the twenty-four hour, statewide toll free

telephone service to receive reports of abuse or neglect.

Credits:

L. 1975 H.B. 578 § 10.

Mo. Rev. Stat. § 210.165 (2016). Penalty for violation

1. Any person violating any provision of sections 210.110 to 210.165 is guilty of a class A misdemeanor.

2. Any person who intentionally files a false report of child abuse or neglect shall be guilty of a class A misdemeanor.

3. Every person who has been previously convicted of making a false report to the division of family services and who is subsequently convicted of making a false report under subsection 2 of this section is guilty of a class D felony and shall be punished as provided by law.

4. Evidence of prior convictions of false reporting shall be heard by the court, out of the hearing of the jury, prior to the submission of the case to the jury, and the court shall determine the existence of the prior convictions.

Credits:

L. 1975 H.B. 578 § 12; A.L. 1982 H.B. 1171, et al; A.L. 1986 S.B. 470; A.L. 2014 H.B. 1299; A.L. 2014 S.B. 491, § A, eff. Jan. 1, 2017.

Mo. Rev. Stat. § 162.069 (2016). Written policy concerning teacher-student and employee-student communication--sexual abuse identification training

<Text of section effective February 3, 2012. See, also, section effective until February 3, 2012.>

1. Every school district shall, by March 1, 2012, promulgate a written policy concerning employee-student communication. Such policy shall include, but not be limited to, the use of electronic media and other mechanisms to prevent improper communications between staff members and students.

2. The school board of each school district and the governing body of each charter school shall, by January 1, 2014, adopt and implement training guidelines and an annual training program for all school employees who are mandatory reporters of child abuse or neglect under section 210.115.

3. Every school district and the governing body of each charter school shall, by July 1,

2014, include in its teacher and employee training a component that provides up-to-date and reliable information on identifying signs of sexual abuse in children and danger signals of potentially abusive relationships between children and adults. The training shall emphasize the importance of mandatory reporting of abuse under section 210.115 including the obligation of mandated reporters to report suspected abuse by other mandated reporters, and how to establish an atmosphere of trust so that students feel their school has concerned adults with whom they feel comfortable discussing matters related to abuse. The training shall also emphasize that:

(1) All mandatory reporters shall, upon finding reasonable cause, directly and immediately report suspected child abuse or neglect as provided in section 210.115;

(2) No supervisor or administrator may impede or inhibit any reporting under section 210.115; and

(3) No person making a report under section 210.115 shall be subject to any sanction, including any adverse employment action, for making such report

Credits:

L. 2011 S.B. 54; A.L. 2011 1st Ex. Sess. S.B. 1; A.L. 2013 H.B. 505, § A, eff. Aug. 28, 2013.

Mo. Rev. Stat. § 191.737 (2016). Children exposed to substance abuse, referral by physician to department of health and senior services--services to be initiated within seventy-two hours--physician making referral immune from civil liability--confidentiality of report

1. Notwithstanding the physician-patient privilege, any physician or health care provider may refer to the department of health and senior services families in which children may have been exposed to a controlled substance listed in section 195.017, RSMo, schedules I, II and III, or alcohol as evidenced by:

(1) Medical documentation of signs and symptoms consistent with controlled substances or alcohol exposure in the child at birth; or

(2) Results of a confirmed toxicology test for controlled substances performed at birth on the mother or the child; and

(3) A written assessment made or approved by a physician, health care provider, or by the division of family services which documents the child as being at risk of abuse or neglect.

2. Nothing in this section shall preclude a physician or other mandated reporter from reporting abuse or neglect of a child as required pursuant to the provisions of section 210.115, RSMo.

3. Upon notification pursuant to subsection 1 of this section, the department of health and senior services shall offer service coordination services to the family. The department of health and senior services shall coordinate social services, health care, mental health services, and needed education and rehabilitation services. Service coordination services shall be initiated within seventy-two hours of notification. The department of health and senior services shall notify the department of social services and the department of mental health within seventy-two hours of initial notification.

4. Any physician or health care provider complying with the provisions of this section, in good faith, shall have immunity from any civil liability that might otherwise result by reason of such actions.

5. Referral and associated documentation provided for in this section shall be confidential and shall not be used in any criminal prosecution.

Credits:

L. 1991 S.B. 190 § 7; A.L. 2014 H.B. 1299, § A, eff. Aug. 28, 2014.

MONTANA

Mont. Code Ann. § 41-3-201 (2016). Reports.

(1) When the professionals and officials listed in subsection (2) know or have reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that a child is abused or neglected by anyone regardless of whether the person suspected of causing the abuse or neglect is a parent or other person responsible for the child's welfare, they shall report the matter promptly to the department of public health and human services.

(2) Professionals and officials required to report are:

- (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination, care, or treatment of persons;
- (b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any other health or mental health professional;
- (c) religious healers;
- (d) school teachers, other school officials, and employees who work during regular school hours;
- (e) a social worker, operator or employee of any registered or licensed day-care or substitute care facility, staff of a resource and referral grant program organized

- under 52-2-711 or of a child and adult food care program, or an operator or employee of a child-care facility;
- (f) a foster care, residential, or institutional worker;
 - (g) a peace officer or other law enforcement official;
 - (h) a member of the clergy, as defined in 15-6-201(2)(b);
 - (i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged abuse or neglect; or
 - (j) an employee of an entity that contracts with the department to provide direct services to children.
- (3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall report to the department any infant known to the professional to be affected by a dangerous drug, as defined in 50-32-101.
- (4) Any person may make a report under this section if the person knows or has reasonable cause to suspect that a child is abused or neglected.
- (5)(a) Except as provided in subsection (5)(b) or (5)(c), a person listed in subsection (2) may not refuse to make a report as required in this section on the grounds of a physician-patient or similar privilege.
- (b) A member of the clergy or a priest is not required to make a report under this section if:
- (i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;
 - (ii) the statement was intended to be a part of a confidential communication between the member of the clergy or the priest and a member of the church or congregation; and
 - (iii) the person who made the statement or confession does not consent to the disclosure by the member of the clergy or the priest.
- (c) A member of the clergy or a priest is not required to make a report under this section if the communication is required to be confidential by canon law, church doctrine, or established church practice.
- (6) The reports referred to under this section must contain:

(a) the names and addresses of the child and the child's parents or other persons responsible for the child's care;

(b) to the extent known, the child's age and the nature and extent of the child's injuries, including any evidence of previous injuries;

(c) any other information that the maker of the report believes might be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or neglect; and

(d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful neglect, within the meaning of this chapter.

Credits:

En. Sec. 2, Ch. 178, L. 1965; amd. Sec. 2, Ch. 292, L. 1973; Sec. 10-902, R.C.M. 1947; redes. 10-1304 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1304; amd. Sec. 6, Ch. 543, L. 1979; amd. Sec. 3, Ch. 511, L. 1981; amd. Sec. 11, Ch. 609, L. 1987; amd. Sec. 1, Ch. 79, L. 1989; amd. Sec. 1, Ch. 785, L. 1991; amd. Sec. 8, Ch. 458, L. 1995; amd. Sec. 162, Ch. 546, L. 1995; amd. Sec. 4, Ch. 514, L. 1997; amd. Sec. 4, Ch. 311, L. 2001; amd. Sec. 3, Ch. 382, L. 2005; amd. Sec. 3, Ch. 166, L. 2007; amd. Sec. 2, Ch. 223, L. 2011; amd. Sec. 2, Ch. 278, L. 2011; amd. Sec. 1, Ch. 337, L. 2013.

Mont. Code Ann. § 41-3-203 (2016). Immunity from liability.

(1) Anyone investigating or reporting any incident of child abuse or neglect under 41-3-201 or 41-3-202, participating in resulting judicial proceedings, or furnishing hospital or medical records as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

(2) A person who provides information pursuant to 41-3-201 that is substantiated by the department or a person who uses information received pursuant to 41-3-205 that is substantiated by the department to refuse to hire or to discharge a prospective or current employee, volunteer, or other person who through employment or volunteer activities may have unsupervised contact with children is immune from civil liability unless the person acted in bad faith or with malicious purpose.

Credits:

En. Sec. 4, Ch. 178, L. 1965; Sec. 10-904, R.C.M. 1947; redes. 10-1306 by Sec. 14, Ch. 328, L. 1974; R.C.M. 1947, 10-1306; amd. Sec. 9, Ch. 543, L. 1979; amd. Sec. 1, Ch. 181, L. 1993; amd. Sec. 9, Ch. 458, L. 1995; amd. Sec. 5, Ch. 566, L. 1999.

Mont. Code Ann. § 41-3-205 (2016). Confidentiality--disclosure exceptions

(1) The case records of the department and its local affiliate, the local office of public assistance, the county attorney, and the court concerning actions taken under this chapter and all records concerning reports of child abuse and neglect must be kept confidential except as provided by this section. Except as provided in subsections (7) and (8), a person who purposely or knowingly permits or encourages the unauthorized dissemination of the contents of case records is guilty of a misdemeanor.

(2) Records may be disclosed to a court for in camera inspection if relevant to an issue before it. The court may permit public disclosure if it finds disclosure to be necessary for the fair resolution of an issue before it.

(3) Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected by this section or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, may be disclosed to the following persons or entities in this state and any other state or country:

(a) a department, agency, or organization, including a federal agency, military enclave, or Indian tribal organization, that is legally authorized to receive, inspect, or investigate reports of child abuse or neglect and that otherwise meets the disclosure criteria contained in this section;

(b) a licensed youth care facility or a licensed child-placing agency that is providing services to the family or child who is the subject of a report in the records or to a person authorized by the department to receive relevant information for the purpose of determining the best interests of a child with respect to an adoptive placement;

(c) a health or mental health professional who is treating the family or child who is the subject of a report in the records;

(d) a parent, guardian, or person designated by a parent or guardian of the child who is the subject of a report in the records or other person responsible for the child's welfare, without disclosure of the identity of any person who reported or provided information on the alleged child abuse or neglect incident contained in the records;

(e) a child named in the records who was allegedly abused or neglected or the child's legal guardian or legal representative, including the child's guardian ad litem or attorney or a special advocate appointed by the court to represent a child in a pending case;

(f) the state protection and advocacy program as authorized by 42 U.S.C.

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(g) approved foster and adoptive parents who are or may be providing care for a child;

(h) a person about whom a report has been made and that person's attorney, with respect to the relevant records pertaining to that person only and without disclosing the identity of the reporter or any other person whose safety may be endangered;

(i) an agency, including a probation or parole agency, that is legally responsible for the supervision of an alleged perpetrator of child abuse or neglect;

(j) a person, agency, or organization that is engaged in a bona fide research or evaluation project and that is authorized by the department to conduct the research or evaluation;

(k) the members of an interdisciplinary child protective team authorized under 41-3-108 or of a family group decisionmaking meeting for the purposes of assessing the needs of the child and family, formulating a treatment plan, and monitoring the plan;

(l) the coroner or medical examiner when determining the cause of death of a child;

(m) a child fatality review team recognized by the department;

(n) a department or agency investigating an applicant for a license or registration that is required to operate a youth care facility, day-care facility, or child-placing agency;

(o) a person or entity who is carrying out background, employment-related, or volunteer-related screening of current or prospective employees or volunteers who have or may have unsupervised contact with children through employment or volunteer activities. A request for information under this subsection (3)(o) must be made in writing. Disclosure under this subsection (3)(o) is limited to information that indicates a risk to children, persons with developmental disabilities, or older persons posed by the person about whom the information is sought, as determined by the department.

(p) the news media, a member of the United States congress, or a state legislator, if disclosure is limited to confirmation of factual information regarding how the case was handled and if disclosure does not violate the privacy rights of the child or the child's parent or guardian, as determined by the department;

(q) an employee of the department or other state agency if disclosure of the

- records is necessary for administration of programs designed to benefit the child;
- (r) an agency of an Indian tribe, a qualified expert witness, or the relatives of an Indian child if disclosure of the records is necessary to meet requirements of the federal Indian Child Welfare Act;
 - (s) a juvenile probation officer who is working in an official capacity with the child who is the subject of a report in the records;
 - (t) a county attorney, peace officer, or attorney who is hired by or represents the department if disclosure is necessary for the investigation, defense, or prosecution of a case involving child abuse or neglect;
 - (u) a foster care review committee established under 41-3-115 or, when applicable, a citizen review board established under Title 41, chapter 3, part 10;
 - (v) a school employee participating in an interview of a child by a social worker, county attorney, or peace officer, as provided in 41-3-202;
 - (w) a member of a county interdisciplinary child information team formed under the provisions of 52-2-211;
 - (x) members of a local interagency staffing group provided for in 52-2-203;
 - (y) a member of a youth placement committee formed under the provisions of 41-5-121; or
 - (z) a principal of a school or other employee of the school district authorized by the trustees of the district to receive the information with respect to a student of the district who is a client of the department.
- (4) A school or school district may disclose, without consent, personally identifiable information from the education records of a pupil to the department, the court, a review board, and the child's assigned attorney, guardian ad litem, or special advocate.
- (5) Information that identifies a person as a participant in or recipient of substance abuse treatment services may be disclosed only as allowed by federal substance abuse confidentiality laws, including the consent provisions of the law.
- (6) The confidentiality provisions of this section must be construed to allow a court of this state to share information with other courts of this state or of another state when necessary to expedite the interstate placement of children.
- (7) A person who is authorized to receive records under this section shall maintain the confidentiality of the records and may not disclose information in the records to anyone other than the persons described in subsection (3)(a). However, this subsection may not

be construed to compel a family member to keep the proceedings confidential.

(8) A news organization or its employee, including a freelance writer or reporter, is not liable for reporting facts or statements made by an immediate family member under subsection (7) if the news organization, employee, writer, or reporter maintains the confidentiality of the child who is the subject of the proceeding.

(9) This section is not intended to affect the confidentiality of criminal court records, records of law enforcement agencies, or medical records covered by state or federal disclosure limitations.

(10) Copies of records, evaluations, reports, or other evidence obtained or generated pursuant to this section that are provided to the parent, the guardian, or the parent or guardian's attorney must be provided without cost.

Credits:

En. 10-1308 by Sec. 4, Ch. 328, L. 1974; R.C.M. 1947, 10-1308; amd. Sec. 11, Ch. 543, L. 1979; amd. Sec. 1, Ch. 287, L. 1987; amd. Sec. 39, Ch. 609, L. 1987; amd. Sec. 1, Ch. 110, L. 1989; amd. Sec. 2, Ch. 126, L. 1989; amd. Sec. 2, Ch. 510, L. 1991; amd. Sec. 5, Ch. 655, L. 1991; amd. Sec. 15, Ch. 610, L. 1993; amd. Sec. 10, Ch. 458, L. 1995; amd. Sec. 164, Ch. 546, L. 1995; amd. Sec. 4, Ch. 564, L. 1995; amd. Sec. 7, Ch. 514, L. 1997; amd. Sec. 5, Ch. 550, L. 1997; amd. Sec. 6, Ch. 566, L. 1999; amd. Sec. 2, Ch. 281, L. 2001; amd. Sec. 6, Ch. 311, L. 2001; amd. Sec. 1, Ch. 570, L. 2001; amd. Sec. 45, Ch. 571, L. 2001; amd. Sec. 5, Ch. 504, L. 2003; amd. Sec. 2, Ch. 349, L. 2005; amd. Sec. 29, Ch. 449, L. 2005; amd. Sec. 4, Ch. 166, L. 2007; amd. Sec. 60, Ch. 2, L. 2009; amd. Sec. 2, Ch. 61, L. 2013; amd. Sec. 1, Ch. 332, L. 2013; amd. Sec. 8, Ch. 333, L. 2013; amd. Sec. 2, Ch. 337, L. 2013; amd. Sec. 5, Ch. 364, L. 2013; amd. Sec. 8, Ch. 354, L. 2015.

Mont. Code Ann. § 41-3-206 (2016). Procedure in case of child's death

(1) A person or official required to report by law who has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report the person's suspicion to the appropriate medical examiner or law enforcement officer. Any other person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect may report the person's suspicion to the appropriate medical examiner or law enforcement officer.

(2) The medical examiner or coroner shall investigate the report and submit findings, in writing, to the local law enforcement agency, the appropriate county attorney, the local child protective service, the family of the deceased child, and, if the person making the report is a physician, the physician.

Credits:

En. Sec. 7, Ch. 543, L. 1979; amd. Sec. 5, Ch. 564, L. 1995.

Mont. Code Ann. § 41-3-207 (2016). Penalty for failure to report.

(1) Any person, official, or institution required by law to report known or suspected child abuse or neglect who fails to do so or who prevents another person from reasonably doing so is civilly liable for the damages proximately caused by such failure or prevention.

(2) Any person or official required by law to report known or suspected child abuse or neglect who purposely or knowingly fails to report known child abuse or neglect or purposely or knowingly prevents another person from doing so is guilty of a misdemeanor

Credits:

En. Sec. 15, Ch. 543, L. 1979; amd. Sec. 1, Ch. 367, L. 1985.

Mont.Admin.R. 37.95.171 (2016). Day Care Facilities: Mandated Reporting of Suspected Child Abuse and Neglect.

(1) The director, assistant director or any staff member of the day care facility who has reason to suspect that any child is or has been abused or neglected is required to personally report the matter promptly to the department child abuse hotline at 1 (866) 820-5437. The day care provider or staff member shall make the report within 24 hours of receiving information concerning suspected child abuse or neglect.

Credits:

(52-2-704, MCA; IMP: 41-3-102, 52-2-704, MCA; NEW, 2006 MAR p. 1424, Eff. 6/2/06.)

NEBRASKA

Neb.Rev.St. § 28-379 (2016). Report of abuse; summary by department; when provided.

Upon request, a physician or the person in charge of an institution, facility, or agency making a legally mandated report shall receive a summary of the findings of and actions taken by the department in response to such report. The amount of detail such summary contains and the purposes for which it may be used shall depend on the source of the

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report and shall be established by rules and regulations adopted and promulgated by the department.

Credits:

Laws 1988, LB 463, § 32.

Neb.Rev. Stat. Ann. § 28-711 (2016). Child subjected to abuse or neglect; report; contents; toll-free number

(1) When any physician, any medical institution, any nurse, any school employee, any social worker, the Inspector General appointed under section 43-4317, or any other person has reasonable cause to believe that a child has been subjected to child abuse or neglect or observes such child being subjected to conditions or circumstances which reasonably would result in child abuse or neglect, he or she shall report such incident or cause a report of child abuse or neglect to be made to the proper law enforcement agency or to the department on the toll-free number established by subsection (2) of this section. Such report may be made orally by telephone with the caller giving his or her name and address, shall be followed by a written report, and to the extent available shall contain the address and age of the abused or neglected child, the address of the person or persons having custody of the abused or neglected child, the nature and extent of the child abuse or neglect or the conditions and circumstances which would reasonably result in such child abuse or neglect, any evidence of previous child abuse or neglect including the nature and extent, and any other information which in the opinion of the person may be helpful in establishing the cause of such child abuse or neglect and the identity of the perpetrator or perpetrators. Law enforcement agencies receiving any reports of child abuse or neglect under this subsection shall notify the department pursuant to section 28-718 on the next working day by telephone or mail.

(2) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night, any day of the week, to make reports of child abuse or neglect. Reports of child abuse or neglect not previously made to or by a law enforcement agency shall be made immediately to such agency by the department.

Credits:

Laws 1977, LB 38, § 150; Laws 1979, LB 505, § 2; Laws 1982, LB 522, § 4; Laws 1988, LB 463, § 43; Laws 2002, LB 1105, § 432; Laws 2005, LB 116, § 2; Laws 2012, LB 821, § 39.

Neb.Rev. Stat. Ann. § 28-713 (2016). Reports of child abuse or neglect; law enforcement agency; department; duties.

Upon the receipt of a call reporting child abuse and neglect as required by section 28-711:

(1) It is the duty of the law enforcement agency to investigate the report, to take

immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect. The law enforcement agency may request assistance from the department during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(2) In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report of child abuse or neglect to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances;

(4) The department shall, by the next working day after receiving a report of child abuse or neglect under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken; and

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected child abuse or neglect.

Credits:

Laws 1977, LB 38, § 152; Laws 1979, LB 505, § 4; Laws 1982, LB 522, § 5; Laws 1988, LB 463, § 45; Laws 1992, LB 1184, § 10; Laws 1996, LB 1044, § 72; Laws 1997, LB 119, § 2; Laws 1997, LB 307, § 13; Laws 2005, LB 116, § 3; Laws 2007, LB 296, § 37; Laws 2014, LB 853, § 5.

Neb.Rev.St. § 28-713.01 (2016). Cases of child abuse or neglect; completion of investigation; notice; when

(1) Upon completion of the investigation pursuant to section 28-713:

(a) In situations of alleged out-of-home child abuse or neglect, the person or persons having custody of the allegedly abused or neglected child or children shall be given written notice of the results of the investigation and any other information the law enforcement agency or department deems necessary. Such notice and information shall be sent by first-class mail; and

(b) The subject of the report of child abuse or neglect shall be given written notice of the determination of the case and whether the subject of the report of child abuse or neglect will be entered into the central register of child protection cases maintained pursuant to section 28-718 under the criteria provided in section 28-720.

(2) If the subject of the report will be entered into the central register, the notice to the subject shall be sent by certified mail with return receipt requested or first-class mail to the last-known address of the subject of the report of child abuse or neglect and shall include:

(a) The nature of the report;

(b) The classification of the report under section 28-720; and

(c) Notification of the right of the subject of the report of child abuse or neglect to request the department to amend or expunge identifying information from the report or to remove the substantiated report from the central register in accordance with section 28-723.

(3) If the subject of the report will not be entered into the central register, the notice to the subject shall be sent by first-class mail and shall include:

(a) The nature of the report; and

(b) The classification of the report under section 28-720.

Credits:

Laws 1994, LB 1035, § 3; Laws 1997, LB 119, § 3; Laws 2005, LB 116, § 4; Laws 2012, LB 1051, § 17; Laws 2014, LB 853, § 6; Laws 2015, LB 292, § 1.

Neb. Rev. Stat. Ann. § 28-714 (2016). Privileged communications; not grounds for excluding evidence.

The privileged communication between patient and physician, between client and professional counselor, and between husband and wife shall not be a ground for

excluding evidence in any judicial proceeding resulting from a report of child abuse or neglect required by section 28-711.

Credits:

Laws 1977, LB 38, § 153; Laws 1993, LB 130, § 4; Laws 1994, LB 1035, § 4; Laws 2005, LB 116, § 5.

Neb. Rev. Stat. Ann. § 28-715 (2016). Tracking system; department; duties; use authorized

The department shall retain all information from all reports of suspected child abuse or neglect required by section 28-711 and all records generated as a result of such reports in a tracking system of child protection cases. The tracking system shall be used for statistical purposes as well as a reference for future investigations if subsequent reports of child abuse or neglect are made involving the same victim or subject of a report of child abuse or neglect.

Credits:

Laws 1977, LB 38, § 154; Laws 1979, LB 505, § 5; Laws 1988, LB 463, § 46; Laws 2005, LB 116, § 6.

Neb. Rev. Stat. Ann. § 28-716 (2016). Person participating in an investigation or making report; immune from liability; civil or criminal

Any person participating in an investigation or the making of a report of child abuse or neglect required by section 28-711 pursuant to or participating in a judicial proceeding resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

Credits:

Laws 1977, LB 38, § 155; Laws 1994, LB 1035, § 5; Laws 2005, LB 116, § 7.

Neb. Rev. Stat. Ann. § 28-717 (2016). Violation; penalty.

Any person who willfully fails to make any report of child abuse or neglect required by section 28-711 shall be guilty of a Class III misdemeanor.

Credits:

Laws 1977, LB 38, § 156; Laws 1994, LB 1035, § 6; Laws 2005, LB 116, § 8.

Neb. Rev. Stat. Ann. § 28-718 (2016). Child protection cases; central register; name-change order; treatment

(1) There shall be a central register of child protection cases maintained in the department containing records of all reports of child abuse or neglect opened for investigation as provided in section 28-713 and classified as either court substantiated or agency substantiated as provided in section 28-720. The department may change records classified as inconclusive prior to August 30, 2009, to agency substantiated. The

department shall give public notice of the changes made to this section and subsection (3) of section 28-720 by Laws 2009, LB 122, within thirty days after August 30, 2009, by having such notice published in a newspaper or newspapers of general circulation within the state.

(2) The department shall determine whether a name-change order received from the clerk of a district court pursuant to section 25-21,271 is for a person on the central register of child protection cases and, if so, shall include the changed name with the former name in the register and file or cross-reference the information under both names.

Credits:

Laws 1979, LB 505, § 6; Laws 2005, LB 116, § 9; Laws 2009, LB 122, § 1; Laws 2010, LB 147, § 3; Laws 2014, LB 853, § 7.

Neb. Rev. Stat. Ann. § 28-719 (2016). Child abuse and neglect records; access; when

Upon complying with identification requirements established by regulation of the department, or when ordered by a court of competent jurisdiction, any person legally authorized by section 28-722, 28-726, or 28-727 to have access to records relating to child abuse and neglect may request and shall be immediately provided the information requested in accordance with the requirement of the Child Protection Act. Such information shall not include the name and address of the person making the report of child abuse or neglect. The names and other identifying data and the dates and the circumstances of any persons requesting or receiving information from the central register of child protection cases maintained pursuant to section 28-718 shall be entered in such register record.

Credits:

Laws 1979, LB 505, § 7; Laws 2005, LB 116, § 10; Laws 2014, LB 853, § 8.

Neb.Rev.St. § 28-727 (2016). Report; person making; receive summary of findings and actions; when

Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect pursuant to section 28-711 shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report of child abuse or neglect and shall be established by regulations of the department.

Credits:

Laws 1979, LB 505, § 15; Laws 1982, LB 522, § 10; Laws 2005, LB 116, § 19.

NEVADA

Nev. Rev. Stat. Ann. § 432B.220 (2016). Persons required to make report; when and to whom reports are required; any person may make report; report and written findings if reasonable cause to believe death of child caused by abuse or neglect

1. Any person who is described in subsection 4 and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that a child has been abused or neglected shall:

(a) Except as otherwise provided in subsection 2, report the abuse or neglect of the child to an agency which provides child welfare services or to a law enforcement agency; and

(b) Make such a report as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the child has been abused or neglected.

2. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that the abuse or neglect of the child involves an act or omission of:

(a) A person directly responsible or serving as a volunteer for or an employee of a public or private home, institution or facility where the child is receiving child care outside of the home for a portion of the day, the person shall make the report to a law enforcement agency.

(b) An agency which provides child welfare services or a law enforcement agency, the person shall make the report to an agency other than the one alleged to have committed the act or omission, and the investigation of the abuse or neglect of the child must be made by an agency other than the one alleged to have committed the act or omission.

3. Any person who is described in paragraph (a) of subsection 4 who delivers or provides medical services to a newborn infant and who, in his or her professional or occupational capacity, knows or has reasonable cause to believe that the newborn infant has been affected by prenatal illegal substance abuse or has withdrawal symptoms resulting from prenatal drug exposure shall, as soon as reasonably practicable but not later than 24 hours after the person knows or has reasonable cause to believe that the newborn infant is so affected or has such symptoms, notify an agency which provides child welfare services of the condition of the infant and refer each person who is responsible for the welfare of the

infant to an agency which provides child welfare services for appropriate counseling, training or other services. A notification and referral to an agency which provides child welfare services pursuant to this subsection shall not be construed to require prosecution for any illegal action.

4. A report must be made pursuant to subsection 1 by the following persons:

(a) A physician, dentist, dental hygienist, chiropractor, optometrist, podiatric physician, medical examiner, resident, intern, professional or practical nurse, physician assistant licensed pursuant to chapter 630 or 633 of NRS, perfusionist, psychiatrist, psychologist, marriage and family therapist, clinical professional counselor, clinical alcohol and drug abuse counselor, alcohol and drug abuse counselor, clinical social worker, music therapist, athletic trainer, advanced emergency medical technician or other person providing medical services licensed or certified in this State.

(b) Any personnel of a hospital or similar institution engaged in the admission, examination, care or treatment of persons or an administrator, manager or other person in charge of a hospital or similar institution upon notification of suspected abuse or neglect of a child by a member of the staff of the hospital.

(c) A coroner.

(d) A member of the clergy, practitioner of Christian Science or religious healer, unless the person has acquired the knowledge of the abuse or neglect from the offender during a confession.

(e) A social worker and an administrator, teacher, librarian or counselor of a school.

(f) Any person who maintains or is employed by a facility or establishment that provides care for children, children's camp or other public or private facility, institution or agency furnishing care to a child.

(g) Any person licensed to conduct a foster home.

(h) Any officer or employee of a law enforcement agency or an adult or juvenile probation officer.

(i) An attorney, unless the attorney has acquired the knowledge of the abuse or neglect from a client who is or may be accused of the abuse or neglect.

(j) Any person who maintains, is employed by or serves as a volunteer for an agency or service which advises persons regarding abuse or neglect of a child and refers them to persons and agencies where their requests and needs can be met.

(k) Any person who is employed by or serves as a volunteer for a youth shelter. As used in this paragraph, “youth shelter” has the meaning ascribed to it in NRS 244.427.

(l) Any adult person who is employed by an entity that provides organized activities for children.

5. A report may be made by any other person.

6. If a person who is required to make a report pursuant to subsection 1 knows or has reasonable cause to believe that a child has died as a result of abuse or neglect, the person shall, as soon as reasonably practicable, report this belief to an agency which provides child welfare services or a law enforcement agency. If such a report is made to a law enforcement agency, the law enforcement agency shall notify an agency which provides child welfare services and the appropriate medical examiner or coroner of the report. If such a report is made to an agency which provides child welfare services, the agency which provides child welfare services shall notify the appropriate medical examiner or coroner of the report. The medical examiner or coroner who is notified of a report pursuant to this subsection shall investigate the report and submit his or her written findings to the appropriate agency which provides child welfare services, the appropriate district attorney and a law enforcement agency. The written findings must include, if obtainable, the information required pursuant to the provisions of subsection 2 of NRS 432B.230.

7. The agency, board, bureau, commission, department, division or political subdivision of the State responsible for the licensure, certification or endorsement of a person who is described in subsection 4 and who is required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State shall, at the time of initial licensure, certification or endorsement:

- (a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;
- (b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and
- (c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is licensed, certified or endorsed in this State.

8. The employer of a person who is described in subsection 4 and who is not required in his or her professional or occupational capacity to be licensed, certified or endorsed in this State must, upon initial employment of the person:

- (a) Inform the person, in writing or by electronic communication, of his or her duty as a mandatory reporter pursuant to this section;
- (b) Obtain a written acknowledgment or electronic record from the person that he or she has been informed of his or her duty pursuant to this section; and
- (c) Maintain a copy of the written acknowledgment or electronic record for as long as the person is employed by the employer.

Credits:

1985, p. 1371; 1987, ch. 788, § 42, p. 2132; 1987, ch. 800, § 28, p. 2220; 1989, ch. 48, § 58(1), p. 130; 1989, ch. 201, § 2, p. 439; 1993, ch. 533, § 29, p. 2229; 1999, ch. 631, § 21, p. 3526; 2001, ch. 152, § 57, p. 780; 2001, ch. 260, § 1, p. 1150; 2001 Sp. Sess., ch. 1, § 93, p. 37; 2003, ch. 173, § 50, p. 910; 2003, ch. 221, § 1, p. 1211; 2005, ch. 442, § 8, p. 2031; 2007, ch. 330, § 10, p. 1503; 2007, ch. 413, § 91, p. 1853; 2007, ch. 515, § 78, p. 3084; 2009, ch. 494, § 85, p. 2996; 2011, ch. 172, § 3, p. 791; 2011, ch. 252, § 30, p. 1097; 2013, ch. 226, § 39, p. 957; 2013, ch. 253, § 2, p. 1086; 2015, ch. 404, § 65, p. 2316.

Nev. Rev. Stat. Ann. § 432B.230 (2016). Method of making report; contents.

1. A person may make a report pursuant to NRS 432B.220 by telephone or, in light of all the surrounding facts and circumstances which are known or which reasonably should be known to the person at the time, by any other means of oral, written or electronic communication that a reasonable person would believe, under those facts and circumstances, is a reliable and swift means of communicating information to the person who receives the report. If the report is made orally, the person who receives the report must reduce it to writing as soon as reasonably practicable.

2. The report must contain the following information, if obtainable:

- (a) The name, address, age and sex of the child;
- (b) The name and address of the child's parents or other person responsible for the care of the child;
- (c) The nature and extent of the abuse or neglect of the child, the effect of prenatal illegal substance abuse on the newborn infant or the nature of the withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;
- (d) Any evidence of previously known or suspected:
 - (1) Abuse or neglect of the child or the child's siblings; or
 - (2) Effects of prenatal illegal substance abuse on or evidence of withdrawal symptoms resulting from prenatal drug exposure of the newborn infant;
- (e) The name, address and relationship, if known, of the person who is alleged to have abused or neglected the child; and
- (f) Any other information known to the person making the report that the agency

which provides child welfare services considers necessary.

Credits:

1985, p. 1372; 1999, ch. 631, § 22, p. 3528; 2001 Sp. Sess., ch. 1, § 94, p. 38; 2005, ch. 442, § 9, p. 2033.

Nev. Rev. Stat. Ann. § 432B.240 (2016). Penalty for failure to make report.

Any person who knowingly and willfully violates the provisions of NRS 432B.220 is guilty of a misdemeanor.

Credits:

1985, p. 1373; 2013, ch. 253, § 3, p. 1088.

Nev. Rev. Stat. Ann. § 432B.250 (2016). Persons required to report prohibited from invoking certain privileges.

Any person who is required to make a report pursuant to NRS 432B.220 may not invoke any of the privileges set forth in chapter 49 of NRS:

1. For failure to make a report pursuant to NRS 432B.220;
2. In cooperating with an agency which provides child welfare services or a guardian ad litem for a child; or
3. In any proceeding held pursuant to NRS 432B.410 to 432B.590, inclusive.

Credits:

1985, p. 1378; 1999, ch. 631, § 23, p. 3528; 2001 Sp. Sess., ch. 1, § 95, p. 38; 2003, ch. 103, § 8, p. 590.

Nev. Rev. Stat. Ann. § 432B.310 (2016). Report to Central Registry of abuse or neglect required upon completion of investigation; report to Central Registry of prenatal illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure only required if child has been abused or neglected

1. Except as otherwise provided in subsection 6 of NRS 432B.260, the agency investigating a report of abuse or neglect of a child shall, upon completing the investigation, report to the Central Registry:

- (a) Identifying and demographic information on the child alleged to be abused or neglected, the parents of the child, any other person responsible for the welfare of the child and the person allegedly responsible for the abuse or neglect;

(b) The facts of the alleged abuse or neglect, including the date and type of alleged abuse or neglect, the manner in which the abuse was inflicted, the severity of the injuries and, if applicable, any information concerning the death of the child; and

(c) The disposition of the case.

2. An agency which provides child welfare services shall not report to the Central Registry any information concerning a child identified as being affected by prenatal illegal substance abuse or as having withdrawal symptoms resulting from prenatal drug exposure unless the agency determines that a person has abused or neglected the child after the child was born.

Credits:

1985, p. 1375; 1999, ch. 557, § 3, p. 2912; 2001, ch. 10, § 112, p. 212; 2001, ch. 381, §§ 17, 19, pp. 1850, 1851; 2005, ch. 442, § 12, p. 2037; 2005, ch. 455, § 17, p. 2096; 2007, ch. 330, § 16, p. 1508; 2013, ch. 478, § 8, p. 2879.

NEW HAMPSHIRE

N.H. Rev. Stat. Ann. § 169-C:29 (2016). Persons Required to Report.

Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter

.

N.H. Rev. Stat. § 169-C:30 (2016). Nature and Content of Report.

An oral report shall be made immediately by telephone or otherwise, and followed within 48 hours by a report in writing, if so requested, to the department. Such report shall, if known, contain the name and address of the child suspected of being neglected or abused and the person responsible for the child's welfare, the specific information indicating neglect or the nature and extent of the child's injuries (including any evidence of previous injuries), the identity of the person or persons suspected of being responsible for such neglect or abuse, and any other information that might be helpful in establishing neglect or abuse or that may be required by the department.

N.H. Rev. Stat. § 169-C:31 (2016). Immunity From Liability.

Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the department or judicial proceeding resulting from such report.

N.H. Rev. Stat. § 169-C:32 (2016). Abrogation of Privileged Communication.

Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the department or judicial proceeding resulting from such report.

N.H. Rev. Stat. § 169-C:33 (2016). Photographs and X-Rays.

- I. Any medical person or the department preparing or investigating a report under this chapter, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, cause to be performed a radiological examination of the child without the consent of the child's parents or guardians. All photographs and X-rays taken, or copies of them, shall be sent to the appropriate offices of the department as soon as possible.
- II. The reasonable cost of photographs or X-rays taken under this section shall be reimbursed by the department.

undefined

- II. The reasonable cost of photographs or X-rays taken under this section shall be reimbursed by the department.

N.H. Rev. Stat. § 169-C:39 (2016). Penalty for Violation.

Anyone who knowingly violates any provision of this subdivision shall be guilty of a misdemeanor.

NEW JERSEY

N. J. Rev. Stat. Ann. § 9:6-8.10 (2016). Reports of child abuse.

Any person having reasonable cause to believe that a child has been subjected to child

abuse or acts of child abuse shall report the same immediately to the Division of Child Protection and Permanency by telephone or otherwise. Such reports, where possible, shall contain the names and addresses of the child and his parent, guardian, or other person having custody and control of the child and, if known, the child's age, the nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment, and any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

Credits:

L. 1971, c. 437, § 3; amended 1987, c. 341, § 4; 2012, c. 16, § 21, eff. June 29, 2012.

N. J. Rev. Stat. Ann. § 9:6-8.10a (2016). Reports and information of child abuse reports; confidentiality; release

a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c. 437 (C.9:6-8.10), all information obtained by the Department of Children and Families in investigating such reports including reports received pursuant to section 20 of P.L.1974, c. 119 (C.9:6-8.40), and all reports of findings forwarded to the child abuse registry pursuant to section 4 of P.L.1971, c. 437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d., e., f., and g. herein. The department shall disclose information only as authorized under subsections b., c., d., e., f., and g. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section.

Nothing in P.L.1977, c. 102 (C.9:6-8.10a et seq.) shall be construed to permit the disclosure of any information deemed confidential by federal or State law.

b. The department may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c. 175 (C.9:6-8.83 et al.) to:

- (1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;
- (2) A police or other law enforcement agency investigating a report of child abuse or neglect;
- (3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center which is involved with a

particular child who is the subject of the request;

(4) A physician, a hospital director or his designate, a police officer, or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency, whether public or private, including any division or unit in the Department of Human Services or the Department of Children and Families, authorized to care for, treat, assess, evaluate, or supervise a child who is the subject of a child abuse report, or a parent, guardian, resource family parent, or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, assessment, evaluation, or supervision to such child or such parent, guardian, resource family parent, or other person and the provision of information is in the best interests of the child as determined by the Division of Child Protection and Permanency;

(6) A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney, or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;

(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) (Deleted by amendment, P.L.1997, c. 175).

(10) A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c. 350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a child abuse registry search;

(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971," P.L.1971, c. 317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;

- (12) Any person appealing a department service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the department or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;
- (13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;
- (14) Any person or entity conducting a disciplinary, administrative, or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;
- (15) The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;
- (16) A person being evaluated by the department or the court as a potential caregiver to determine whether that person is willing and able to provide the care and support required by the child;
- (17) The legal counsel of a child, parent, or guardian, whether court-appointed or retained, when information is needed to discuss the case with the department in order to make decisions relating to or concerning the child;
- (18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;
- (19) A parent, resource family parent, or legal guardian when the information is needed in a department matter in which that parent, resource family parent, or legal guardian is directly involved. The information may be released only to the extent necessary for the requesting parent, resource family parent, or legal guardian to discuss services or the basis for the department's involvement or to develop, discuss, or implement a case plan for the child;
- (20) A federal, State, or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;
- (21) Citizen review panels designated by the State in compliance with the federal

“Child Abuse Prevention and Treatment Act Amendments of 1996,” Pub. L.104-235;

(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c. 175 (C.9:6-8.83 et al.); or

(23) Members of a family team or other case planning group formed by the Division of Child Protection and Permanency and established in accordance with regulations adopted by the Commissioner of Children and Families for the purpose of addressing the child's safety, permanency, or well-being, when the provision of such information is in the best interests of the child as determined by the Division of Child Protection and Permanency.

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the department the records and reports referred to in subsection a., shall keep the records and reports, or parts thereof, confidential and shall not disclose the records and reports or parts thereof except as authorized by law.

c. The department may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the department's involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The department may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his designee shall first have been obtained.

e. For incidents determined by the department to be substantiated, the department shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the department during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The department may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the

requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the department shall not be released to the public.

g. The department shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the department pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c. 185 (C.30:5B-32) to a child's parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement.

The department shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.

Credits:

L. 1977, c. 102, § 1; amended 1993, c. 350, § 5; 1995, c. 135, § 9; 1996, c. 32, eff. June 6, 1996; 1997, c. 175, § 16, eff. July 31, 1997; 2003, c. 185, § 1, eff. Mar. 24, 2004; 2004, c. 130, § 22, eff. Aug. 27, 2004; 2006, c. 47, § 42, eff. July 1, 2006; 2012, c. 16, § 22, eff. June 29, 2012.

N. J. Rev. Stat. Ann. § 9:6-8.13 (2016). Person making report; immunity from liability; action for relief from discharge or discrimination.

Anyone acting pursuant to this act in the making of a report under this act shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect to testimony given in any judicial proceeding resulting from such report.

A person who reports or causes to report in good faith an allegation of child abuse or neglect pursuant to section 3 of P.L.1971, c. 437 (C. 9:6-8.10) and as a result thereof is discharged from employment or in any manner discriminated against with respect to compensation, hire, tenure or terms, conditions or privileges of employment, may file a cause of action for appropriate relief in the family part of the Chancery Division of the Superior Court in the county in which the discharge or alleged discrimination occurred or in the county of the person's primary residence.

If the court finds that the person was discharged or discriminated against as a result of the person's reporting an allegation of child abuse or neglect, the court may grant reinstatement of employment with back pay or other legal or equitable relief.

Credits:

L. 1971, c. 437, § 6; Amended 1987, c. 341, § 5.

N. J. Rev. Stat. § 9:6-8.14 (2016). Violations including failure to make report; disorderly person

Any person knowingly violating the provisions of this act including the failure to report an act of child abuse having reasonable cause to believe that an act of child abuse has been committed, is a disorderly person.

Credits:

L. 1971, c. 437, 7, eff. Feb. 10, 1972.

NEW MEXICO

N. M. Stat. Ann. § 32A-4-3 (2016). Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty.

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

(1) a local law enforcement agency;

(2) the department; or

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or

neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

Credits:

1978 Comp., § 32A-4-3, enacted by Laws 1993, ch. 77, § 97; 1997, ch. 34, § 2; 2003, ch. 189, § 1; 2005, ch. 189, § 38.

N. M. Stat. Ann. § 32A-4-5 (2016). Admissibility of report in evidence; immunity of reporting person; investigation of report

A. In any proceeding alleging neglect or abuse under the Children's Code resulting from a report required by Section 32A-4-3 NMSA 1978 or in any proceeding in which that report or any of its contents are sought to be introduced in evidence, the report or its contents or any other facts related thereto or to the condition of the child who is the subject of the report shall not be excluded on the ground that the matter is or may be the subject of a physician-patient privilege or similar privilege or rule against disclosure.

B. Anyone reporting an instance of alleged child neglect or abuse or participating in a judicial proceeding brought as a result of a report required by Section 32A-4-3 NMSA 1978 is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by the law, unless the person acted in bad faith or with malicious purpose.

C. After properly verifying the identity of the public official, any school personnel or other person who has the duty to report child abuse pursuant to Section 32A-4-3 NMSA 1978 shall permit a member of a law enforcement agency, including tribal police officers, an employee of the district attorney's office, an investigative interviewer for a program

described in Subsection E of this section or an employee of the department, to interview a child with respect to a report without the permission of the child's parent or guardian. Any person permitting an interview pursuant to this subsection is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by law, unless the person acted in bad faith or with malicious purpose.

D. An investigation may be conducted by law enforcement, the district attorney's office, a program described in Subsection E of this section and the department. Interviews shall be conducted in a manner and place that protects the child and family from unnecessary trauma and embarrassment. The investigating entity shall conduct the investigation in a manner that will protect the privacy of the child and the family, with the paramount consideration being the safety of the child. All interactions with child victims and child witnesses shall be conducted in a child-sensitive manner, taking into consideration the special needs of the child and the child's abilities, age and intellectual maturity. The interviews shall be conducted in a place where the child feels secure and in a language that the child uses and understands.

E. If a community has a program for child abuse investigation that includes an investigation interview of the alleged victim or child witness, the investigation may be conducted at a site designated by the community program. The child abuse victim or child witness shall, when possible, be interviewed in an environment where the alleged abuse perpetrator will not be present.

F. Prior to interviewing a child, the department shall notify the parent or guardian of the child who is being interviewed, unless the department determines that notification would adversely affect the safety of the child about whom the report has been made or compromise the investigation.

Credits:

1978 Comp., § 32A-4-5, enacted by Laws 1993, ch. 77, § 99; 1995, ch. 206, § 22; 2005, ch. 189, § 40; 2009, ch. 239, § 34.

NEW YORK

N.Y. Soc. Serv. Law § 413 (2016).Persons and officials required to report cases of suspected child abuse or maltreatment

1.

(a) The following persons and officials are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child, or when they have reasonable cause to suspect that a child is an abused

or maltreated child where the parent, guardian, custodian or other person legally responsible for such child comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; social worker; emergency medical technician; licensed creative arts therapist; licensed marriage and family therapist; licensed mental health counselor; licensed psychoanalyst; licensed behavior analyst; certified behavior analyst assistant; hospital personnel engaged in the admission, examination, care or treatment of persons; a Christian Science practitioner; school official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate; full or part-time compensated school employee required to hold a temporary coaching license or professional coaching certificate; social services worker; director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law; day care center worker; school-age child care worker; provider of family or group family day care; employee or volunteer in a residential care facility for children that is licensed, certified or operated by the office of children and family services; or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; all persons credentialed by the office of alcoholism and substance abuse services; peace officer; police officer; district attorney or assistant district attorney; investigator employed in the office of a district attorney; or other law enforcement official.

(b) Whenever such person is required to report under this title in his or her capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she shall make the report as required by this title and immediately notify the person in charge of such institution, school, facility or agency, or his or her designated agent. Such person in charge, or the designated agent of such person, shall be responsible for all subsequent administration necessitated by the report. Any report shall include the name, title and contact information for every staff person of the institution who is believed to have direct knowledge of the allegations in the report. Nothing in this section or title is intended to require more than one report from any such institution, school or agency.

(c) A medical or other public or private institution, school, facility or agency shall not take any retaliatory personnel action, as such term is defined in paragraph (e) of subdivision one of section seven hundred forty of the labor law, against an employee because such employee believes that he or she has reasonable cause to suspect that a child is an abused or maltreated child and that employee therefore makes a report in accordance with this title. No school, school official, child care provider, foster care provider, residential care facility provider, hospital, medical institution provider or mental health facility provider shall impose any conditions, including prior approval or prior notification, upon a member of their staff

specifically required to report under this title. At the time of the making of a report, or at any time thereafter, such person or official may exercise the right to request, pursuant to paragraph (A) of subdivision four of section four hundred twenty-two of this title, the findings of an investigation made pursuant to this title or section 45.07 of the mental hygiene law.

(d) Social services workers are required to report or cause a report to be made in accordance with this title when they have reasonable cause to suspect that a child is an abused or maltreated child where a person comes before them in their professional or official capacity and states from personal knowledge facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child.

2. Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section shall provide consistent with section four hundred twenty-one of this chapter, all such current and new employees with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title. The employers shall be responsible for the costs associated with printing and distributing the written information.

3. Any state or local governmental agency or authorized agency which issues a license, certificate or permit to an individual to operate a family day care home or group family day care home shall provide each person currently holding or seeking such a license, certificate or permit with written information explaining the reporting requirements set out in subdivision one of this section and in sections four hundred fifteen through four hundred twenty of this title.

4. Any person, institution, school, facility, agency, organization, partnership or corporation, which employs persons who are mandated to report suspected incidents of child abuse or maltreatment pursuant to subdivision one of this section and whose employees, in the normal course of their employment, travel to locations where children reside, shall provide, consistent with section four hundred twenty-one of this title, all such current and new employees with information on recognizing the signs of an unlawful methamphetamine laboratory. Pursuant to section 19.27 of the mental hygiene law, the office of alcoholism and substance abuse services shall make available to such employers information on recognizing the signs of unlawful methamphetamine laboratories.

Credits:

Add, L 1973, ch 1039, § 1; amd, L 1979, ch 81, § 1; L 1980, ch 843, § 182 ; L 1984, ch 932, § 1 ; L 1985, ch 676, § 4; L 1985, ch 677, § 7 ; L 1986, ch 718, § 1, eff Nov 27, 1986; L 1988, ch 544, § 1 ; L 1989, ch 194, § 1, eff Jan 1, 1990; L 1994, ch 306, § 2, eff July 20, 1994; L 1995, ch 94, § 1, eff Sept 26, 1995; L 2001, ch 432, § 1, eff Feb 1, 2002; L 2002, ch 420, § 8, eff Sept 1, 2004; L 2002, ch 676, § 11, eff Jan 1, 2005; L 2005, ch

394, § 7, eff Nov 1, 2005; L 2007, ch 193, § 1, eff Oct 1, 2007; L 2007, ch 513, § 1, eff Oct 14, 2007; L 2008, ch 323, § 14, eff Jan 17, 2009; L 2008, ch 366, § 1, eff July 21, 2008; L 2011, ch 91, § 1, eff June 22, 2011; L 2012, ch 501, § 3 (Part D), eff June 30, 2013; L 2013, ch 554, § 12, eff July 1, 2014; L 2014, ch 126, § 6, eff July 22, 2014; L 2014, ch 205, § 1, eff July 1, 2015.

N.Y. Soc. Serv. Law § 414 (2016). Any person permitted to report.

In addition to those persons and officials required to report suspected child abuse or maltreatment, any person may make such a report if such person has reasonable cause to suspect that a child is an abused or maltreated child.

Credits:

Add, L 1973, ch 1039, § 1, eff Sept 1, 1973.

N.Y. Soc. Serv. Law § 415 (2016). Reporting procedure.

Reports of suspected child abuse or maltreatment made pursuant to this title shall be made immediately by telephone or by telephone facsimile machine on a form supplied by the commissioner of the office of children and family services. Oral reports shall be followed by a report in writing within forty-eight hours after such oral report. Oral reports shall be made to the statewide central register of child abuse and maltreatment unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local child protective service. In those localities in which oral reports are made initially to the local child protective service, the child protective service shall immediately make an oral or electronic report to the statewide central register. Written reports shall be made to the appropriate local child protective service except that written reports involving children in residential care, as defined in subdivision four of section four hundred twelve-a of this title, or being cared for in a home operated or supervised by an authorized agency, office of children and family services, or an office of the department of mental hygiene, shall be made to the statewide central register of child abuse and maltreatment which shall transmit the reports to the agency responsible for investigating the report, in accordance with paragraph (a) or (c) of subdivision eleven of section four hundred twenty-two or section four hundred twenty-four-b of this title, as applicable. Written reports shall be made in a manner prescribed and on forms supplied by the commissioner of the office of children and family services and shall include the following information: the names and addresses of the child and his or her parents or other person responsible for his or her care, if known, and, as the case may be, the name and address of the residential care facility or program in which the child resides or is receiving care; the child's age, sex and race; the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or, as the case may be, his or her siblings; the name of the person or persons alleged to be responsible for causing the injury, abuse or maltreatment, if known; family composition, where appropriate; the source of the report; the person making the report and where he or she can be reached; the actions taken by the reporting source, including the taking of photographs and x-rays, removal or keeping of the child or notifying the medical examiner or coroner; and any other information which the

commissioner of the office of children and family services may, by regulation, require, or the person making the report believes might be helpful, in the furtherance of the purposes of this title. Notwithstanding the privileges set forth in article forty-five of the civil practice law and rules, and any other provision of law to the contrary, mandated reporters who make a report which initiates an investigation of an allegation of child abuse or maltreatment are required to comply with all requests for records made by a child protective service relating to such report, including records relating to diagnosis, prognosis or treatment, and clinical records, of any patient or client that are essential for a full investigation of allegations of child abuse or maltreatment pursuant to this title; provided, however, that disclosure of substance abuse treatment records shall be made pursuant to the standards and procedures for disclosure of such records delineated in federal law. Written reports from persons or officials required by this title to report shall be admissible in evidence in any proceedings relating to child abuse or maltreatment.

Credits:

Add, L 1973, ch 1039, § 1; amd, L 1985, ch 676, § 5 (see 1992 note below); L 1988, ch 545, § 1; L 1988, ch 634, § 4, eff Sept 1, 1988; L 2005, ch 3, § 6 (Part B), eff Nov 21, 2005; L 2008, ch 323, § 15, eff Jan 17, 2009 (see 2008 note below); L 2012, ch 501, § 3–a (Part D), eff June 30, 2013 (see 2012 note below).

N.Y. Soc. Serv. Law § 416 (2016). Obligations of persons required to report.

Any person or official required to report cases of suspected child abuse and maltreatment may take or cause to be taken at public expense photographs of the areas of trauma visible on a child who is subject to a report and, if medically indicated, cause to be performed a radiological examination on the child. Any photographs or x-rays taken shall be sent to the child protective service at the time the written report is sent, or as soon thereafter as possible. Whenever such person is required to report under this title in his capacity as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility or agency, or his designated agent, who shall then take or cause to be taken at public expense color photographs of visible trauma and shall, if medically indicated, cause to be performed a radiological examination on the child.

Credits:

Add, L 1973, ch 1039, § 1, eff Sept 1, 1973.

N.Y. Soc. Serv. Law § 418 (2016). Mandatory reporting to and post-mortem investigation of deaths by medical examiner or coroner.

Any person or official required to report cases of suspected child abuse or maltreatment, including workers of the local child protective service, as well as an employee of or official of a state agency responsible for the investigation of a report of abuse or

maltreatment of a child in residential care, who has reasonable cause to suspect that a child died as a result of child abuse or maltreatment shall report that fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall issue a preliminary written report of his or her finding within sixty days of the date of death, absent extraordinary circumstances, and his or her final written report promptly, absent extraordinary circumstances, to the police, the appropriate district attorney, the local child protective service, the office of children and family services, and, if the institution making the report is a hospital, the hospital. The office of children and family services shall promptly provide a copy of the preliminary and final reports to the statewide central register of child abuse and maltreatment.

Credits:

Add, L 1973, ch 1039, § 1; amd, L 1992, ch 32, § 7, eff Oct 1, 1992 (see 1992 note below); L 1994, ch 426, § 1, eff July 20, 1994; L 1999, ch 136, § 4, eff June 30, 1999 (see 1999 note below); L 2006, ch 485, § 2, eff Dec 14, 2006; L 2012, ch 501, § 4 (Part D), eff June 30, 2013

N.Y. Soc. Serv. Law § 419 (2016). Immunity from liability.

Any person, official, or institution participating in good faith in the providing of a service pursuant to section four hundred twenty-four of this title, the making of a report, the taking of photographs, the removal or keeping of a child pursuant to this title, or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment or providing a service pursuant to section four hundred twenty-four or the disclosure of child protective services information in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

Credits:

Add, L 1973, ch 1039, § 1; amd, L 1983, ch 176, § 1; L 1984, ch 120, § 1, eff May 15, 1984; L 1996, ch 12, § 7, eff Feb 12, 1996.

N.Y. Soc. Serv. Law § 420 (2016). Penalties for failure to report.

1. Any person, official or institution required by this title to report a case of suspected child abuse or maltreatment who willfully fails to do so shall be guilty of a class A misdemeanor.

2. Any person, official or institution required by this title to report a case of suspected

child abuse or maltreatment who knowingly and willfully fails to do so shall be civilly liable for the damages proximately caused by such failure.

Credits:

Add, L 1973, ch 1039, § 1, eff Sept 1, 1973.

N.Y. PENAL Law § 240.50 (2016). Falsely reporting an incident in the third degree

A person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed or circulated to be false or baseless, he:

1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result; or
2. Reports, by word or action, to an official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a catastrophe or emergency which did not in fact occur or does not in fact exist; or
3. Gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur; or (b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or (c) false information relating to an actual offense or incident or to the alleged implication of some person therein; or
4. Reports, by word or action, an alleged occurrence or condition of child abuse or maltreatment which did not in fact occur or exist to:

(a) the statewide central register of child abuse and maltreatment, as defined in title six of article six of the social services law, or

(b) any person required to report cases of suspected child abuse or maltreatment pursuant to subdivision one of section four hundred thirteen of the social services law, knowing that the person is required to report such cases, and with the intent that such an alleged occurrence be reported to the statewide central register.

Falsely reporting an incident in the third degree is a class A misdemeanor.

Credits:

Add, L 1965, ch 1030, § 1, with substance derived from L 1909, §§ 727, 1250–b in part, 1424, 1786; amd, L 1971, ch 357, § 1; L 1973, ch 276, § 30, eff Sept 1, 1973; L 1976, ch 185, § 1; L 1979, ch 146, § 1, eff Sept 26, 1979; L 2001, ch 301, § 1, eff Sept 17, 2001; L 2001, ch 302, § 1, eff Sept 17, 2001; L 2008, ch 400, § 1, eff Feb 1, 2009; L 2012, ch 501, § 1 (Part G), eff Jan 17, 2013.

NORTH CAROLINA

N.C. Gen. Stat. Ann. § 7B-301 (2016). Duty to report abuse, neglect, dependency, or death due to maltreatment

Any person or institution who has cause to suspect that any juvenile is abused, neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment, shall report the case of that juvenile to the director of the department of social services in the county where the juvenile resides or is found. The report may be made orally, by telephone, or in writing. The report shall include information as is known to the person making it including the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the present whereabouts of the juvenile if not at the home address; the nature and extent of any injury or condition resulting from abuse, neglect, or dependency; and any other information which the person making the report believes might be helpful in establishing the need for protective services or court intervention. If the report is made orally or by telephone, the person making the report shall give the person's name, address, and telephone number. Refusal of the person making the report to give a name shall not preclude the department's assessment of the alleged abuse, neglect, dependency, or death as a result of maltreatment.

(b) Any person or institution who knowingly or wantonly fails to report the case of a juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents another person from making a report as required by subsection (a) of this section, is guilty of a Class 1 misdemeanor.

(c) Repealed by Session Laws 2015-123, s. 3, effective January 1, 2016.

Credits:

1979, c. 815, s. 1; 1991 (Reg. Sess., 1992), c. 923, s. 2; 1993, c. 516, s. 4; 1997-506, s. 32; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 3; 2013-52, s. 7; 2015-123, s. 3.

N.C. Gen. Stat. Ann. § 7B-307 (2016). Duty of director to report evidence of abuse, neglect; investigation by local law enforcement; notification of Department of Health and Human Services and State Bureau of Investigation

(a) If the director finds evidence that a juvenile may have been abused as defined by G.S. 7B-101, the director shall make an immediate oral and subsequent written report of the findings to the district attorney or the district attorney's designee and the appropriate local law enforcement agency within 48 hours after receipt of the report. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the

information, initiate and coordinate a criminal investigation with the protective services assessment being conducted by the county department of social services. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate and may request the director or the director's designee to appear before a magistrate.

If the director receives information that a juvenile may have been physically harmed in violation of any criminal statute by any person other than the juvenile's parent, guardian, custodian, or caretaker, the director shall make an immediate oral and subsequent written report of that information to the district attorney or the district attorney's designee and to the appropriate local law enforcement agency within 48 hours after receipt of the information. The local law enforcement agency shall immediately, but no later than 48 hours after receipt of the information, initiate a criminal investigation. Upon completion of the investigation, the district attorney shall determine whether criminal prosecution is appropriate.

If the report received pursuant to G.S. 7B-301 involves abuse or neglect of a juvenile in child care, the director shall notify the Department of Health and Human Services within 24 hours or on the next working day of receipt of the report.

The director of the department of social services shall submit a report of alleged abuse, neglect, or dependency cases or child fatalities that are the result of alleged maltreatment to the central registry under the policies adopted by the Social Services Commission.

(b), (c) Repealed by Session Laws 2015-123, s. 5, effective January 1, 2016.

Credits:

1979, c. 815, s. 1; 1983, c. 199; 1985, c. 757, s. 156(s)-(u); 1991, c. 593, s. 2; 1991 (Reg. Sess., 1992), c. 923, s. 4; 1993, c. 516, s. 8; 1997-443, s. 11A.118(a); 1997-506, s. 33; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 7; 2015-123, s. 5.

N.C. Gen. Stat. Ann. § 7B-309 (2016). Immunity of persons reporting and cooperating in an assessment.

Anyone who makes a report pursuant to this Article, cooperates with the county department of social services in a protective services assessment, testifies in any judicial proceeding resulting from a protective services report or assessment, or otherwise participates in the program authorized by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

Credits:

1979, c. 815, s. 1; 1981, s. 469, s. 8; 1993, c. 516, s. 9; 1998-202, s. 6; 1999-456, s. 60; 2005-55, s. 9.

N.C. Gen. Stat. Ann. § 7B-310 (2016). Privileges not grounds for failing to report or for excluding evidence.

No privilege shall be grounds for any person or institution failing to report that a juvenile may have been abused, neglected, or dependent, even if the knowledge or suspicion is acquired in an official professional capacity, except when the knowledge or suspicion is gained by an attorney from that attorney's client during representation only in the abuse, neglect, or dependency case. No privilege, except the attorney-client privilege, shall be grounds for excluding evidence of abuse, neglect, or dependency in any judicial proceeding (civil, criminal, or juvenile) in which a juvenile's abuse, neglect, or dependency is in issue nor in any judicial proceeding resulting from a report submitted under this Article, both as this privilege relates to the competency of the witness and to the exclusion of confidential communications.

Credits:

1979, c. 815, s. 1; 1987, c. 323, s. 1; 1993, c. 514, s. 3; c. 516, s. 10; 1995, c. 509, s. 133; 1998-202, s. 6; 1999-456, s. 60.

N.C. Gen. Stat. § 115C-400 (2016). School personnel to report child abuse.

Any person who has cause to suspect child abuse or neglect has a duty to report the case of the child to the Director of Social Services of the county, as provided in Article 3 of Chapter 7B of the General Statutes.

Credits:

1981, c. 423, s. 1; 1998-202, s. 13(bb).

NORTH DAKOTA

N.D. Cent. Code § 50-25.1-03 (2016). Persons required and permitted to report--To whom reported.

1. Any physician, nurse, dentist, optometrist, dental hygienist, medical examiner or coroner, or any other medical or mental health professional, religious practitioner of the healing arts, schoolteacher or administrator, school counselor, addiction counselor, social worker, child care worker, foster parent, police or law enforcement officer, juvenile court personnel, probation officer, division of juvenile services employee, or member of the clergy having knowledge of or reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, shall report the circumstances to the department if the knowledge or suspicion is derived from information received by that person in that person's official or professional capacity. A member of the clergy, however, is not required to report such circumstances if the knowledge or suspicion is

derived from information received in the capacity of spiritual adviser.

2. Any person having reasonable cause to suspect that a child is abused or neglected, or has died as a result of abuse or neglect, may report such circumstances to the department.

3. A person who has knowledge of or reasonable cause to suspect that a child is abused or neglected, based on images of sexual conduct by a child discovered on a workplace computer, shall report the circumstances to the department.

Credits:

S.L. 1975, ch. 448, § 3; 1979, ch. 514, § 6; 1987, ch. 570, § 34; 1987, ch. 583, § 2; 1989, ch. 585, § 2; 1991, ch. 511, § 4; 1995, ch. 116, § 7; 2007, ch. 431, § 2; 2011, ch. 369, § 1; 2011, ch. 370, § 2.

N.D. Cent. Code § 50-25.1-03.1 (2016). Photographs--X-rays--Medical tests.

Any person or official required to report under this chapter may cause to be taken color photographs of the areas of trauma visible on a child who the person or official has knowledge or reasonable cause to suspect is an abused or neglected child and, if indicated by medical consultation, cause to be performed imaging studies, laboratory tests, colonoscopies, and other medical tests of the child without the consent of the child's parents or guardian. All photographs and other visual images taken pursuant to this section must be taken by law enforcement officials, physicians, or medical facility professionals upon the request of any person or official required to report under this chapter. Photographs and visual images, or copies of them, must be sent to the department or the department's designee at the time the initial report of child abuse or neglect is made or as soon thereafter as possible. Imaging studies or copies of the studies and copies of results of other tests conducted under this section must be provided to the department or the department's designee upon request.

Credits:

S.L. 1979, ch. 514, § 4; 1987, ch. 570, § 35; 1987, ch. 583, § 3; 1989, ch. 585, § 3; 2003, ch. 106, § 5; 2007, ch. 431, § 3.

N.D. Cent. Code § 50-25.1-04 (2016). Method of reporting.

All persons mandated or permitted to report cases of known or suspected child abuse or neglect shall immediately cause oral or written reports to be made to the department or the department's designee. Oral reports must be followed by written reports within forty-eight hours if so requested by the department or the department's designee. A requested written report must include information specifically sought by the department if the reporter possesses or has reasonable access to that information. Reports involving known or suspected institutional child abuse or neglect must be made and received in the same manner as all other reports made under this chapter.

Credits:

S.L. 1975, ch. 448, § 4; 1979, ch. 514, § 7; 1987, ch. 570, § 36; 1987, ch. 583, § 4; 1989, ch. 585, § 4.

N.D. Cent. Code § 50-25.1-09 (2016). Immunity from liability.

Any person, other than the alleged violator, participating in good faith in the making of a report, assisting in an investigation or assessment, furnishing information, or in providing protective services under this chapter or who is a member of the child fatality review panel, is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse, neglect, or death resulting from abuse or neglect must be presumed.

Credits:

S.L. 1975, ch. 448, § 9; 1985, ch. 536, § 8; 1995, ch. 116, § 12; 1995, ch. 472, § 10.

N.D. Cent. Code § 50-25.1-09.1 (2016). Employer retaliation prohibited.

1. An employer who retaliates against an employee solely because the employee in good faith reported having reasonable cause to suspect that a child was abused or neglected, or died as a result of abuse or neglect, or because the employee is a child with respect to whom a report was made, is guilty of a class B misdemeanor. It is a defense to any charge brought under this section that the presumption of good faith, described in section 50-25.1-09, has been rebutted.

2. The employer of a person required or permitted to report pursuant to section 50-25.1-03 who retaliates against the person because of a report of abuse or neglect, or a report of a death resulting from child abuse or neglect, is liable to that person in a civil action for all damages, including exemplary damages, costs of the litigation, and reasonable attorney's fees.

3. There is a rebuttable presumption that any adverse action within ninety days of a report is retaliatory. For purposes of this subsection, an “adverse action” is action taken by an employer against the person making the report or the child with respect to whom a report was made, including:

- a. Discharge, suspension, termination, or transfer from any facility, institution, school, agency, or other place of employment;
- b. Discharge from or termination of employment;
- c. Demotion or reduction in remuneration for services; or

- d. Restriction or prohibition of access to any facility, institution, school, agency, or other place of employment or persons affiliated with it.

Credits:

S.L. 1985, ch. 536, § 3; 1989, ch. 588, § 1; 1995, ch. 116, § 13.

N.D. Cent. Code § 50-25.1-10 (2016). Abrogation of privileged communications

Any privilege of communication between husband and wife or between any professional person and the person's patient or client, except between attorney and client, is abrogated and does not constitute grounds for preventing a report to be made or for excluding evidence in any proceeding regarding child abuse, neglect, or death resulting from abuse or neglect resulting from a report made under this chapter.

Credits:

S.L. 1975, ch. 448, § 10; 1995, ch. 116, § 14.

N.D. Cent. Code § 50-25.1-13 (2016). Penalty for failure to report-- Penalty and civil liability for false reports.

Any person required by this chapter to report or to supply information concerning a case of known or suspected child abuse, neglect, or death resulting from abuse or neglect who willfully, as defined in section 12.1-02-02, fails to do so is guilty of a class B misdemeanor. Any person who willfully, as defined in section 12.1-02-02, makes a false report, or provides false information which causes a report to be made, under this chapter is guilty of a class B misdemeanor unless the false report is made to a law enforcement official, in which case the person who causes the false report to be made is guilty of a class A misdemeanor. A person who willfully makes a false report, or willfully provides false information that causes a report to be made, under this chapter is also liable in a civil action for all damages suffered by the person reported, including exemplary damages.

Credits:

S.L. 1975, ch. 448, § 13; 1985, ch. 536, § 10; 1987, ch 585, § 1; 1989, ch. 585, § 7; 1989, ch. 588, § 2; 1995, ch. 116, § 15.

N.D. Cent. Code § 50-25.1-18 (2016). Prenatal exposure to alcohol abuse--Reporting requirements.

1. An individual required to report under section 50-25.1-03 who has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol after the woman knows of the pregnancy may:

- a. Arrange for a chemical dependency assessment conducted by a licensed

treatment program and confirm that the recommendations indicated by the assessment are followed; or

b. Immediately report the circumstances to the department if the knowledge or suspicion is derived from information received by that individual in that individual's official or professional capacity.

2. An individual may make a voluntary report if the individual has knowledge of or reasonable cause to suspect that a woman is pregnant and has abused alcohol during the pregnancy.

3. If the woman is referred for a chemical dependency assessment under subdivision a of subsection 1 and fails to obtain an assessment or refuses to comply with the recommendations of the assessment, an individual required to report under section 50-25.1-03 who has knowledge of the failure to obtain the assessment or refusal to comply with recommendations of the assessment shall make a report to the department.

4. If a report alleges a pregnant woman has abused alcohol, the department or its designee shall immediately initiate an appropriate assessment and offer services indicated under the circumstances. Services offered may include a referral for chemical dependency assessment, a referral for chemical dependency treatment, if recommended, or a referral for prenatal care. The department or its designee may also take any appropriate action under chapter 25-03.1.

5. A report and assessment under this section is not required if the pregnant woman voluntarily enters treatment in a licensed treatment program. If the pregnant woman does not complete voluntary treatment or fails to follow treatment recommendations, an individual required to report under section 50-25.1-03 who has knowledge of the failure to complete voluntary treatment or failure to follow treatment recommendations shall make a report as required by this section.

6. A report under this section must be made as described in section 50-25.1-04 and must be sufficient to identify the woman, the nature and extent of the abuse of alcohol, any health risk associated with the abuse of alcohol, and the name and address of the individual making the report.

Credits:

S.L. 2003, ch. 431, § 4.

Ohio Rev. Code Ann. § 2151.421 (2016). Persons required to report injury or neglect; procedures on receipt of report.

(A)(1)(a) No person described in division (A)(1)(b) of this section who is acting in an official or professional capacity and knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in a similar position to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of

suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child shall fail to immediately report that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Division (A)(1)(a) of this section applies to any person who is an attorney; physician, including a hospital intern or resident; dentist; podiatrist; practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code; registered nurse; licensed practical nurse; visiting nurse; other health care professional; licensed psychologist; licensed school psychologist; independent marriage and family therapist or marriage and family therapist; speech pathologist or audiologist; coroner; administrator or employee of a child day-care center; administrator or employee of a residential camp or child day camp; administrator or employee of a certified child care agency or other public or private children services agency; school teacher; school employee; school authority; person engaged in social work or the practice of professional counseling; agent of a county humane society; person, other than a cleric, rendering spiritual treatment through prayer in accordance with the tenets of a well-recognized religion; employee of a county department of job and family services who is a professional and who works with children and families; superintendent, board member, or employee of a county board of developmental disabilities; investigative agent contracted with by a county board of developmental disabilities; employee of the department of developmental disabilities; employee of a facility or home that provides respite care in accordance with section 5123.171 of the Revised Code; employee of a home health agency; employee of an entity that provides homemaker services; a person performing the duties of an assessor pursuant to Chapter 3107. or 5103. of the Revised Code; or third party employed by a public children services agency to assist in providing child or family related services.

(2) Except as provided in division (A)(3) of this section, an attorney or a physician is not required to make a report pursuant to division (A)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding.

(3) The client or patient in an attorney-client or physician-patient relationship described in division (A)(2) of this section is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to any communication the attorney or physician receives from the client or patient in that attorney-client or physician-patient relationship, and the attorney or physician shall make a report pursuant to division (A)(1) of this section with respect to that communication, if all of the following apply:

(a) The client or patient, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(b) The attorney or physician knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar position to suspect, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(c) The abuse or neglect does not arise out of the client's or patient's attempt to have an abortion without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(4)(a) No cleric and no person, other than a volunteer, designated by any church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith who is acting in an official or professional capacity, who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired child under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the child, and who knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, that another cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith caused, or poses the threat of causing, the wound, injury, disability, or condition that reasonably indicates abuse or neglect shall fail to immediately report that knowledge or reasonable cause to believe to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, the person making the report shall make it to the public children services agency or a municipal or county peace officer in the county in which the child resides or in which the abuse or neglect is occurring or has occurred. In the circumstances described in section 5120.173 of the Revised Code, the person making the report shall make it to the entity specified in that section.

(b) Except as provided in division (A)(4)(c) of this section, a cleric is not required to make a report pursuant to division (A)(4)(a) of this section concerning any communication the cleric receives from a penitent in a cleric-penitent relationship, if, in accordance with division (C) of section 2317.02 of the Revised Code, the cleric could not testify with respect to that communication in a civil or criminal proceeding.

(c) The penitent in a cleric-penitent relationship described in division (A)(4)(b) of this section is deemed to have waived any testimonial privilege under division (C) of section 2317.02 of the Revised Code with respect to any communication the cleric receives from

the penitent in that cleric-penitent relationship, and the cleric shall make a report pursuant to division (A)(4)(a) of this section with respect to that communication, if all of the following apply:

(i) The penitent, at the time of the communication, is either a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age.

(ii) The cleric knows, or has reasonable cause to believe based on facts that would cause a reasonable person in a similar position to believe, as a result of the communication or any observations made during that communication, the penitent has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the penitent.

(iii) The abuse or neglect does not arise out of the penitent's attempt to have an abortion performed upon a child under eighteen years of age or upon a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age without the notification of her parents, guardian, or custodian in accordance with section 2151.85 of the Revised Code.

(d) Divisions (A)(4)(a) and (c) of this section do not apply in a cleric-penitent relationship when the disclosure of any communication the cleric receives from the penitent is in violation of the sacred trust.

(e) As used in divisions (A)(1) and (4) of this section, "cleric" and "sacred trust" have the same meanings as in section 2317.02 of the Revised Code.

(B) Anyone who knows, or has reasonable cause to suspect based on facts that would cause a reasonable person in similar circumstances to suspect, that a child under eighteen years of age or a mentally retarded, developmentally disabled, or physically impaired person under twenty-one years of age has suffered or faces a threat of suffering any physical or mental wound, injury, disability, or other condition of a nature that reasonably indicates abuse or neglect of the child may report or cause reports to be made of that knowledge or reasonable cause to suspect to the entity or persons specified in this division. Except as provided in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the public children services agency or to a municipal or county peace officer. In the circumstances described in section 5120.173 of the Revised Code, a person making a report or causing a report to be made under this division shall make it or cause it to be made to the entity specified in that section.

(C) Any report made pursuant to division (A) or (B) of this section shall be made forthwith either by telephone or in person and shall be followed by a written report, if requested by the receiving agency or officer. The written report shall contain:

(1) The names and addresses of the child and the child's parents or the person or persons

having custody of the child, if known;

(2) The child's age and the nature and extent of the child's injuries, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist, including any evidence of previous injuries, abuse, or neglect;

(3) Any other information that might be helpful in establishing the cause of the injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to have occurred or of the threat of injury, abuse, or neglect that is known or reasonably suspected or believed, as applicable, to exist.

Any person, who is required by division (A) of this section to report child abuse or child neglect that is known or reasonably suspected or believed to have occurred, may take or cause to be taken color photographs of areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child.

(D) As used in this division, "children's advocacy center" and "sexual abuse of a child" have the same meanings as in section 2151.425 of the Revised Code.

(1) When a municipal or county peace officer receives a report concerning the possible abuse or neglect of a child or the possible threat of abuse or neglect of a child, upon receipt of the report, the municipal or county peace officer who receives the report shall refer the report to the appropriate public children services agency.

(2) When a public children services agency receives a report pursuant to this division or division (A) or (B) of this section, upon receipt of the report, the public children services agency shall do both of the following:

(a) Comply with section 2151.422 of the Revised Code;

(b) If the county served by the agency is also served by a children's advocacy center and the report alleges sexual abuse of a child or another type of abuse of a child that is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, comply regarding the report with the protocol and procedures for referrals and investigations, with the coordinating activities, and with the authority or responsibility for performing or providing functions, activities, and services stipulated in the interagency agreement entered into under section 2151.428 of the Revised Code relative to that center.

(E) No township, municipal, or county peace officer shall remove a child about whom a report is made pursuant to this section from the child's parents, stepparents, or guardian or any other persons having custody of the child without consultation with the public children services agency, unless, in the judgment of the officer, and, if the report was made by physician, the physician, immediate removal is considered essential to protect the child from further abuse or neglect. The agency that must be consulted shall be the

agency conducting the investigation of the report as determined pursuant to section 2151.422 of the Revised Code.

(F)(1) Except as provided in section 2151.422 of the Revised Code or in an interagency agreement entered into under section 2151.428 of the Revised Code that applies to the particular report, the public children services agency shall investigate, within twenty-four hours, each report of child abuse or child neglect that is known or reasonably suspected or believed to have occurred and of a threat of child abuse or child neglect that is known or reasonably suspected or believed to exist that is referred to it under this section to determine the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, the cause of the injuries, abuse, neglect, or threat, and the person or persons responsible. The investigation shall be made in cooperation with the law enforcement agency and in accordance with the memorandum of understanding prepared under division (J) of this section. A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

A failure to make the investigation in accordance with the memorandum is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from the report or the suppression of any evidence obtained as a result of the report and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person. The public children services agency shall report each case to the uniform statewide automated child welfare information system that the department of job and family services shall maintain in accordance with section 5101.13 of the Revised Code. The public children services agency shall submit a report of its investigation, in writing, to the law enforcement agency.

(2) The public children services agency shall make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children that are brought to its attention.

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency participating in the making of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency participating in good faith in the making of reports under division (B) of this section, and anyone participating in good faith in a judicial proceeding resulting from the reports, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

(b) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding a child's injuries, abuse, or neglect, or the cause of the injuries, abuse, or neglect in any judicial proceeding resulting from a report submitted pursuant to this section.

(2) In any civil or criminal action or proceeding in which it is alleged and proved that participation in the making of a report under this section was not in good faith or participation in a judicial proceeding resulting from a report made under this section was not in good faith, the court shall award the prevailing party reasonable attorney's fees and costs and, if a civil action or proceeding is voluntarily dismissed, may award reasonable attorney's fees and costs to the party against whom the civil action or proceeding is brought.

(H)(1) Except as provided in divisions (H)(4) and (N) of this section, a report made under this section is confidential. The information provided in a report made pursuant to this section and the name of the person who made the report shall not be released for use, and shall not be used, as evidence in any civil action or proceeding brought against the person who made the report. Nothing in this division shall preclude the use of reports of other incidents of known or suspected abuse or neglect in a civil action or proceeding brought pursuant to division (M) of this section against a person who is alleged to have violated division (A)(1) of this section, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker of the report is not the defendant or an agent or employee of the defendant, has been redacted. In a criminal proceeding, the report is admissible in evidence in accordance with the Rules of Evidence and is subject to discovery in accordance with the Rules of Criminal Procedure.

(2) No person shall permit or encourage the unauthorized dissemination of the contents of any report made under this section.

(3) A person who knowingly makes or causes another person to make a false report under division (B) of this section that alleges that any person has committed an act or omission that resulted in a child being an abused child or a neglected child is guilty of a violation of section 2921.14 of the Revised Code.

(4) If a report is made pursuant to division (A) or (B) of this section and the child who is the subject of the report dies for any reason at any time after the report is made, but before the child attains eighteen years of age, the public children services agency or municipal or county peace officer to which the report was made or referred, on the request of the child fatality review board, shall submit a summary sheet of information providing a summary of the report to the review board of the county in which the deceased child resided at the time of death. On the request of the review board, the agency or peace officer may, at its discretion, make the report available to the review board. If the county served by the public children services agency is also served by a children's advocacy center and the report of alleged sexual abuse of a child or another type of abuse of a child is specified in the memorandum of understanding that creates the center as being within the center's jurisdiction, the agency or center shall perform the duties and functions specified in this division in accordance with the interagency agreement entered into under section 2151.428 of the Revised Code relative to that advocacy center.

(5) A public children services agency shall advise a person alleged to have inflicted abuse or neglect on a child who is the subject of a report made pursuant to this section, including a report alleging sexual abuse of a child or another type of abuse of a child referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, in writing of the disposition of the investigation. The agency shall not provide to the person any information that identifies the person who made the report, statements of witnesses, or police or other investigative reports.

(I) Any report that is required by this section, other than a report that is made to the state highway patrol as described in section 5120.173 of the Revised Code, shall result in protective services and emergency supportive services being made available by the public children services agency on behalf of the children about whom the report is made, in an effort to prevent further neglect or abuse, to enhance their welfare, and, whenever possible, to preserve the family unit intact. The agency required to provide the services shall be the agency conducting the investigation of the report pursuant to section 2151.422 of the Revised Code.

(J)(1) Each public children services agency shall prepare a memorandum of understanding that is signed by all of the following:

- (a) If there is only one juvenile judge in the county, the juvenile judge of the county or the juvenile judge's representative;
- (b) If there is more than one juvenile judge in the county, a juvenile judge or the juvenile judges' representative selected by the juvenile judges or, if they are unable to do so for any reason, the juvenile judge who is senior in point of service or the senior juvenile judge's representative;
- (c) The county peace officer;
- (d) All chief municipal peace officers within the county;
- (e) Other law enforcement officers handling child abuse and neglect cases in the county;
- (f) The prosecuting attorney of the county;
- (g) If the public children services agency is not the county department of job and family services, the county department of job and family services;
- (h) The county humane society;
- (i) If the public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, each participating member of the children's advocacy center established

by the memorandum.

(2) A memorandum of understanding shall set forth the normal operating procedure to be employed by all concerned officials in the execution of their respective responsibilities under this section and division (C) of section 2919.21, division (B)(1) of section 2919.22, division (B) of section 2919.23, and section 2919.24 of the Revised Code and shall have as two of its primary goals the elimination of all unnecessary interviews of children who are the subject of reports made pursuant to division (A) or (B) of this section and, when feasible, providing for only one interview of a child who is the subject of any report made pursuant to division (A) or (B) of this section. A failure to follow the procedure set forth in the memorandum by the concerned officials is not grounds for, and shall not result in, the dismissal of any charges or complaint arising from any reported case of abuse or neglect or the suppression of any evidence obtained as a result of any reported child abuse or child neglect and does not give, and shall not be construed as giving, any rights or any grounds for appeal or post-conviction relief to any person.

(3) A memorandum of understanding shall include all of the following:

(a) The roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect;

(b) Standards and procedures to be used in handling and coordinating investigations of reported cases of child abuse and reported cases of child neglect, methods to be used in interviewing the child who is the subject of the report and who allegedly was abused or neglected, and standards and procedures addressing the categories of persons who may interview the child who is the subject of the report and who allegedly was abused or neglected.

(4) If a public children services agency participated in the execution of a memorandum of understanding under section 2151.426 of the Revised Code establishing a children's advocacy center, the agency shall incorporate the contents of that memorandum in the memorandum prepared pursuant to this section.

(5) The clerk of the court of common pleas in the county may sign the memorandum of understanding prepared under division (J)(1) of this section. If the clerk signs the memorandum of understanding, the clerk shall execute all relevant responsibilities as required of officials specified in the memorandum.

(K)(1) Except as provided in division (K)(4) of this section, a person who is required to make a report pursuant to division (A) of this section may make a reasonable number of requests of the public children services agency that receives or is referred the report, or of the children's advocacy center that is referred the report if the report is referred to a children's advocacy center pursuant to an interagency agreement entered into under section 2151.428 of the Revised Code, to be provided with the following information:

(a) Whether the agency or center has initiated an investigation of the report;

- (b) Whether the agency or center is continuing to investigate the report;
- (c) Whether the agency or center is otherwise involved with the child who is the subject of the report;
- (d) The general status of the health and safety of the child who is the subject of the report;
- (e) Whether the report has resulted in the filing of a complaint in juvenile court or of criminal charges in another court.

(2) A person may request the information specified in division (K)(1) of this section only if, at the time the report is made, the person's name, address, and telephone number are provided to the person who receives the report.

When a municipal or county peace officer or employee of a public children services agency receives a report pursuant to division (A) or (B) of this section the recipient of the report shall inform the person of the right to request the information described in division (K)(1) of this section. The recipient of the report shall include in the initial child abuse or child neglect report that the person making the report was so informed and, if provided at the time of the making of the report, shall include the person's name, address, and telephone number in the report.

Each request is subject to verification of the identity of the person making the report. If that person's identity is verified, the agency shall provide the person with the information described in division (K)(1) of this section a reasonable number of times, except that the agency shall not disclose any confidential information regarding the child who is the subject of the report other than the information described in those divisions.

(3) A request made pursuant to division (K)(1) of this section is not a substitute for any report required to be made pursuant to division (A) of this section.

(4) If an agency other than the agency that received or was referred the report is conducting the investigation of the report pursuant to section 2151.422 of the Revised Code, the agency conducting the investigation shall comply with the requirements of division (K) of this section.

(L) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The department of job and family services may enter into a plan of cooperation with any other governmental entity to aid in ensuring that children are protected from abuse and neglect. The department shall make recommendations to the attorney general that the department determines are necessary to protect children from child abuse and child neglect.

(M) Whoever violates division (A) of this section is liable for compensatory and exemplary damages to the child who would have been the subject of the report that was

not made. A person who brings a civil action or proceeding pursuant to this division against a person who is alleged to have violated division (A)(1) of this section may use in the action or proceeding reports of other incidents of known or suspected abuse or neglect, provided that any information in a report that would identify the child who is the subject of the report or the maker of the report, if the maker is not the defendant or an agent or employee of the defendant, has been redacted.

(N)(1) As used in this division:

(a) “Out-of-home care” includes a nonchartered nonpublic school if the alleged child abuse or child neglect, or alleged threat of child abuse or child neglect, described in a report received by a public children services agency allegedly occurred in or involved the nonchartered nonpublic school and the alleged perpetrator named in the report holds a certificate, permit, or license issued by the state board of education under section 3301.071 or Chapter 3319. of the Revised Code.

(b) “Administrator, director, or other chief administrative officer” means the superintendent of the school district if the out-of-home care entity subject to a report made pursuant to this section is a school operated by the district.

(2) No later than the end of the day following the day on which a public children services agency receives a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall provide written notice of the allegations contained in and the person named as the alleged perpetrator in the report to the administrator, director, or other chief administrative officer of the out-of-home care entity that is the subject of the report unless the administrator, director, or other chief administrative officer is named as an alleged perpetrator in the report. If the administrator, director, or other chief administrative officer of an out-of-home care entity is named as an alleged perpetrator in a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved the out-of-home care entity, the agency shall provide the written notice to the owner or governing board of the out-of-home care entity that is the subject of the report. The agency shall not provide witness statements or police or other investigative reports.

(3) No later than three days after the day on which a public children services agency that conducted the investigation as determined pursuant to section 2151.422 of the Revised Code makes a disposition of an investigation involving a report of alleged child abuse or child neglect, or a report of an alleged threat of child abuse or child neglect, that allegedly occurred in or involved an out-of-home care entity, the agency shall send written notice of the disposition of the investigation to the administrator, director, or other chief administrative officer and the owner or governing board of the out-of-home care entity. The agency shall not provide witness statements or police or other investigative reports.

(O) As used in this section, “investigation” means the public children services agency's response to an accepted report of child abuse or neglect through either an alternative

response or a traditional response.

CREDIT(S)

130 v 625 (Eff 10-10-63); 131 v 632 (Eff 11-11-65); 133 v S 49 (Eff 8-13-69); 133 v H 338 (Eff 11-25-69); 136 v H 85 (Eff 11-28-75); 137 v H 219 (Eff 11-1-77); 140 v S 321 (Eff 4-9-85); 141 v H 349 (Eff 3-6-86); 141 v H 528 (Eff 7-9-86); 141 v H 529 (Eff 3-11-87); 143 v H 257 (Eff 8-3-89); 143 v H 44 (Eff 7-24-90); 143 v S 3 (Eff 4-11-91); 144 v H 154 (Eff 7-31-92); 146 v S 269 (Eff 7-1-96); 146 v H 274 (Eff 8-8-96); 146 v S 223 (Eff 3-18-97); 147 v H 215 (6-30-97); 147 v H 408 (Eff 10-1-97); 147 v S 212 (Eff 9-30-98); 147 v H 606 (Eff 3-9-99); 148 v H 471 (Eff 7-1-2000); 148 v H 448 (Eff 10-5-2000); 149 v H 510 (Eff 3-31-2003); 149 v H 374 (Eff 4-7-2003); 149 v S 221. Eff 4-9-2003; 150 v S 178, § 1, eff. 1-30-04; 150 v H 106, § 1, eff. 9-16-04; 150 v S 185, § 1, eff. 4-11-05; 150 v S 66, § 1, eff. 5-6-05; 151 v S 17, § 1, eff. 8-3-06; 151 v S 238, § 1, eff. 9-21-06; 152 v H 314, § 1, eff. 6-20-08; 152 v S 163, § 1, eff. 8-14-08; 152 v H 280, § 1, eff. 4-7-09; 153 v S 79, § 1, eff. 10-6-09; 2011 HB 153, § 101.01, eff. Sept. 29, 2011; 2014 HB 483, § 101.01, eff. Sept. 15, 2014; 2014 HB 213, § 1, eff. Sept. 17, 2014; 2015 HB 64, § 101.01, effective Sep 29, 2015; 2016 HB 158, § 1, effective Oct 12, 2016.

Ohio Rev. Code Ann. § 2151.99 (2016). Penalties

(A)(1) Except as otherwise provided in division (A)(2) of this section, whoever violates division (D)(2) or (3) of section 2151.313 or division (A)(4) or (H)(2) of section 2151.421 of the Revised Code is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates division (A)(4) of section 2151.421 of the Revised Code knowing that a child has been abused or neglected and knowing that the person who committed the abuse or neglect was a cleric or another person, other than a volunteer, designated by a church, religious society, or faith acting as a leader, official, or delegate on behalf of the church, religious society, or faith, is guilty of a misdemeanor of the first degree if the person who violates division (A)(4) of this section and the person who committed the abuse or neglect belong to the same church, religious society, or faith.

(B) Whoever violates division (D)(1) of section 2151.313 of the Revised Code is guilty of a minor misdemeanor.

(C) Whoever violates division (A)(1) of section 2151.421 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (C)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree.

(2) The offender is guilty of a misdemeanor of the first degree if the child who is the subject of the required report that the offender fails to make suffers or faces the threat of suffering the physical or mental wound, injury, disability, or condition that would be the basis of the required report when the child is under the direct care or supervision of the offender who is then acting in the offender's official or professional capacity or when the child is under the direct care or supervision of another person over whom the offender

while acting in the offender's official or professional capacity has supervisory control.

CREDIT(S)

143 v H 257 (Eff 8-3-89); 147 v H 173 (Eff 7-29-98); 148 v S 179, § 3. Eff 1-1-2002; 151 v S 17, § 1, eff. 8-3-06; 151 v S 137, § 1, eff. 3-30-07.

Ohio Rev. Code Ann. § 2921.14 (2016). False report of child abuse or neglect

(A) No person shall knowingly make or cause another person to make a false report under division (B) of section 2151.421 of the Revised Code alleging that any person has committed an act or omission that resulted in a child being an abused child as defined in section 2151.031 of the Revised Code or a neglected child as defined in section 2151.03 of the Revised Code.

(B) Whoever violates this section is guilty of making or causing a false report of child abuse or child neglect, a misdemeanor of the first degree.

CREDIT(S)

143 v S 3. Eff 4-11-91.

OKLAHOMA

Okla. Stat. Ann. tit 10A § 1-2-101 (2016). Establishment of statewide centralized hotline for reporting child abuse or neglect--Hotline requirements--Reporting abuse or neglect--Retaliation by employer--Violations

A. 1. The Department of Human Services shall establish a statewide centralized hotline for the reporting of child abuse or neglect to the Department.

2. The Department shall provide hotline-specific training including, but not limited to, interviewing skills, customer service skills, narrative writing, necessary computer systems, making case determinations, and identifying priority situations.

3. The Department is authorized to contract with third parties in order to train hotline workers.

4. The Department shall develop a system to track the number of calls received, and of that number:

a. the number of calls screened out,

b. the number of referrals assigned, and

c. the number of calls in which the allegations were later found to be unsubstantiated or ruled out.

B. 1. Every person having reason to believe that a child under the age of eighteen (18)

years is a victim of abuse or neglect shall report the matter promptly to the Department of Human Services. Reports shall be made to the hotline provided for in subsection A of this section. Any allegation of abuse or neglect reported in any manner to a county office shall immediately be referred to the hotline by the Department. Provided, however, that in actions for custody by abandonment, provided for in Section 7 of this act, there shall be no reporting requirement.

2. Every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child who tests positive for alcohol or a controlled dangerous substance shall promptly report the matter to the Department.

3. No privilege or contract shall relieve any person from the requirement of reporting pursuant to this section.

4. The reporting obligations under this section are individual, and no employer, supervisor, or administrator shall interfere with the reporting obligations of any employee or other person or in any manner discriminate or retaliate against the employee or other person who in good faith reports suspected child abuse or neglect, or who provides testimony in any proceeding involving child abuse or neglect. Any employer, supervisor, or administrator who discharges, discriminates or retaliates against the employee or other person shall be liable for damages, costs and attorney fees.

5. Every physician, surgeon, or other health care professional making a report of abuse or neglect as required by this subsection or examining a child to determine the likelihood of abuse or neglect and every hospital or related institution in which the child was examined or treated shall provide, upon request, copies of the results of the examination or copies of the examination on which the report was based and any other clinical notes, x-rays, photographs, and other previous or current records relevant to the case to law enforcement officers conducting a criminal investigation into the case and to employees of the Department of Human Services conducting an investigation of alleged abuse or neglect in the case.

C. Any person who knowingly and willfully fails to promptly report suspected child abuse or neglect or who interferes with the prompt reporting of suspected child abuse or neglect may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

D. 1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

1. Any person who knowingly and willfully makes a false report pursuant to the provisions of this section or a report that the person knows lacks factual foundation may be reported to local law enforcement for criminal

investigation and, upon conviction thereof, shall be guilty of a misdemeanor.

2. If a court determines that an accusation of child abuse or neglect made during a child custody proceeding is false and the person making the accusation knew it to be false at the time the accusation was made, the court may impose a fine, not to exceed Five Thousand Dollars (\$5,000.00) and reasonable attorney fees incurred in recovering the sanctions, against the person making the accusation. The remedy provided by this paragraph is in addition to paragraph 1 of this subsection or to any other remedy provided by law.

E. Nothing contained in this section shall be construed to exempt or prohibit any person from reporting any suspected child abuse or neglect pursuant to subsection B of this section.

CREDIT(S)Laws 2009, ch. 149 (HB 1738), § 1, eff. May 11, 2009; Laws 2009, ch. 233 (HB 2028), §§ 79, 212, eff. May 21, 2009 (renumbered from § 10/7103); Laws 2009, ch. 338 (HB 1734), § 10, eff. July 1, 2009; Laws 2010, ch. 358 (HB 1964), § 2, eff. June 7, 2010; Laws 2013, ch. 374 (SB 460), § 1, eff. Nov. 1, 2013; Laws 2015, ch. 186 (sb535), § 1, eff. November 1, 2015.

Okla. Stat. Ann. tit 21§ 1021.4 (2016).Disclosure of obscene materials containing minors

A. Any commercial film and photographic print processor or commercial computer technician who has knowledge of or observes, within the scope of such person's professional capacity or employment, any film, photograph, video tape, negative, or slide, or any computer file, recording, CD-ROM, magnetic disk memory, magnetic tape memory, picture, graphic or image that is intentionally saved, transmitted or organized on hardware or any other media including, but not limited to, CDs, DVDs and thumbdrives, whether digital, analog or other means and whether directly viewable, compressed or encoded depicting a child under the age of eighteen (18) years engaged in an act of sexual conduct as defined in Section 1024.1 of this title shall immediately or as soon as possible report by telephone such instance of suspected child abuse or child pornography to the law enforcement agency having jurisdiction over the case and shall prepare and send a written report of the incident with an attached copy of such material, within thirty-six (36) hours after receiving the information concerning the incident.

For the purposes of this section:

1. "Commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term shall also include any employee of such a person but shall not include a person who develops film or makes prints for a public agency; and

2. "Commercial computer technician" means any person who repairs, installs, or

otherwise services any computer including, but not limited to, any component part, device, memory storage or recording mechanism, auxiliary storage, recording or memory capacity, or any other materials relating to operation and maintenance of a computer or computer network or system, for compensation. The term shall also include any employee of such person.

B. Any person who violates the provisions of this section, upon conviction, shall be guilty of a misdemeanor and shall be punished by the imposition of a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the county jail not to exceed one (1) year, or both such fine and imprisonment.

C. Nothing in this section shall be construed to require or authorize any person to act outside the scope of such person's professional capacity or employment by searching for prohibited materials or media.

Okla. Stat. Ann. tit 10A § 1-2-104 (2016). Immunity from civil and criminal liability—Presumption.

A. Any person who, in good faith and exercising due care, reports suspected child abuse or neglect, or who allows access to a child by persons authorized to investigate a report concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

B. For purposes of any proceeding, civil or criminal, the good faith of any person in making a report pursuant to the provisions of Section 1-2-101 of this title shall be presumed.

C. A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceeding resulting from the investigation process.

CREDIT(S)

Laws 2009, ch. 233 (HB 2028), §§ 81, 215, eff. May 21, 2009 (renumbered from § 10/7105)

Okla. Stat. Ann. tit. 30 § 4-903 (2016). Reporting of abuse, neglect, or exploitation--Violation and penalty--Civil liability.

A. 1. Any person having reasonable cause to believe that an incapacitated person, a partially incapacitated person, or a minor is suffering from abuse, neglect, or exploitation shall make a report to the Department of Human Services, the office of the district attorney in the county in which the suspected abuse, neglect, or exploitation occurred, or the local municipal police department or sheriff's department as soon as such person is aware of the situation.

2. With regard to minors, the use of ordinary force as a means of discipline pursuant to Section 844 of Title 21 of the Oklahoma Statutes shall not constitute abuse.

3. Reports regarding the abuse, neglect, or exploitation of an incapacitated person, or a partially incapacitated person shall be made and shall be governed by the provisions of the Protective Services for Vulnerable Adults Act. Reports regarding the abuse, neglect, or exploitation of a minor shall be made and shall be governed by the Oklahoma Child Abuse Reporting and Prevention Act.

B. Any person who knowingly and willfully fails to promptly report any abuse, neglect, or exploitation as required by the provisions of subsection A of this section, upon conviction, shall be guilty of a misdemeanor.

C. Any person participating in good faith and exercising due care in the making of a report pursuant to the provisions of this section shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

D. Any person who willfully or recklessly makes a false report or a report without a reasonable basis in fact for such a report pursuant to the provisions of this section shall be civilly liable for any actual damages suffered by the person or persons being reported and for any punitive damages set by the court or jury which may be allowed in the discretion of the court or jury.

E. No employer shall terminate the employment, prevent or impair the practice or occupation of, or impose any other sanction on any employee solely for the reason that the employee made or caused to be made a report or cooperated with an investigation pursuant to the provisions of this section. A court, in addition to other damages and remedies, may assess reasonable attorney fees against an employer who has been found to have violated the provisions of this subsection.

CREDIT(S)

HISTORY: Laws 1998, c. 298, § 2, eff. Nov. 1, 1998

OREGON

Or. Rev. Stat. Ann. § 419B.005 (2016). Definitions

(1)(a) “Abuse” means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution or to patronize a prostitute, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(a) Is under 18 years of age; or

(b) Is under 21 years of age and residing in or receiving care or services at a child-caring agency as that term is defined in ORS 418.205.

(3) “Higher education institution” means:

- (a) A community college as defined in ORS 341.005;
- (b) A public university listed in ORS 352.002;
- (c) The Oregon Health and Science University; and
- (d) A private institution of higher education located in Oregon.

(4) “Law enforcement agency” means:

- (a) A city or municipal police department.
- (b) A county sheriff's office.
- (c) The Oregon State Police.
- (d) A police department established by a university under ORS 352.383.
- (e) A county juvenile department.

(5) “Public or private official” means:

- (a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.
- (b) Dentist.
- (c) School employee, including an employee of a higher education institution.
- (d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.
- (e) Employee of the Department of Human Services, Oregon Health Authority, Early Learning Council, Youth Development Council Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.
- (f) Peace officer.
- (g) Psychologist.
- (h) Member of the clergy.

- (i) Regulated social worker.
- (j) Optometrist.
- (k) Chiropractor.
- (L) Certified provider of foster care, or an employee thereof.
- (m) Attorney.
- (n) Licensed professional counselor.
- (o) Licensed marriage and family therapist.
- (p) Firefighter or emergency medical services provider.
- (q) A court appointed special advocate, as defined in ORS 419A.004.
- (r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.
- (s) Member of the Legislative Assembly.
- (t) Physical, speech or occupational therapist.
- (u) Audiologist.
- (v) Speech-language pathologist.
- (w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.
- (x) Pharmacist.
- (y) An operator of a preschool recorded program under ORS 657A.255.
- (z) An operator of a school-age recorded program under ORS 657A.257.
- (aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (bb) Employee of a public or private organization providing child-related services or activities:

(A) Including but not limited to youth groups or centers, scout groups or camps, summer or day camps, survival camps or groups, centers or camps that are operated under the guidance, supervision or auspices of religious, public or private educational systems or community service organizations; and

(B) Excluding community-based, nonprofit organizations whose primary purpose is to provide confidential, direct services to victims of domestic violence, sexual assault, stalking or human trafficking.

(cc) A coach, assistant coach or trainer of an amateur, semiprofessional or professional athlete, if compensated and if the athlete is a child.

(dd) Personal support worker, as defined by rule adopted by the Home Care Commission.

(ee) Home care worker, as defined in ORS 410.600.

CREDIT(S)

HISTORY: 1993 c.546 § 12; 1993 c.622 § 1a; 1995 c.278 § 50; 1995 c.766 § 1; 1997 c.127 § 1; 1997 c.561 § 3; 1997 c.703 § 3; 1997 c.873 § 30; 1999 c.743 § 22; 1999 c.954 § 4; 2001 c.104 § 148; 2003 c.191 § 1; 2005 c.562 § 26; 2005 c.708 § 4; 2009 c.199 § 1; 2009 c.442 § 36; 2009 c.518 § 1; 2009 c.570 § 6; 2009 c.595 § 364; 2009 c.633 § 10; 2009 c.708 § 3; 2010 c.60 §§ 4,5; 2011 c.151 § 12; 2011 c.506 § 38; 2011 c.703 § 34; 2012 c.37 § 60, effective March 6, 2012, operative July 1, 2012; 2012 c.92 § 1, effective January 1, 2013; 2013 c.129 § 26, effective January 1, 2014; 2013 c.180 § 40, effective May 16, 2013, operative January 1, 2014; 2013 c.623 § 17, effective July 19, 2013, operative July 1, 2013; 2013 c.624 § 82, effective July 19, 2013, operative July 1, 2013; 2013 c.720 § 11, effective August 1, 2013; 2015 c.98 § 7, effective January 1, 2016; 2015 c.179 § 1, effective January 1, 2016; 2015 c.736 § 65, effective July 20, 2015, operative January 1, 2016; 2016 c.106 § 39, effective April 4, 2016, operative July 1, 2016.

Or. Rev. Stat. § 419B.010 (2012). Duty of officials to report child abuse; exception; violations.

(1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this

section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) The duty to report under this section is personal to the public or private official alone, regardless of whether the official is employed by, a volunteer of or a representative or agent for any type of entity or organization that employs persons or uses persons as volunteers who are public or private officials in its operations.

(4) The duty to report under this section exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.

(5) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense.

CREDITS(S)

1993 c.546 § 14; 1999 c.1051 § 180; 2001 c.104 § 149; 2001 c.904 § 15; 2005 c.450 § 7; 2012 c.92 § 11, effective January 1, 2013.

Or. Rev. Stat. Ann. § 419B.015 (2016). Oral report; notification of law enforcement and local department office.

(1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this

section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety.

CREDIT(S)

1993 c.546 § 15; 1993 c.734 § 1a; 2005 c.250 § 1; 2007 c.237 § 1.

Or. Rev. Stat. Ann. § 419B.016 (2012). Making a false report of child abuse

(1) A person commits the offense of making a false report of child abuse if, with the intent to influence a custody, parenting time, visitation or child support decision, the person:

(a) Makes a false report of child abuse to the Department of Human Services or a law enforcement agency, knowing that the report is false; or

(b) With the intent that a public or private official make a report of child abuse to the Department of Human Services or a law enforcement agency, makes a false report of child abuse to the public or private official, knowing that the report is false.

(2) Making a false report of child abuse is a Class A violation.

CREDIT(S)

HISTORY: 2011 c.606 § 2.

Or. Rev. Stat. § 419B.025 (2012). Immunity from liability for good faith reports. Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or

criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

CREDIT(S)

Or. Rev. Stat. § 419B.025

Baker County Local Rules, Rule 12.020 (2016). Confidentiality of Mediation.

(1) Pursuant to ORS 107.785 all communications occurring during the course of mediation are confidential. All mediators shall advise each party prior to commencement of mediation that they are mandated reporters regarding any allegation of child abuse or neglect.

(2) The mediator may not be subpoenaed or called as a witness regarding any aspect of the mediation other than to state whether an agreement was reached in mediation and the specific terms of the agreement as communicated to the Court.

Union Wallowa Counties Local Rules, Rule 12.015 (2016). Confidentiality of Mediation.

(1) All communications occurring in the course of mediation are confidential pursuant to ORS 107.785. Mediators are mandated reporters regarding any allegation of child abuse or neglect and shall so advise each party prior to commencement of mediation.

(2) Except as provided by rule 12.020(1), above, or as agreed to by both parties after mediation ends, the mediator shall not communicate to any third party regarding the mediation, other than to inform the Court of the terms of the parties' agreement or, if full agreement was not reached, of that fact. The mediator shall not make any recommendation. The mediator may not be subpoenaed or called as a witness regarding any aspect of the mediation other than whether the mediation resulted in agreement and, if so, the specific terms of the agreement as communicated to the Court.

PENNSYLVANIA

23 Pa. Const. Stat. Ann. § 6311 (2016). Persons required to report

National Center for Prosecution of Child Abuse
National District Attorneys Association

suspected child abuse.

(a) Mandated reporters. — The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) A medical examiner, coroner or funeral director.
- (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
- (4) A school employee.
- (5) An employee of a child care service, who has direct contact with children in the course of employment.
- (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
- (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child's welfare or has direct contact with children.
- (8) An employee of a social services agency, who has direct contact with children in the course of employment.
- (9) A peace officer or law enforcement official.
- (10) An emergency medical services provider certified by the Department of Health.
- (11) An employee of a public library, who has direct contact with children in the course of employment.
- (12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.
- (13) An independent contractor.
- (14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.
- (15) A foster parent.
- (16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

(b) Basis to report.

(1) A mandated reporter enumerated in subsection (a) shall make a report of suspected child abuse in accordance with section 6313 (relating to reporting procedure), if the mandated reporter has reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

(i) The mandated reporter comes into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program,

activity or service.

(ii) The mandated reporter is directly responsible for the care, supervision, guidance or training of the child, or is affiliated with an agency, institution, organization, school, regularly established church or religious organization or other entity that is directly responsible for the care, supervision, guidance or training of the child.

(iii) A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.

(iv) An individual 14 years of age or older makes a specific disclosure to the mandated reporter that the individual has committed child abuse.

(2) Nothing in this section shall require a child to come before the mandated reporter in order for the mandated reporter to make a report of suspected child abuse.

(3) Nothing in this section shall require the mandated reporter to identify the person responsible for the child abuse to make a report of suspected child abuse.

(c) Staff members of institutions, etc. — Whenever a person is required to report under subsection (b) in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, that person shall report immediately in accordance with section 6313 and shall immediately thereafter notify the person in charge of the institution, school, facility or agency or the designated agent of the person in charge. Upon notification, the person in charge or the designated agent, if any, shall facilitate the cooperation of the institution, school, facility or agency with the investigation of the report. Any intimidation, retaliation or obstruction in the investigation of the report is subject to the provisions of 18 Pa.C.S. § 4958 (relating to intimidation, retaliation or obstruction in child abuse cases). This chapter does not require more than one report from any such institution, school, facility or agency.

CREDIT(S)

HISTORY: Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 2015-15 (H.B. 1276), § 2, approved July 1, 2015, eff. July 1, 2015.

23 Pa. Stat. Ann. § 6312 (2012). Persons permitted to report suspected child abuse. Any person may make an oral or written report of suspected child abuse, which may be submitted electronically, or cause a report of suspected child abuse to be made to the department, county agency or law enforcement, if that person has reasonable cause to suspect that a child is a victim of child abuse.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 2014-33 (S.B. 21), § 2, approved Apr. 15, 2014, eff. Dec. 31, 2014.

23 Pa. Stat. Ann. § 6313 (2016). Reporting procedure

(a) Report by mandated reporter.

(1) A mandated reporter shall immediately make an oral report of suspected child abuse to the department via the Statewide toll-free telephone number under section 6332 (relating to establishment of Statewide toll-free telephone number) or a written report using electronic technologies under section 6305 (relating to electronic reporting).

(2) A mandated reporter making an oral report under paragraph (1) of suspected child

abuse shall also make a written report, which may be submitted electronically, within 48 hours to the department or county agency assigned to the case in a manner and format prescribed by the department.

(3) The failure of the mandated reporter to file the report under paragraph (2) shall not relieve the county agency from any duty under this chapter, and the county agency shall proceed as though the mandated reporter complied with paragraph (2).

(b) Contents of report. — A written report of suspected child abuse, which may be submitted electronically, shall include the following information, if known:

(1) The names and addresses of the child, the child's parents and any other person responsible for the child's welfare.

(2) Where the suspected abuse occurred.

(3) The age and sex of each subject of the report.

(4) The nature and extent of the suspected child abuse, including any evidence of prior abuse to the child or any sibling of the child.

(5) The name and relationship of each individual responsible for causing the suspected abuse and any evidence of prior abuse by each individual.

(6) Family composition.

(7) The source of the report.

(8) The name, telephone number and e-mail address of the person making the report.

(9) The actions taken by the person making the report, including those actions taken under section 6314 (relating to photographs, medical tests and X-rays of child subject to report), 6315 (relating to taking child into protective custody), 6316 (relating to admission to private and public hospitals) or 6317 (relating to mandatory reporting and postmortem investigation of deaths).

(10) Any other information required by Federal law or regulation.

(11) Any other information that the department requires by regulation.

(c) (Deleted by amendment).

(d) (Deleted by amendment).

(e) Applicability of mental health procedures act. — Notwithstanding any other provision of law, a mandated reporter enumerated under 6311 (relating to persons required to report suspected child abuse) who makes a report of suspected child abuse pursuant to this section, or who makes a report of a crime against a child to law enforcement officials, shall not be in violation of the act of July 9, 1976 (P.L. 817, No. 143), known as the Mental Health Procedures Act, by releasing information necessary to complete the report.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 1994-151 (H.B. 1001), P.L. 1292, § 3, approved Dec. 16, 1994, eff. July 1, 1995; Act 2014-33 (S.B. 21), , § 2, approved Apr. 15, 2014, eff. Dec. 31, 2014; Act 2014-153 (H.B. 435), , § 4, approved Oct. 22, 2014, eff. Dec. 31, 2014

23 Pa. Stat. Ann. § 6314 (2016). Photographs, medical tests and X-rays of child subject to report

A person or official required to report cases of suspected child abuse may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated,

cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken shall be sent to the county agency at the time the written report is sent or within 48 hours after a report is made by electronic technologies or as soon thereafter as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. Medical summaries or reports of the photographs, X-rays and relevant medical tests shall be made available to law enforcement officials in the course of investigating cases pursuant to section 6340(a)(9) or (10).CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 1994-151 (H.B. 1001), P.L. 1292, § 3, approved Dec. 16, 1994, eff. July 1, 1995; Act 2014-33 (S.B. 21), , § 2, approved Apr. 15, 2014, eff. Dec. 31, 2014.

23 Pa. Stat. Ann. § 6317 (2016). Mandatory reporting and postmortem investigation of deaths.

A person or official required to report cases of suspected child abuse, including employees of a county agency, who has reasonable cause to suspect that a child died as a result of child abuse shall report that suspicion to the appropriate coroner. The coroner shall accept the report for investigation and shall report his finding to the police, the district attorney, the appropriate county agency and, if the report is made by a hospital, the hospital.

CREDIT(S)

HISTORY: Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 1994-151 (H.B. 1001), P.L. 1292, § 3, approved Dec. 16, 1994, eff. July 1, 1995; Act 2014-29 (S.B. 24), , § 3, approved Apr. 7, 2014, eff. Dec. 31, 2014.

23 Pa. Stat. Ann. § 6318 (2016). Immunity from liability.

(a) General rule.--A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a child pursuant to section 6315 (relating to taking child into protective custody), and any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.

(b) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.

(c) Presumption of good faith. — For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to

law enforcement officers under this chapter shall be presumed.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 1994-151 (H.B. 1001), P.L. 1292, § 3, approved Dec. 16, 1994, eff. July 1, 1995; Act 2006-179 (S.B. 1054), P.L. 1581, § 3, approved Nov. 29, 2006, eff. in 60 days; Act 2008-33 (S.B. 1147), P.L. 276, § 1.1, approved July 3, 2008, eff. in 180 days; Act 2013-119 (S.B. 30), P.L. 1201, § 2, approved Dec. 18, 2013, eff. July 1, 2014.

23 Pa. Stat. Ann. § 6319 (2016). Penalties for failure to report or to refer.

(a) Failure to report or refer.

(1) A person or official required by this chapter to report a case of suspected child abuse or to make a referral to the appropriate authorities commits an offense if the person or official willfully fails to do so.

(2) An offense under this section is a felony of the third degree if:

(i) the person or official willfully fails to report;

(ii) the child abuse constitutes a felony of the first degree or higher; and

(iii) the person or official has direct knowledge of the nature of the abuse.

(3) An offense not otherwise specified in paragraph (2) is a misdemeanor of the second degree.

(4) A report of suspected child abuse to law enforcement or the appropriate county agency by a mandated reporter, made in lieu of a report to the department, shall not constitute an offense under this subsection, provided that the report was made in a good faith effort to comply with the requirements of this chapter.

(b) Continuing course of action. — If a person's willful failure under subsection (a) continues while the person knows or has reasonable cause to believe the child is actively being subjected to child abuse, the person commits a misdemeanor of the first degree, except that if the child abuse constitutes a felony of the first degree or higher, the person commits a felony of the third degree.

(c) Multiple offenses. — A person who commits a second or subsequent offense under subsection (a) commits a felony of the third degree, except that if the child abuse constitutes a felony of the first degree or higher, the penalty for the second or subsequent offenses is a felony of the second degree.

(d) Statute of limitations. — The statute of limitations for an offense under subsection (a) shall be either the statute of limitations for the crime committed against the minor child or five years, whichever is greater.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 2006-179 (S.B. 1054), P.L. 1581, § 3, approved Nov. 29, 2006, eff. in 180 days; Act 2014-32 (H.B. 436), § 3, approved Apr. 15, 2014, eff. in 60 days.

23 Pa. Stat. Ann. § 6340 (2016). Release of information in confidential reports.

(a) General rule.--Reports specified in section 6339 (relating to confidentiality of reports) shall only be made available to:

(1) An authorized official of a county agency, of a Federal agency that has a need for such information to carry out its responsibilities under law to protect children from abuse and neglect or of an agency of another state that performs protective services analogous to those services performed by county agencies or the department in the course of the official's duties, multidisciplinary team members assigned to the case and duly authorized persons providing services pursuant to section 6370(a) (relating to voluntary or court-ordered services; findings of child abuse).

(2) A physician examining or treating a child or the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated when the physician or the director or the designee of the director suspects the child of being an abused child or a child alleged to be in need of protection under this chapter.

(3) A guardian ad litem or court designated advocate for the child.

(4) An authorized official or agent of the department in accordance with department regulations or in accordance with the conduct of a performance audit as authorized by section 6343 (relating to investigating performance of county agency).

(5) A court of competent jurisdiction, including a magisterial district judge, a judge of the Philadelphia Municipal Court and a judge of the Pittsburgh Magistrates Court, pursuant to court order or subpoena in a criminal matter involving a charge of child abuse under section 6303(b) (relating to definitions). Disclosure through testimony shall be subject to the restrictions of subsection (c).

(5.1) A court of common pleas in connection with any matter involving custody of a child. The department shall provide to the court any reports and files which the court considers relevant.

(6) A standing committee of the General Assembly, as specified in section 6384 (relating to legislative oversight).

(7) The Attorney General.

(8) Federal auditors if required for Federal financial participation in funding of agencies except that Federal auditors may not remove identifiable reports or copies thereof from

the department or county agencies.

(9) Law enforcement officials of any jurisdiction, as long as the information is relevant in the course of investigating cases of:

(i) Homicide or other criminal offense set forth in section 6344(c) (relating to information relating to prospective child-care personnel), sexual abuse, sexual exploitation, serious bodily injury or serious physical injury perpetrated by persons whether or not related to the victim.

(ii) Child abuse perpetrated by persons who are not family members.

(iii) Repeated physical injury to a child under circumstances which indicate that the child's health, safety or welfare is harmed or threatened.

(iv) A missing child report.

(10) The district attorney or his designee or other law enforcement official, as set forth in the county protocols for investigative teams required in section 6365(c) (relating to services for prevention, investigation and treatment of child abuse), shall receive, immediately after the county agency has ensured the safety of the child, reports of abuse, either orally or in writing, according to regulations promulgated by the department, from the county agency in which the initial report of suspected child abuse or initial inquiry into the report gives evidence that the abuse is:

(i) a criminal offense set forth in section 6344(c), not including an offense under 18 Pa.C.S. § 4304 (relating to endangering welfare of children) or an equivalent crime under Federal law or the law of another state, sexual abuse, sexual exploitation or serious bodily injury perpetrated by persons, whether or not related to the victim;

(ii) child abuse perpetrated by persons who are not family members; or

(iii) serious physical injury involving extensive and severe bruising, burns, broken bones, lacerations, internal bleeding, shaken baby syndrome or choking or an injury that significantly impairs a child's physical functioning, either temporarily or permanently.

(11) Designated county officials, in reviewing the competence of the county agency or its employees pursuant to this chapter. Officials under this paragraph are limited to the following:

(i) The board of commissioners in counties other than counties of the first class.

(ii) Mayor in a city of the first class under the act of April 21, 1949 (P.L. 665, No. 155), known as the First Class City Home Rule Act.

(iii) An individual serving as a county chief executive as designated by a county home

rule charter or optional plan form of government pursuant to the act of April 13, 1972 (P.L. 184, No. 62), known as the Home Rule Charter and Optional Plans Law.

(12) A mandated reporter of suspected child abuse as defined in section 6311 (relating to persons required to report suspected child abuse) who made a report of abuse involving the subject child, but the information permitted to be released to the mandated reporter shall be limited to the following:

- (i) The final status of the child abuse report following the investigation, whether it be indicated, founded or unfounded.
- (ii) Any services provided, arranged for or to be provided by the county agency to protect the child.

(13) Persons required to make reports under Subchapter C.1 (relating to students in public and private schools). Information under this paragraph shall be limited to the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.

- (i) If the alleged perpetrator is a school employee or child care service employee, school administrators and child care service employers shall receive notice of a pending allegation and the final status of the report following the investigation as to whether the report is indicated, founded or unfounded.
- (ii) Information disclosed pursuant to this paragraph shall be provided to the school administrator or child care service employer within ten days of the completion of the investigation.
- (iii) If the perpetrator is a school employee, the notice of the final status of the report shall be sent to the Department of Education within ten days of the completion of the investigation.

(14) A prospective adoptive parent, approved by an adoption agency, when considering adopting an abused child in the custody of a county agency. The county agency having custody of the child and the adoption agency shall determine the scope and detail of information which must be provided so that the prospective parent may make an informed decision to adopt.

(15) Appropriate officials of another county or state regarding an investigation related to child abuse or protective services when a family has moved to that county or state. Reports under this paragraph shall include general protective service reports and related information. Reports and information under this paragraph shall be provided within seven calendar days. The department shall promulgate regulations as necessary to carry out the purposes of this paragraph.

(16) Members of citizen review panels convened pursuant to section 6343.1 (relating to citizen review panels), provided that such members shall not disclose to any person or government official any identifying information about any specific child protective

services case with respect to which the panel is provided information.

(17) A member of a child fatality or near fatality review team under section 6365(d).

(18) The Department of the Auditor General in conjunction with the performances of the duties designated to the Office of Auditor General, except that the Auditor General may not remove identifiable reports or copies thereof from the department or county agency.

(b) Release of information to subject of report.--At any time and upon written request, a subject of a report may receive a copy of all information, except that prohibited from being disclosed by subsection (c), contained in the Statewide central register or in any report filed pursuant to section 6313 (relating to reporting procedure).

(c) Protecting identity of person making report.--Except for reports pursuant to subsection (a)(9) and (10), the release of data that would identify the person who made a report of suspected child abuse or the person who cooperated in a subsequent investigation is prohibited unless the secretary finds that the release will not be detrimental to the safety of that person. Law enforcement officials shall treat all reporting sources as confidential informants.

(d) Exclusion of administrative information.--Information maintained in the Statewide central register which was obtained from an investigating agency in relation to an appeal request shall not be released to any person except a department official, as provided by regulation.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 2015-15 (H.B. 1276), § 4, approved July 1, 2015, eff. July 1, 2015.

23 Pa. Stat. Ann. § 6383 (2016). Education and training.

(a) Duties of department and county agencies.--The department and each county agency, both jointly and individually, shall conduct a continuing publicity and education program for the citizens of this Commonwealth aimed at the prevention of child abuse and child neglect, including the prevention of newborn abandonment, the identification of abused and neglected children and the provision of necessary ameliorative services to abused and neglected children and their families. The department and each county agency shall conduct an ongoing training and education program for local staff, persons required to make reports and other appropriate persons in order to familiarize those persons with the reporting and investigative procedures for cases of suspected child abuse and the rehabilitative services that are available to children and families. In addition, the department shall, by regulation, establish a program of training and certification for persons classified as protective services workers. The regulations shall provide for the grandfathering of all current permanent protective services workers as certified protective services workers. Upon request by the county agency and approval of the department, the agency may conduct the training of the county's protective services

workers.

(a.1) Study by department.--The department shall conduct a study to determine the extent of the reporting of suspected child abuse in this Commonwealth where the reports upon investigation are determined to be unfounded and to be knowingly false and maliciously reported or it is believed that a minor was persuaded to make or substantiate a false and malicious report. The department shall submit the report to the Governor, General Assembly and Attorney General no later than June 1, 1996. The report shall include the department's findings and recommendations on how to reduce the incidence of knowingly false and malicious reporting.

(a.2) Information for mandated and permissive reporters.

(1) In addition to the requirements of subsection (a), the department shall provide specific information related to the recognition and reporting of child abuse on its Internet website in forms, including, but not limited to, the following:

(i) Website content.

(ii) Printable booklets and brochures.

(iii) Educational videos.

(iv) Internet-based interactive training exercises.

(2) Information shall be pertinent to both mandated and permissive reporters and shall address topics, including, but not limited to:

(i) Conduct constituting child abuse under this chapter.

(ii) Persons classified as mandated reporters.

(iii) Reporting requirements and procedures.

(iv) The basis for making a report of suspected child abuse.

(v) Penalties for failure to report.

(vi) Background clearance requirements for individuals who work or volunteer with children.

(vii) Recognition of the signs and symptoms of child abuse.

(viii) Alternative resources to assist with concerns not related to child abuse.

(3) The department shall include the following with all certifications provided pursuant to section 6344(b)(2) (relating to employees having contact with children; adoptive and foster parents):

(i) Information that certain persons are required by law to report suspected child abuse.

(ii) The Internet address where the information and guidance required by this subsection can be obtained.

(iii) A telephone number and mailing address where guidance materials can be requested by individuals who cannot access the department's Internet website.

(4) The department shall implement this subsection within 180 days of the effective date of this subsection.

(b) Duties of Department of State.--

(1) The Department of State shall make training and educational programs and materials available for all professional licensing boards whose licensees are charged with responsibilities for reporting child abuse under this chapter with a program of distributing

educational materials to all licensees.

(2) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall promulgate regulations within one year of the effective date of this subsection on the responsibilities of mandated reporters. These regulations shall clarify that the provisions of this chapter take precedence over any professional standard that might otherwise apply in order to protect children from abuse.

(3) Each licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter shall:

(i) Require all persons applying for a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least three hours of approved child abuse recognition and reporting training. Training shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Training shall be approved by the Department of Public Welfare. The training may occur as part of the continuing education requirement of the license.

(ii) Require all persons applying for the renewal of a license or certification issued by the licensing board to submit documentation acceptable to the licensing board of the completion of at least two hours of approved continuing education per licensure cycle. Continuing education shall address, but shall not be limited to, recognition of the signs of child abuse and the reporting requirements for suspected child abuse in this Commonwealth. Continuing education curricula shall be approved by the licensing board in consultation with the Department of Public Welfare. The two hours of continuing education on child abuse recognition and reporting shall be completed by each licensee as a portion of the total continuing education required for biennial license renewal.

(4) A licensing board with jurisdiction over professional licensees identified as mandated reporters under this chapter may exempt an applicant or licensee from the training or continuing education required by paragraph (3) if all of the following apply:

(i) The applicant or licensee submits documentation acceptable to the licensing board that the person has already completed child abuse recognition training.

(ii) The training was:

(A) required by section 1205.6 of the act of March 10, 1949 (P.L. 30, No. 14), known as the Public School Code of 1949, and the training program was approved by the Department of Education in consultation with the Department of Public Welfare; or

(B) required by the act of June 13, 1967 (P.L. 31, No. 21), known as the Public Welfare Code, and the training program was approved by the Department of Public Welfare.

(iii) The amount of training received equals or exceeds the amount of training or continuing education required by this paragraph.

(5) Upon biennial renewal of a license, a licensing board shall provide to professional licensees under its jurisdiction identified as mandated reporters information related to mandatory reporting of child abuse and the reporting requirements of licensees.

(6) A professional licensee identified as a mandated reporter may apply to the licensing board with jurisdiction over the licensee for an exemption from the training or continuing education required by paragraph (3). A licensing board may exempt the licensee if the licensee submits documentation acceptable to the licensing board that the licensee should

not be subject to the training or continuing education requirement.

(c) Training of persons subject to department regulation.—

(1) The following persons shall be required to meet the child abuse recognition and reporting training requirements of this subsection:

(i) Operators of institutions, facilities or agencies which care for children and are subject to supervision by the department under Article IX of the Public Welfare Code, and their employees who have direct contact with children.

(ii) Foster parents.

(iii) Operators of facilities and agencies which care for children and are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(iv) Caregivers in family child-care homes which are subject to licensure by the department under Article X of the Public Welfare Code and their employees who have direct contact with children.

(v) The adult family member who is a person responsible for the child's welfare and is providing services to a child in a family living home, a community homes for individuals with an intellectual disability or a host home which are subject to supervision OR licensure by the department under Articles IX and X of the Public Welfare Code.

(2) Within six months of the effective date of this subsection, operators and caregivers shall receive three hours of training prior to the issuance of a license or approval certificate and three hours of training every five years thereafter.

(3) Employees who have direct contact with children and foster parents shall receive three hours of training within six months of the issuance of a license or approval certificate and three hours of training every five years thereafter. New employees and new foster parents shall receive three hours of training within 90 days of hire or approval as a foster parent and three hours of training every five years thereafter.

(d) Definitions. — As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

“Direct contact with children.” —The care, supervision, guidance or control of children or routine interaction with children.

“Operator.” —An executive or facility director. The term does not include a person who is not involved in managerial decisions related to the provision of services for or care of children with regard to any of the following:

- (1) Personnel.
- (2) Policy and procedures.
- (3) Regulatory compliance.
- (4) Services related to the general or medical care of children.
- (5) Supervision of children.
- (6) Safety of children.

CREDIT(S)

Act 1990-206 (H.B. 1023), P.L. 1240, § 2, approved Dec. 19, 1990, eff. in 90 days; Act 2015-15 (H.B. 1276), § 8, approved July 1, 2015, eff. July 1, 2015.

RHODE ISLAND

R.I. Gen. Laws § 40-11-3 (2016). Duty to report--Deprivation of nutrition or medical treatment.

(a) Any person who has reasonable cause to know or suspect that any child has been abused or neglected as defined in § 40-11-2 or has been a victim of sexual abuse by another child shall, within twenty-four (24) hours, transfer that information to the department of children, youth and families or its agent who shall cause the report to be investigated immediately. As a result of those reports and referrals, protective social services shall be made available to those children in an effort to safeguard and enhance the welfare of those children and to provide a means to prevent further abuse or neglect. The department shall establish and implement a single, statewide, toll-free telephone to operate twenty-four (24) hours per day, seven (7) days per week for the receipt of reports concerning child abuse and neglect, which reports shall be electronically recorded and placed in the central registry established by § 42-72-7. The electronically recorded records, properly indexed by date and other essential identifying data, shall be maintained for a minimum of three (3) years; provided, however, any person who has been reported

for child abuse and/or neglect and who has been determined not to have neglected and/or abused a child, shall have his or her record expunged as to that incident three (3) years after that determination. The department shall establish rules and regulations requiring hospitals, health care centers, emergency rooms and other appropriate health facilities to report on a quarterly basis the number of cases reported by these institutions as suspected child abuse.

(b) The reporting shall include immediate notification of the department of any instance where parents of an infant have requested deprivation of nutrition that is necessary to sustain life and/or who have requested deprivation of medical or surgical intervention that is necessary to remedy or ameliorate a life threatening medical condition, if the nutrition or medical or surgical intervention is generally provided to similar nutritional, medical, or surgical conditioned infants, whether disabled or not.

(c) Nothing in this section shall be interpreted to prevent a child's parents and physician from discontinuing the use of life-support systems or nonpalliative treatment for a child who is terminally ill where, in the opinion of the child's physician exercising competent medical judgment, the child has no reasonable chance of recovery from the terminal illness despite every appropriate medical treatment to correct the condition.

CREDIT(S)

P.L. 1976, ch. 91, § 2; P.L. 1979, ch. 248, § 9; P.L. 1983, ch. 250, § 1; P.L. 1984, ch. 247, § 1; P.L. 1985, ch. 371, § 1; P.L. 1988, ch. 655, § 1; P.L. 1990, ch. 280, § 1; P.L. 1999, ch. 83, § 101; P.L. 1999, ch. 130, § 101; P.L. 2013, ch. 286, § 1; P.L. 2016, ch. 63, § 2; P.L. 2016, ch. 465, § 2.

R.I. Gen. Laws § 40-11-3.1 (2016). Duty to report death of child due to child abuse or neglect.

Any person required to report under the provisions of this title, who has reasonable cause to know or suspect that a child has died as a result of child abuse or neglect shall immediately transfer that information to the department or its agent who shall cause the report to be investigated immediately. Upon receipt of the report the department or its agent shall immediately transfer such information to the local law enforcement agency or the state police as well as to the office of the medical examiner. The office of the medical examiner shall investigate the report and communicate its preliminary findings, orally within seventy-two (72) hours, and in writing within seven (7) working days to the appropriate law enforcement agency, to the department and if the person who made the report is an employee or a member of the staff of a hospital, to the hospital. Office of the medical examiner shall also communicate its final findings and conclusions, with the basis therefore, to the same parties within sixty (60) days.

CREDIT(S)

P.L. 1984, ch. 257, § 2

R.I. Gen. Laws § 40-11-3.2 (2016). False reporting of child abuse and neglect.

Any person who knowingly and wilfully makes or causes to be made to the department a false report of child abuse or neglect shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than one year or both.

CREDIT(S)

P.L. 1996, ch. 156, § 1

R.I. Gen. Laws § 40-11-4 (2016). Immunity from liability.

Any person participating in good faith in making a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any participant shall have the same immunity with respect to participation in any judicial proceeding resulting from the report.

CREDIT(S)

P.L. 1976, ch. 91, § 2

R.I. Gen. Laws § 40-11-6 (2016). Report by physicians of abuse or neglect.

(a) When any physician or duly certified registered nurse practitioner has cause to suspect that a child brought to him or her or coming to him or her for examination, care, or treatment, is an abused or neglected child as defined in this chapter, or when he or she determines that a child under the age of twelve (12) years is suffering from any sexually transmitted disease, he or she shall report the incident or cause a report thereof to be made to the department as provided in subsection (b).

(b) An immediate oral report shall be made by telephone or otherwise, to both the department and law enforcement agency, and shall be followed by a report, in writing, to the department and law enforcement agency explaining the extent and nature of the abuse or neglect the child is alleged to have suffered.

(c) The department, upon receipt of such a report by a person other than a physician or duly certified registered nurse practitioner alleging that a child has been physically abused, shall investigate the report, and if the investigation reveals evidence of injury or that the child has been the victim of sexual abuse, the department shall have the child examined by a licensed physician or duly certified registered nurse practitioner. Any child protective investigator shall, with or without the consent of the parent or other person responsible for the child's welfare, have the right to remove the child from the place where the child may be to secure the examination required by this subsection. Upon completion of the examination, it shall be mandatory for the physician or duly certified registered nurse practitioner to make a written report of his or her findings to the department.

(d) The department shall promulgate rules and regulations to implement the provisions of this section.

CREDIT(S)

P.L. 1976, ch. 91, § 2; P.L. 1984, ch. 257, § 1; P.L. 1985, ch. 371, § 1; P.L. 1992, ch. 245, § 1; P.L. 2011, ch. 151, art. 17, § 1.

R.I. Gen. Laws § 40-11-6.1 (2016). Penalty for failure to report or perform required act.

Any person, official, physician, or institution required by this chapter to report known or suspected child abuse or neglect or to perform any other act who knowingly fails to do so or who knowingly prevents any person acting reasonably from doing so shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than five hundred dollars (\$500) or imprisonment for not more than one year or both. In addition, any person, official, physician, or institution who knowingly fails to perform any act required by this chapter or who knowingly prevents another person from performing a required act shall be civilly liable for the damages proximately caused by that failure.

CREDIT(S)

P.L. 1979, ch. 248, § 10

R.I. Gen. Laws § 40-11-11 (2016). Abrogation of privileged communications

The privileged quality of communication between husband and wife and any professional person and his or her patient or client, except that between attorney and client, is hereby abrogated in situations involving known or suspected child abuse or neglect and shall not constitute grounds for failure to report as required by this chapter, failure to cooperate with the department in its activities pursuant to this chapter, or failure to give or accept evidence in any judicial proceeding relating to child abuse or neglect. In any family court proceeding relating to child abuse or neglect, notwithstanding the provisions of chapter 37.3 of title 5, or the provisions of § 9-17-24, no privilege of confidentiality may be invoked with respect to any illness, trauma, incompetency, addiction to drugs, or alcoholism of any parent.

CREDIT(S)

P.L. 1976, ch. 91, § 2; P.L. 1988, ch. 106, § 1.

SOUTH CAROLINA

S.C. Code Ann. § 63-7-310 (2016). Persons required to report.

(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), a person, including, but not limited to, a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

CREDIT(S)

2008 Act No. 361, § 2; 2010 Act No. 227, § 1, eff upon approval (became law without the Governor's signature on June 8, 2010).

S.C. Code Ann. § 63-7-320 (2016). Notification and transfer.

(A) Where reports are made pursuant to Section 63-7-310 to a law enforcement agency, the law enforcement agency shall notify the county department of social services of the law enforcement's response to the report at the earliest possible time.

(B) Where a county or contiguous counties have established multicounty child protective services, the county department of social services immediately shall transfer reports pursuant to this section to the service.

(C) In the event the alleged abused or neglected child is a member of an active duty military family, concurrent with the transfer of the report, the county department of social services shall notify the designated authorities at the military installation where the active duty military sponsor is assigned, pursuant to the memorandum of understanding or agreement with the military installation's command authority.

CREDIT(S)

2008 Act No. 361, § 2; 2015 Act No. 62 (H.3548), § 1, eff June 4, 2015.

S.C. Code Ann. § 63-7-330 (2016). Confidentiality of information.

(A) The identity of the person making a report pursuant to this section must be kept confidential by the agency or department receiving the report and must not be disclosed except as provided for in subsection (B) or (C) or as otherwise provided for in this chapter.

(B) When the department refers a report to a law enforcement agency for a criminal investigation, the department must inform the law enforcement agency of the identity of the person who reported the child abuse or neglect. The identity of the reporter must only be used by the law enforcement agency to further the criminal investigation arising from the report, and the agency must not disclose the reporter's identity to any person other than an employee of the agency who is involved in the criminal investigation arising from the report. If the reporter testifies in a criminal proceeding arising from the report, it must not be disclosed that the reporter made the report.

(C) When a law enforcement agency refers a report to the department for an investigation or other response, the law enforcement agency must inform the department of the identity of the person who reported the child abuse or neglect. The department must not disclose the identity of the reporter to any person except as authorized by Section 63-7-1990.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-340 (2016). Previous reports.

When a report is referred to the department for an investigation or other response, the department must determine whether previous reports have been made regarding the same child or the same subject of the report. In determining whether previous reports have been made, the department must determine whether there are any suspected, indicated, or

unfounded reports maintained pursuant to Section 63-7-930 regarding the same child or the same subject of the report.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-350 (2016). Reports for lack of investigation.

If the department does not conduct an investigation as a result of information received pursuant to this subarticle, the department must make a record of the information and must classify the record as a Category IV unfounded report in accordance with Section 63-7-930. The department and law enforcement are authorized to use information recorded pursuant to this section for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-360 (2016). Mandatory reporting to coroner.

A person required under Section 63-7-310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, circuit solicitor's office, the county department of social services and, if the institution making a report is a hospital, to the hospital.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann § 63-7-370 (2016). Domestic violence reporting.

A person required under Section 63-7-310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report his findings to the appropriate law enforcement agency, circuit solicitor's office, the county department of social services and, if the institution making a report is a hospital, to the hospital

.CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-390 (2016). Reporter immunity from liability.

A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-410 (2012). Failure to report; penalties.

A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-420 (2016). Abrogation of privileged communication; exceptions.

The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil protective proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report in accordance with this subarticle except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege as provided for in Section 19-11-90.

CREDIT(S)

2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-430 (2016). Civil action for bad faith reporting.

(A) If the family court determines pursuant to Section 63-7-2000 that a person has made a report of suspected child abuse or neglect maliciously or in bad faith or if a person has

been found guilty of making a false report pursuant to Section 63-7-440, the department may bring a civil action to recover the costs of the department's investigation and proceedings associated with the investigation, including attorney's fees. The department also is entitled to recover costs and attorney's fees incurred in the civil action authorized by this section. The decision of whether to bring a civil action pursuant to this section is in the sole discretion of the department.

(B) If the family court determines pursuant to Section 63-7-2000 that a person has made a false report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 63-7-440, a person who was subject of the false report has a civil cause of action against the person who made the false report and is entitled to recover from the person who made the false report such relief as may be appropriate, including:

- (1) actual damages;
- (2) punitive damages; and
- (3) a reasonable attorney's fee and other litigation costs reasonably incurred.

CREDIT(S)2008 Act No. 361, § 2.

S.C. Code Ann. § 63-7-440 (2016). Knowingly making false report.

(A) It is unlawful to knowingly make a false report of abuse or neglect.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ninety days, or both.

CREDIT(S)

2008 Act No. 361, § 2.

SOUTH DAKOTA

S.D. Codified Laws § 26-8A-3 (2016). Persons required to report child abuse or neglected child--Intentional failure as misdemeanor

Any physician, dentist, doctor of osteopathy, chiropractor, optometrist, mental health professional or counselor, podiatrist, psychologist, religious healing practitioner, social worker, hospital intern or resident, parole or court services officer, law enforcement officer, teacher, school counselor, school official, nurse, licensed or registered child welfare provider, employee or volunteer of a domestic abuse shelter, employee or volunteer of a child advocacy organization or child welfare service provider, chemical dependency counselor, coroner, or any safety-sensitive position as defined in subdivision

23-3-64(2), who has reasonable cause to suspect that a child under the age of eighteen has been abused or neglected as defined in § 26-8A-2 shall report that information in accordance with §§ 26-8A-6, 26-8A-7, and 26-8A-8. Any person who intentionally fails to make the required report is guilty of a Class 1 misdemeanor. Any person who knows or has reason to suspect that a child has been abused or neglected as defined in § 26-8A-2 may report that information as provided in § 26-8A-8.

CREDIT(S)

SL 1964, ch 90, §§ 1, 5; SDCL, § 26-10-13; SL 1973, ch 172, § 1; 1975, ch 179, § 2; 1976, ch 167; 1982, ch 201; 1984, ch 192, § 2; 1985, ch 215, § 1; 1986, ch 223; 1991, ch 217, § 112B; SDCL Supp, § 26-10-10; SL 1993, ch 203; 2000, ch 122, § 1; 2012, ch 146, § 1, eff. July 1, 2012; 2016, ch 143, § 1, eff. July 1, 2016.

S.D. Codified Laws § 26-8A-4 (2016). Additional persons to report death resulting from abuse or neglect--Intentional failure as misdemeanor

In addition to the report required under § 26-8A-3, any person who has reasonable cause to suspect that a child has died as a result of child abuse or neglect as defined in § 26-8A-2 shall report that information to the medical examiner or coroner. Upon receipt of the report, the medical examiner or coroner shall cause an investigation to be made and submit written findings to the state's attorney and the Department of Social Services. Any person required to report under this section who knowingly and intentionally fails to make a report is guilty of a Class 1 misdemeanor.

CREDIT(S)

SL 1984, ch 192, § 4; 1991, ch 217, § 113B; SDCL, § 26-10-10.1.

S.D. Codified Laws § 26-8A-5 (2016). Application of terms.

As used in §§ 26-8A-3 and 26-8A-7, the terms “teacher,” “school counselor,” “school official,” “school administrator,” “school principal,” and “school superintendent” apply to any person substantially performing the respective duties of any such position in a public or private school, whether accredited or unaccredited, and to any person providing instruction pursuant to § 13-27-3.

CREDIT(S)

SL 1989, ch 232; 1991, ch 217, § 114B; SDCL Supp, § 26-10-10.2.

S.D. Codified Laws § 26-8A-6 (2016). Report of abuse or neglect by hospital personnel--Failure as misdemeanor--Written policy required

Any person who has contact with a child through the performance of services as a member of a staff of a hospital or similar institution shall immediately notify the person in charge of the institution or his designee of suspected abuse or neglect. The person in charge shall report the information in accordance with the provisions of § 26-8A-8. Any person required by this section to report shall also promptly submit to the state's attorney complete copies of all medical examination, treatment, and hospital records regarding the child. Any person who knowingly and intentionally fails to make a required report and to submit copies of records is guilty of a Class 1 misdemeanor. Each hospital or similar institution shall have a written policy on reporting of child abuse and neglect and submission of copies of medical examination, treatment, and hospital records to the state's attorney.

CREDIT(S)

SL 1964, ch 90, §§ 1, 5; SDCL, § 26-10-13; SL 1984, ch 192, § 5; 1985, ch 215, § 2; 1991, ch 217, § 115B; SDCL Supp, § 26-10-11.

S.D. Codified Laws § 26-8A-7 (2016). Child abuse or neglect reports by school personnel--Failure as misdemeanor--Written policy required

Any person who has contact with a child through the performance of services in any public or private school, whether accredited or unaccredited, as a teacher, school nurse, school counselor, school official or administrator, or any person providing services pursuant to § 13-27-3 shall notify the school principal or school superintendent or designee of suspected abuse or neglect. The school principal or superintendent shall report the information in accordance with the provisions of § 26-8A-8. Any person who knowingly and intentionally fails to make a required report is guilty of a Class 1 misdemeanor. Each school district shall have a written policy on reporting of child abuse and neglect.

CREDIT(S)

SL 1984, ch 192, § 6; 1985, ch 215, § 3; 1991, ch 217, § 116B; SDCL Supp, § 26-10-11.1.

S.D. Codified Laws § 26-8A-14 (2016). Immunity from liability.

Any person or party participating in good faith in the making of a report or the submitting of copies of medical examination, treatment, or hospitalization records pursuant to §§ 26-8A-3 to 26-8A-8, inclusive, or pursuant to any other provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons requesting the taking of photographs and X rays pursuant to § 26-8A-16, to persons taking the photographs and X rays, to child protection teams established by the secretary of social services, to public officials or employees involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child pursuant to this chapter, or to any

person who in good faith cooperates with a child protection team or the Department of Social Services in investigation, placement, or a treatment plan. The provisions of this section or any other section granting or allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

CREDIT(S)

SL 1964, ch 90, § 3; 1980, ch 193, § 4; 1984, ch 192, § 11; 1991, ch 217, § 122B; SDCL, § 26-10-14.

S.D. Codified Laws. § 26-8A-15 (2016). Communications not privileged in child abuse or neglect cases

The privilege of confidentiality set forth in §§ 19-2-3, 19-13-21.1, and 19-13-6 to 19-13-15, inclusive, and § 36-26-30 may not be claimed in any judicial proceeding involving an alleged abused or neglected child or resulting from the giving or causing the giving of a report concerning abuse or neglect of a child pursuant to §§ 26-8A-3 to 26-8A-8, inclusive.

CREDIT(S)

SL 1964, ch 90, § 4; 1977, ch 209; 1989, ch 233; 1991, ch 217, § 123B; SDCL Supp, § 26-10-15.

S.D. Codified Laws. § 34-24-27 (2016). Reports of fetal alcohol syndrome.

The Department of Health shall provide for the collection and processing of mandatory reports of identifiable and suspected cases of fetal alcohol syndrome from all physicians, hospitals, and institutions. To implement this section, the department may adopt rules, pursuant to chapter 1-26, specifying the definitions, methods by which reports shall be made, and the content and timeliness of such reports.

CREDIT(S)

SL 2001, ch 185, § 1.

TENNESSEE

Tenn. Code Ann. § 37-1-403 (2016). 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 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 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.

(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 the provisions of § 55-10-403(a)(1)(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 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.

(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 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future wellbeing of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services, judge or law enforcement; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(3) Once notice is given pursuant to subdivision (i)(2), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (i)(3) shall not include records of other agencies or departments.

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

CREDIT(S)

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 1; 1978, ch. 886, § 2; T.C.A., § 37-1203; Acts 1985, ch. 478, §§ 26, 32, 40; 1987, ch. 145, § 10; 1994, ch. 901, § 2; 1996, ch. 1079, § 73; 2001, ch. 351, § 1; 2005, ch. 185, §§ 1, 2, 3; 2005, ch. 437, § 2; 2006, ch. 843, § 1; 2007, ch. 305, § 1; 2008, ch. 1011, § 1; 2009, ch. 283, §§ 2, 3; 2009, ch. 358, § 2; 2010, ch. 979, §§ 1-4; 2013, ch. 154, § 31.

Tenn. Code Ann. § 37-1-410 (2016). Privileges and immunities; actions and proceedings.

(a)(1) IF a health care provider makes a report of harm, as required by § 37-1-403; AND

IF the report arises from an examination of the child performed by the health care provider in the course of rendering professional care or treatment of the child; OR

IF the health care provider who is highly qualified by experience in the field of child abuse and neglect, as evidenced by special training or credentialing, renders a second opinion at the request of the department or any law enforcement agency, whether or not the health care provider has examined the child, rendered care or treatment, or made the report of harm; THEN

The health care provider shall not be liable in any civil or criminal action that is based solely upon:

(A) The health care provider's decision to report what the provider believed to be harm;

(B) The health care provider's belief that reporting the harm was required by law;

(C) The fact that a report of harm was made; or

(D) The fact that an opinion as described in this subdivision (a)(1) was requested and provided.

(2) For the purposes of this subsection (a), by providing a second opinion, a report, information or records at the request of the department or any law enforcement agency the health care provider has satisfied all requirements to make a report of harm as required by §§ 37-1-403 and 37-1-605.

(3) As used in this subsection (a), “health care provider” means any physician, osteopathic physician, medical examiner, chiropractor, nurse, hospital personnel, mental health professional or other health care professional.

(4) Nothing in this subsection (a) shall be construed to confer any immunity upon a health care provider for a criminal or civil action arising out of the treatment of the child about whom the report of harm was made.

(5)(A) IF absolute immunity is not conferred upon a person pursuant to subdivision (a)(1); AND

IF, acting in good faith, the person makes a report of harm, as required by § 37-1-403;
THEN

The person shall not be liable in any civil or criminal action that is based solely upon:

- (i) The person's decision to report what the person believed to be harm;
- (ii) The person's belief that reporting the harm was required by law; or
- (iii) The fact that a report of harm was made.

(B) Because of the overriding public policy to encourage all persons to report the neglect of or harm or abuse to children, any person upon whom good faith immunity is conferred pursuant to this subdivision (a)(5) shall be presumed to have acted in good faith in making a report of harm.

(6) No immunity conferred pursuant to this subsection (a) shall attach if the person reporting the harm perpetrated or inflicted the abuse or caused the neglect.

(7) A person furnishing a report, information or records as required, requested, or authorized under this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person for making the report of harm.

(8) If the person furnishing a report, information or records during the normal course of the person's duties as required or authorized or requested under this part is different from the person originally reporting the harm, then the person furnishing the report,

information or records shall have the same immunity and the same scope of immunity with respect to testimony the person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person who made the original report of harm.

(b) Any person reporting under this part shall have a civil cause of action against any person who causes a detrimental change in the employment status of the reporting party by reason of the report.

CREDIT(S)

Acts 1973, ch. 81, § 1; 1977, ch. 343, §§ 3, 4; T.C.A., §§ 37-1209, 37-1210; Acts 2001, ch. 351, § 2; 2008, ch. 1060, § 1.

Tenn. Code Ann. § 37-1-411 (2016). Evidentiary privileges

Neither the husband-wife privilege as preserved in § 24-1-201, nor the psychiatrist-patient privilege as set forth in § 24-1-207, nor the psychologist-patient privilege as set forth in § 63-11-213 is a ground for excluding evidence regarding harm or the cause of harm to a child in any dependency and neglect proceeding resulting from a report of such harm under § 37-1-403 or a criminal prosecution for severe child abuse.

CREDIT(S)

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; T.C.A., §§ 37-1210, 37-1211; Acts 1985, ch. 478, § 20.

Tenn. Code Ann. § 37-1-412 (2016). Failure to make report; juvenile courts.

(a) Any person who knowingly fails to make a report required by § 37-1-403 commits a Class A misdemeanor.

(b) A juvenile court having reasonable cause to believe that a person is guilty of violating this section may have the person brought before the court either by summons or by warrant. If the defendant pleads not guilty, the juvenile court judge shall bind the defendant over to the grand jury. If the defendant pleads guilty and waives, in writing, indictment, presentment, grand jury investigation, and trial by jury, the juvenile court judge shall sentence the defendant under this section with a fine not to exceed two thousand five hundred dollars (\$2,500).

CREDIT(S)

Acts 1973, ch. 81, § 1; 1977, ch. 343, § 4; T.C.A., §§ 37-1211, 37-1-1212; Acts 1989, ch. 591, § 111; 2005, ch. 256, § 1.

Tenn. Code Ann. § 37-1-413 (2016). False reports.

Any person who either verbally or by written or printed communication knowingly and maliciously reports, or causes, encourages, aids, counsels or procures another to report, a false accusation of child sexual abuse or false accusation that a child has sustained any wound, injury, disability or physical or mental condition caused by brutality, abuse or neglect commits a Class E felony.

CREDIT(S)

Acts 1985, ch. 478, § 43; 1989, ch. 591, § 33; 2008, ch. 1171, § 1.

Tenn. Code Ann. § 37-1-605 (2016). Reports; investigation and investigators; medical examiners.

(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; or
- (8) 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, the provisions of § 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 the provisions of 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 or any other law to the contrary, if a school teacher, school official or any other school personnel has knowledge or reasonable cause to suspect that a child who attends such school may be a victim of child abuse or child sexual abuse sufficient to require reporting pursuant to this section and that the abuse occurred on school grounds or while the child was under the supervision or care of the school, then the principal or other person designated by the school shall verbally notify the parent or legal guardian of the child that a report pursuant to this section has been made and shall provide other information relevant to the future well-being of the child while under the supervision or care of the school. The verbal notice shall be made in coordination with the department of children's services to the parent or legal guardian within twenty-four (24) hours from the time the school, school teacher, school official or other school personnel reports the abuse to the department of children's services; provided, that in no event may the notice be later than twenty-four (24) hours from the time the report was made. The notice shall not be given to any parent or legal guardian if there is reasonable cause to believe that the parent or legal guardian may be the perpetrator or in any way responsible for the child abuse or child sexual abuse.

(2) Once notice is given pursuant to subdivision (d)(1), the principal or other designated person shall provide to the parent or legal guardian all school information and records relevant to the alleged abuse or sexual abuse, if requested by the parent or legal guardian; provided, that the information is edited to protect the confidentiality of the identity of the person who made the report, any other person whose life or safety may be endangered by the disclosure, and any information made confidential pursuant to federal law or § 10-7-504(a)(4). The information and records described in this subdivision (d)(2) shall not include records of other agencies or departments.

(3) For purposes of this subsection (d), "school" means any public or privately operated child care agency, as defined in § 71-3-501, preschool, nursery school, kindergarten, elementary school or secondary school.

CREDIT(S)

Acts 1985, ch. 478, § 6; 1987, ch. 145, §§ 2, 11; 1988, ch. 953, § 14; 1993, ch. 439, § 2; 1994, ch. 901, § 2; 2000, ch. 947, §§ 6, 8M; 2008, ch. 1011, § 2; 2009, ch. 283, §§ 4, 5; 2010, ch. 1100, § 54; 2012, ch. 575, § 1; 2014, ch. 761, § 1.

TEXAS

Texas

Tex. Fam. Code Ann. § 261.101 (2016). Persons Required to Report; Time to Report.

(a) A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as provided by this subchapter.

(b) If a professional has cause to believe that a child has been abused or neglected or may be abused or neglected, or that a child is a victim of an offense under Section 21.11, Penal Code, and the professional has cause to believe that the child has been abused as defined by Section 261.001 or 261.401, the professional shall make a report not later than the 48th hour after the hour the professional first suspects that the child has been or may be abused or neglected or is a victim of an offense under Section 21.11, Penal Code. A professional may not delegate to or rely on another person to make the report. In this subsection, "professional" means an individual who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, employees of a clinic or health care facility that provides reproductive services, juvenile probation officers, and juvenile detention or correctional officers.

(b-1) In addition to the duty to make a report under Subsection (a) or (b), a person or professional shall make a report in the manner required by Subsection (a) or (b), as applicable, if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of:

- (1) another child; or
- (2) an elderly person or person with a disability as defined by Section 48.002, Human Resources Code.

(c) The requirement to report under this section applies without exception to an individual whose personal communications may otherwise be privileged, including an attorney, a member of the clergy, a medical practitioner, a social worker, a mental health professional, and an employee of a clinic or health care facility that provides reproductive services.

(d) Unless waived in writing by the person making the report, the identity of an

individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by Section 261.201; or

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 87, effective September 1, 1995; am. Acts 1997, 75th Leg., ch. 162 (H.B. 1929), § 1, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 11, effective September 1, 1997; am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 65, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.29, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1150 (H.B. 3838), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 1390 (H.B. 1622), § 21, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1420 (H.B. 2812), § 5.003, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 949 (H.B. 1575), § 27, effective September 1, 2005; am. Acts 2013, 83rd Leg., ch. 395 (S.B. 152), § 4, effective June 14, 2013; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.122, effective April 2, 2015.

Tex. Fam. Code Ann. § 261.102 (2016). Matters to be Reported.

A report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 88, effective September 1, 1995.

Tex. Fam. Code Ann. § 261.103 (2012). Report Made to Appropriate Agency.

(a) Except as provided by Subsections (b) and (c) and Section 261.405, a report shall be made to:

(1) any local or state law enforcement agency;

(2) the department;

(3) the state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or

(4) the agency designated by the court to be responsible for the protection of children.

(b) A report may be made to the Texas Youth Commission instead of the entities listed under Subsection (a) if the report is based on information provided by a child while under the supervision of the commission concerning the child's alleged abuse of another child.

(c) Notwithstanding Subsection (a), a report, other than a report under Subsection (a)(3) or Section 261.405, must be made to the department if the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 89, effective September 1, 1995; am. Acts 1999, 76th Leg., ch. 1477 (H.B. 3517), § 24, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 1297 (H.B. 1118), § 46, effective September 1, 2001; am. Acts 2005, 79th Leg., ch. 213 (H.B. 1970), § 1, effective September 1, 2005; am. Acts 2015, 84th Leg., ch. 1 (S.B. 219), § 1.123, effective April 2, 2015; am. Acts 2015, 84th Leg., ch. 734 (H.B. 1549), § 80, effective September 1, 2015.

Tex. Fam. Code Ann. § 261.104 (2016). Contents of Report.

The person making a report shall identify, if known:

- (1) the name and address of the child;
- (2) the name and address of the person responsible for the care, custody, or welfare of the child; and
- (3) any other pertinent information concerning the alleged or suspected abuse or neglect.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995; am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 90, effective September 1, 1995.

Tex. Fam. Code Ann. § 261.106 (2016). Immunities.

(a) A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995;
am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 91, effective September 1, 1995.

Tex. Fam. Code Ann. § 261.107 (2016). False Report; Criminal Penalty; Civil Penalty.

(a) A person commits an offense if, with the intent to deceive, the person knowingly makes a report as provided in this chapter that is false. An offense under this subsection is a state jail felony unless it is shown on the trial of the offense that the person has previously been convicted under this section, in which case the offense is a felony of the third degree.

(b) A finding by a court in a suit affecting the parent-child relationship that a report made under this chapter before or during the suit was false or lacking factual foundation may be grounds for the court to modify an order providing for possession of or access to the child who was the subject of the report by restricting further access to the child by the person who made the report.

(c) The appropriate county prosecuting attorney shall be responsible for the prosecution of an offense under this section.

(d) The court shall order a person who is convicted of an offense under Subsection (a) to pay any reasonable attorney's fees incurred by the person who was falsely accused of abuse or neglect in any proceeding relating to the false report.

(e) A person who engages in conduct described by Subsection (a) is liable to the state for a civil penalty of \$1,000. The attorney general shall bring an action to recover a civil penalty authorized by this subsection.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995;
am. Acts 1995, 74th Leg., ch. 751 (H.B. 433), § 92, effective September 1, 1995;
am. Acts 1997, 75th Leg., ch. 575 (H.B. 1826), § 2, effective September 1, 1997;
am. Acts 1997, 75th Leg., ch. 1022 (S.B. 359), § 68, effective September 1, 1997;

am. Acts 1999, 76th Leg., ch. 62 (S.B. 1368), § 6.30, effective September 1, 1999;
am. Acts 2005, 79th Leg., ch. 268 (S.B. 6), §§ 1.13, 1.14(a), effective September 1,
2005.

Tex. Fam. Code Ann. § 261.108 (2012). Frivolous Claims Against Person Reporting

(a) In this section:

(1) “Claim” means an action or claim by a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, requesting recovery of damages.

(2) “Defendant” means a party against whom a claim is made.

(b) A court shall award a defendant reasonable attorney's fees and other expenses related to the defense of a claim filed against the defendant for damages or other relief arising from reporting or assisting in the investigation of a report under this chapter or participating in a judicial proceeding resulting from the report if:

(1) the court finds that the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the claim is dismissed or judgment is rendered for the defendant.

(c) To recover under this section, the defendant must, at any time after the filing of a claim, file a written motion stating that:

(1) the claim is frivolous, unreasonable, or without foundation because the defendant is immune from liability under Section 261.106; and

(2) the defendant requests the court to award reasonable attorney's fees and other expenses related to the defense of the claim.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.

Tex. Fam. Code Ann. § 261.109 (2016). Failure to Report; Penalty.

(a) A person commits an offense if the person has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report as provided in this chapter.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if it is shown on the trial of the offense that the child was a person with

mental retardation who resided in a state supported living center, the ICF-MR component of the Rio Grande State Center, or a facility licensed under Chapter 252, Health and Safety Code, and the actor knew that the child had suffered serious bodily injury as a result of the abuse or neglect.

CREDIT(S)

Enacted by Acts 1995, 74th Leg., ch. 20 (H.B. 655), § 1, effective April 20, 1995.

UTAH

Utah Code Ann. § 62A-4a-403 (2016). Reporting requirements.

(1)(a) Except as provided in Subsection (2), when any person including persons licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 31b, Nurse Practice Act, has reason to believe that a child has been subjected to abuse or neglect, or who observes a child being subjected to conditions or circumstances which would reasonably result in abuse or neglect, that person shall immediately notify the nearest peace officer, law enforcement agency, or office of the division.

(b) Upon receipt of the notification described in Subsection (1)(a), the peace officer or law enforcement agency shall immediately notify the nearest office of the division. If an initial report of abuse or neglect is made to the division, the division shall immediately notify the appropriate local law enforcement agency. The division shall, in addition to its own investigation, comply with and lend support to investigations by law enforcement undertaken pursuant to a report made under this section.

(2) Subject to Subsection (3), the notification requirements of Subsection (1) do not apply to a clergyman or priest, without the consent of the person making the confession, with regard to any confession made to the clergyman or priest in the professional character of the clergyman or priest in the course of discipline enjoined by the church to which the clergyman or priest belongs, if:

(a) the confession was made directly to the clergyman or priest by the perpetrator; and

(b) the clergyman or priest is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession.

(3)(a) When a clergyman or priest receives information about abuse or neglect from any source other than confession of the perpetrator, the clergyman or priest is required to give notification on the basis of that information even though the clergyman or priest may have also received a report of abuse or neglect from the confession of the perpetrator.

(b) Exemption of notification requirements for a clergyman or priest does not exempt a clergyman or priest from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

CREDIT(S)

C. 1953, 62A-4-503, enacted by L. 1988, ch. 1, § 109; 1993, ch. 147, § 1; 1994, ch. 214, § 1; renumbered by L. 1994, ch. 260, § 48; 1999, ch. 21, § 69; 2008, ch. 299, § 18.

Utah Code Ann. § 62A-4a-404 (2016). Fetal alcohol syndrome and drug dependency--Reporting requirements

When an individual, including a licensee under the Medical Practice Act or the Nurse Practice Act, attends the birth of a child or cares for a child, and determines that the child, at the time of birth, has fetal alcohol syndrome, fetal alcohol spectrum disorder, or fetal drug dependency, the individual shall report that determination to the division as soon as possible.

Utah Code Ann. § 62A-4a-405 (2016). Death of child--Reporting requirements.

(1) Any person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:

(a) the local law enforcement agency, who shall report to the county attorney or district attorney as provided under Section 17-18-1 or 17-18-1.7; and

(b) the appropriate medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act.

(2) After receiving a report described in Subsection (1), the medical examiner shall investigate and report the medical examiner's findings to:

(a) the police;

(b) the appropriate county attorney or district attorney;

(c) the attorney general's office;

(d) the division; and

(e) if the institution making the report is a hospital, to that hospital.

CREDIT(S)C. 1953, 62A-4-505, enacted by L. 1988, ch. 1, § 111; 1993, ch. 38, § 64; renumbered by L. 1994, ch. 260, § 50; 2008, ch. 299, § 19; 2013, ch. 237, § 39.

**Utah Code Ann. § 62A-4a-410 (2016). Immunity from liability—
Exceptions.**

(1) Except as provided in Subsection (3), any person, official, or institution participating in good faith in making a report, taking photographs or X-rays, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody pursuant to this part, is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.

(2) This section does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) The immunity described in Subsection (1) does not apply if the person, official, or institution:

(a) acted or failed to act through fraud or willful misconduct;

(b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; or

(c) intentionally or knowingly:

(i) fabricated evidence; or

(ii) except as provided in Subsection (4), with a conscious disregard for the rights of others, failed to disclose evidence that:

(A) was known to the person, official, or institution; and

(B)(I) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a pending judicial or administrative proceeding if the person, official, or institution knew of the pending judicial or administrative proceeding; or

(II) was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.

(4) Immunity is not lost under Subsection (3)(c)(ii), if the person, official, or institution:

(a) failed to disclose evidence described in Subsection (3)(c)(ii), because the person,

official, or institution is prohibited by law from disclosing the evidence; or

(b)(i) pursuant to the provisions of 45 CFR 164.502(g)(5), refused to disclose evidence described in Subsection (3)(c)(ii) to a person who requested the evidence; and

(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person, official, or institution to disclose the evidence described in Subsection (3)(c)(ii).

CREDIT(S)

C. 1953, 62A-4-510, enacted by L. 1988, ch. 1, § 116; renumbered by L. 1994, ch. 260, § 55; 1995, ch. 302, § 17; 2002, ch. 206, § 1; 2005, ch. 102, § 17; 2008, ch. 382, § 1139; 2008, ch. 395, § 1.

Utah Code Ann. § 62A-4a-411 (2016). Failure to report--Criminal penalty.

Any person, official, or institution required to report a case of suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency, who willfully fails to do so is guilty of a class B misdemeanor. Action for failure to report must be commenced within four years from the date of knowledge of the offense and the willful failure to report.

CREDIT(S)

C. 1953, 62A-4-511, enacted by L. 1988, ch. 1, § 117; 1991, ch. 175, § 1; renumbered by L. 1994, ch. 260, § 56; 2008, ch. 299, § 22.

Utah Code Ann. § 62A-4a-412 (2016). Reports and information confidential

(1) Except as otherwise provided in this chapter, reports made pursuant to this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a

minor who is the subject of a report;

(e) except as provided in Subsection 63G-2-202(10), a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not a person's acts or omissions constituted any level of abuse or neglect of another person;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Office of Education, acting on behalf of itself or on behalf of a school district, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any person identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) except as provided in Subsection 63G-2-202(10), a person filing a petition for a child protective order on behalf of a child who is the subject of the report; and

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130.

(2)(a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential

perpetrators of abuse or neglect.

(b) A person who requests information knowing that it is a violation of Subsection (a) to do so is subject to the criminal penalty in Subsection (4).

(3)(a) Except as provided in Section 62A-4a-1007 and Subsection (3)(b), the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in its subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 78A-6-317, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in its possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger a person's safety.

(4) Any person who wilfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) The physician-patient privilege is not a ground for excluding evidence regarding a child's injuries or the cause of those injuries, in any proceeding resulting from a report made in good faith pursuant to this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation pursuant to Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

CREDIT(S)

C. 1953, 62A-4-513, enacted by L. 1988, ch. 1, § 119; renumbered by L. 1994, ch. 260, § 57; 1998, ch. 169, § 6; 1998, ch. 196, § 3; 1998, ch. 274, § 19; 1999, ch. 164, § 5; 1999, ch. 377, § 2; 2000, ch. 304, § 3; 2000, ch. 321, § 5; 2001, ch. 9, § 101; 2002, ch. 283, § 14; 2003, ch. 68, § 6; 2004, ch. 122, § 2; 2004, ch. 356, § 6; 2006, ch. 77, § 6; 2006, ch. 281, § 11; 2008, ch. 3, § 168; 2008, ch. 87, § 1; 2008, ch. 299, § 23; 2008,

VERMONT

Vt. Stat. Ann. tit. 33 § 3502 (2016). Child care facilities; school age care in public schools; 21st century fund.

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

(1) A person providing care for children of not more than two families other than that of the person providing the care.

(2) A hospital or establishment holding a license issued by the department of health, or a person operating a program primarily for recreational or therapeutic purposes, unless the hospital, establishment or person provides services for the care, protection and supervision of children not incidental to its primary purpose in which case subsection (a) shall apply to those nonincidental additional services.

(3) Child care facilities operated by religious organizations for the care and supervision of children during or in connection with religious services or church sponsored activities.

(4) Repealed by 2007, No. 62, § 8, eff. July 1, 2007.

(5) An after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the 21st Century Community Learning Centers program, and that is overseen by the department of education, unless the after-school program asks to participate in the child care subsidy program.

(c) A person who has a license to operate a child care facility shall not operate a family child care home. A person who operates a registered family child care home shall not operate a child care facility.

(d)(1) Regulations pertaining to child care facilities and family child care homes shall be designed to ensure that children in child care facilities and family child care homes are provided with wholesome growth and educational experiences, and are not subjected to neglect, mistreatment, or immoral surroundings.

(2) A licensed child care facility shall ensure that all individuals working at the facility receive orientation, based on materials recommended by the agency of human services

and the department of education, on the prevention, identification, and mandatory reporting of child abuse, including child sexual abuse, signs and symptoms of sexual abuse, sexual violence, grooming processes, recognizing the dangers of child sexual abuse in and close to the home, and other predatory behaviors of sex offenders.

(e) At least each three years the department shall review the regulations for licensure and registration for revision or updating.

(f) The commissioner, upon request, and in the commissioner's discretion, may grant waivers and variances to child-adult ratios if licensure is applied for by a registered child care facility.

(g) Deleted by 2009, No. 44, § 26, eff. May 21, 2009.

(h) Notwithstanding any provision of law to the contrary, the agency of human services may provide technical assistance to schools in voluntarily meeting schoolage child care standards.

(i) Repealed by 2005, Adj. Sess., No. 174, 140(5), eff. July 1, 2006.

CREDIT(S)

Added 1967, No. 147, § 5; amended 1969, No. 254 (Adj. Sess.); 1971, No. 14, § 21, eff. March 11, 1971; 1973, No. 152 (Adj. Sess.). § 24, eff. April 14, 1974; 1981, No. 171 (Adj. Sess.), § 3, eff. April 20, 1982; 2001, No. 61, § 74, eff. June 16, 2001; 2005, No. 174 (Adj. Sess.), §§ 109, 140; 2007, No. 62, § 8; 2007, No. 172 (Adj. Sess.), § 15; 2009, No. 1, § 10; 2009, No. 44, § 26, eff. May 21, 2009; 2013, No. 92 (Adj. Sess.), § 294, eff. Feb. 14, 2014; 2013, No. 131 (Adj. Sess.), § 62, eff. May 20, 2014.

Vt. Stat. Ann. tit. 33, § 4913 (2016). Reporting child abuse and neglect; remedial action.

(a) A mandated reporter is any:

(1) health care provider, including any:

(A) physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26;

(B) resident physician;

(C) intern;

(D) hospital administrator in any hospital in this State;

(E) registered nurse;

(F) licensed practical nurse;

(G) medical examiner;

(H) emergency medical personnel as defined in 24 V.S.A. § 2651(6);

(I) dentist;

(J) psychologist; and

(K) pharmacist;

(2) individual who is employed by a school district or an approved or recognized

independent school, or who is contracted and paid by a school district or an approved or recognized independent school to provide student services, including any:

- (A) school superintendent;
- (B) headmaster of an approved or recognized independent school as defined in 16 V.S.A. § 11;
- (C) school teacher;
- (D) student teacher;
- (E) school librarian;
- (F) school principal; and
- (G) school guidance counselor;
- (3) child care worker;
- (4) mental health professional;
- (5) social worker;
- (6) probation officer;
- (7) employee, contractor, and grantee of the Agency of Human Services who have contact with clients;
- (8) police officer;
- (9) camp owner;
- (10) camp administrator;
- (11) camp counselor; or
- (12) member of the clergy.

(b) As used in subsection (a) of this section, "camp" includes any residential or nonresidential recreational program.

(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.

(d) (1) The Commissioner shall inform the person who made the report under subsection (a) of this section:

- (A) whether the report was accepted as a valid allegation of abuse or neglect;
- (B) whether an assessment was conducted and, if so, whether a need for services was found; and
- (C) whether an investigation was conducted and, if so, whether it resulted in a substantiation.

(2) Upon request, the Commissioner shall provide relevant information contained in the case records concerning a person's report to a person who:

- (A) made the report under subsection (a) of this section; and
- (B) is engaged in an ongoing working relationship with the child or family who is the subject of the report.

(3) Any information disclosed under subdivision (2) of this subsection shall not be disseminated by the mandated reporter requesting the information. A person who intentionally violates the confidentiality provisions of this section shall be fined not more than \$ 2,000.00.

(4) In providing information under subdivision (2) of this subsection, the Department may withhold:

- (A) information that could compromise the safety of the reporter or the child or family who is the subject of the report; or
- (B) specific details that could cause the child to experience significant mental or emotional stress.
- (e) Any other concerned person not listed in subsection (a) of this section who has reasonable cause to believe that any child has been abused or neglected may report or cause a report to be made in accordance with the provisions of section 4914 of this title.
- (f)
 - (1) Any person other than a person suspected of child abuse, who in good faith makes a report to the Department shall be immune from any civil or criminal liability which might otherwise be incurred or imposed as a result of making a report.
 - (2) An employer or supervisor shall not discharge; demote; transfer; reduce pay, benefits, or work privileges; prepare a negative work performance evaluation; or take any other action detrimental to any employee because that employee filed a good faith report in accordance with the provisions of this subchapter. Any person making a report under this subchapter shall have a civil cause of action for appropriate compensatory and punitive damages against any person who causes detrimental changes in the employment status of the reporting party by reason of his or her making a report.
 - (g) The name of and any identifying information about either the person making the report or any person mentioned in the report shall be confidential unless:
 - (1) the person making the report specifically allows disclosure;
 - (2) a Human Services Board proceeding or a judicial proceeding results therefrom;
 - (3) a court, after a hearing, finds probable cause to believe that the report was not made in good faith and orders the Department to make the name of the reporter available; or
 - (4) a review has been requested pursuant to section 4916a of this title, and the Department has determined that identifying information can be provided without compromising the safety of the reporter or the persons mentioned in the report.
- (h)
 - (1) A person who violates subsection (a) of this section shall be fined not more than \$ 500.00.
 - (2) A person who violates subsection (a) 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) 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) 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) of this section.

Vt. Stat. Ann. tit. 33, § 4914 (2016). Nature and content of report; to whom made

A report shall be made orally or in writing to the commissioner or designee. The commissioner or designee shall request the reporter to follow the oral report with a written report, unless the reporter is anonymous. Reports shall contain the name and address or other contact information of the reporter as well as the names and addresses of the child and the parents or other persons responsible for the child's care, if known; the age of the child; the nature and extent of the child's injuries together with any evidence of previous abuse and neglect of the child or the child's siblings; and any other information that the reporter believes might be helpful in establishing the cause of the injuries or reasons for the neglect as well as in protecting the child and assisting the family. If a report of child abuse or neglect involves the acts or omissions of the commissioner or employees of the department, then the report shall be directed to the secretary of the agency of human services who shall cause the report to be investigated by other appropriate agency staff. If the report is substantiated, services shall be offered to the child and to his or her family or caretaker according to the requirements of section 4915b of this title.

CREDIT(S)

Added 1981, No. 207 (Adj. Sess.), § 1, eff. April 25, 1982; amended 1989, No. 187 (Adj. Sess.), § 5; 1989, No. 295 (Adj. Sess.), § 4; 1995, No. 174 (Adj. Sess.), § 3; 2005, No. 174 (Adj. Sess.), § 120; 2007, No. 77, § 1, eff. June 1, 2007; 2007, No. 168 (Adj. Sess.), § 4; 2015, No. 60, § 4a.

VIRGINIA

VA. Code Ann. § 63.2-1508 (2016). Valid report or complaint.

A valid report or complaint means the local department has evaluated the information and allegations of the report or complaint and determined that the local department shall conduct an investigation or family assessment because the following elements are present:

1. The alleged victim child or children are under the age of eighteen at the time of the complaint or report;

2. The alleged abuser is the alleged victim child's parent or other caretaker;
3. The local department receiving the complaint or report has jurisdiction; and
4. The circumstances described allege suspected child abuse or neglect.

Nothing in this section shall relieve any person specified in § 63.2-1509 from making a report required by that section, regardless of the identity of the person suspected to have caused such abuse or neglect.

CREDIT(S)

1975, c. 341, § 63.1-248.2; 1981, c. 123; 1986, c. 308; 1990, c. 760; 1995, c. 520; 2000, c. 500; 2002, c. 747.

VA. Code Ann. § 63.2-1509 (2016). Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;

10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;
15. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5, unless such personnel immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;
16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;
17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; and
18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to

a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, “reason to suspect that a child is abused or neglected” shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis made by a health care provider at any time following a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis made by a health care provider at any time following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When “reason to suspect” is based upon this subsection,

such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

CREDIT(S)

1975, c. 341, § 63.1-248.3; 1976, c. 348; 1978, c. 747; 1993, c. 443; 1994, c. 840; 1995, c. 810; 1998, cc. 704, 716; 1999, c. 606; 2000, c. 500; 2001, c. 853; 2002, cc. 747, 860; 2006, cc. 530, 801; 2008, cc. 43, 268; 2012, cc. 391, 504, 640, 698, 728, 740, 815; 2013, cc. 72, 331; 2014, c. 285.

VA. Code Ann. § 63.2-1510 (2016). Complaints by others of certain injuries to children.

Any person who suspects that a child is an abused or neglected child may make a complaint concerning such child, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline. If an employee of the local department is suspected of abusing or neglecting a child, the complaint shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment; or, if the judge believes that no local department in a reasonable geographic distance can be impartial in responding to the reported case, the judge shall assign the report to the court service unit of his court for evaluation. The judge may consult with the Department in selecting a local department to respond to the report or complaint. Such a complaint may be oral or in writing and shall disclose all information which is the basis for the suspicion of abuse or neglect of the child.

CREDIT(S)

1975, c. 341, § 63.1-248.4; 1976, c. 348; 1994, c. 840; 2000, c. 500; 2002, c. 747.

VA. Code Ann. § 63.2-1512 (2012). Immunity of person making report, etc., from liability.

Any person making a report pursuant to § 63.2-1509, a complaint pursuant to § 63.2-1510, or who takes a child into custody pursuant to § 63.2-1517, or who participates in a judicial proceeding resulting therefrom shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted in bad faith or with malicious intent.

CREDIT(S)

1975, c. 341, § 63.1-248.4; 1976, c. 348; 1994, c. 840; 2000, c. 500; 2002, c. 747.

VA. Code Ann. § 63.2-1513 (2016). Knowingly making false reports; penalties

A. Any person fourteen years of age or older who makes or causes to be made a report of child abuse or neglect pursuant to this chapter that he knows to be false shall be guilty of a Class 1 misdemeanor. Any person fourteen years of age or older who has been previously convicted under this subsection and who is subsequently convicted under this subsection shall be guilty of a Class 6 felony.

B. The child-protective services records regarding the person who was alleged to have committed abuse or neglect that result from a report for which a conviction is obtained under this section shall be purged immediately by any custodian of such records upon presentation to the custodian of a certified copy of such conviction. After purging the records, the custodian shall notify the person in writing that such records have been purged.

CREDIT(S)

1996, cc. 813, 836, § 63.1-248.5:1.01; 1999, c. 828; 2002, c. 747.

VA. Code Ann. § 63.2-1519 (2016). Physician-patient and husband-wife privileges inapplicable

In any legal proceeding resulting from the filing of any report or complaint pursuant to this chapter, the physician-patient and husband-wife privileges shall not apply.

CREDIT(S)

1975, c. 341, § 63.1-248.11; 2002, c. 747.

WASHINGTON

Wash. Rev. Code Ann. § 26.44.030 (2016). Reports--Duty and authority to make--Duty of receiving agency--Duty to notify--Case planning and consultation--Penalty for unauthorized exchange of information--Filing dependency petitions--Investigations--Interviews of children--Records--Risk assessment process.

(1)(a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1)(b) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

- (ii) “Regularly exercises supervisory authority” means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.
- (iii) “Reasonable cause” means a person witnesses or receives a credible written or oral report alleging abuse, including sexual contact, or neglect of a child.
- (iv) “Regularly exercises supervisory authority” means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.
- (v) “Sexual contact” has the same meaning as in RCW 9A.44.010.
- (c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.
- (d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them, has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, “severe abuse” means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.
- (e) The reporting requirement also applies to guardians ad litem, including court-appointed special advocates, appointed under Titles 11, 13, and 26 RCW, who in the course of their representation of children in these actions have reasonable cause to believe a child has been abused or neglected.
- (f) The reporting requirement in (a) of this subsection also applies to administrative and academic or athletic department employees, including student employees, of institutions of higher education, as defined in RCW 28B.10.016, and of private institutions of higher education.
- (g) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.
- (2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the

child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11)(a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) If a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

- (a) Provide the family with a written explanation of the procedure for assessment of the child and the family and its purposes;
- (b) Collaborate with the family to identify family strengths, resources, and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;
- (c) Complete the family assessment response within forty-five days of receiving the report; however, upon parental agreement, the family assessment response period may be extended up to ninety days;
- (d) Offer services to the family in a manner that makes it clear that acceptance of the services is voluntary;
- (e) Implement the family assessment response in a consistent and cooperative manner;
- (f) Have the parent or guardian sign an agreement to participate in services before services are initiated that informs the parents of their rights under family assessment response, all of their options, and the options the department has if the parents do not sign the consent form.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(a) In conducting an investigation or family assessment of alleged abuse or neglect, the department or law enforcement agency:

(i) May interview children. If the department determines that the response to the

allegation will be family assessment response, the preferred practice is to request a parent's, guardian's, or custodian's permission to interview the child before conducting the child interview unless doing so would compromise the safety of the child or the integrity of the assessment. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. If the allegation is investigated, parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(ii) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(b) The Washington state school directors' association shall adopt a model policy addressing protocols when an interview, as authorized by this subsection, is conducted on school premises. In formulating its policy, the association shall consult with the department and the Washington association of sheriffs and police chiefs.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(a) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out nonabusive cases.

(b) In the family assessment response, the department shall not make a finding as to whether child abuse or neglect occurred. No one shall be named as a perpetrator and no investigative finding shall be entered in the department's child abuse or neglect database.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the

court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(19) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(20) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

(21) The department shall make efforts as soon as practicable to determine the military status of parents whose children are subject to abuse or neglect allegations. If the department determines that a parent or guardian is in the military, the department shall notify a department of defense family advocacy program that there is an allegation of abuse and neglect that is screened in and open for investigation that relates to that military parent or guardian.

CREDIT(S)

2016 c 166 § 4; 2015 1st sp.s. c 6 § 1; 2013 c 273 § 2; 2013 c 48 § 2; 2013 c 23 § 43. Prior: 2012 c 259 § 3; 2012 c 55 § 1; 2009 c 480 § 1; 2008 c 211 § 5; (2008 c 211 § 4 expired October 1, 2008); prior: 2007 c 387 § 3; 2007 c 220 § 2; 2005 c 417 § 1; 2003 c 207 § 4; prior: 1999 c 267 § 20; 1999 c 176 § 30; 1998 c 328 § 5; 1997 c 386 § 25; 1996 c 278 § 2; 1995 c 311 § 17; prior: 1993 c 412 § 13; 1993 c 237 § 1; 1991 c 111 § 1; 1989 c 22 § 1; prior: 1988 c 142 § 2; 1988 c 39 § 1; prior: 1987 c 524 § 10; 1987 c 512 § 23; 1987 c 206 § 3; 1986 c 145 § 1; 1985 c 259 § 2; 1984 c 97 § 3; 1982 c 129 § 7; 1981 c 164 § 2; 1977 ex.s. c 80 § 26; 1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.

Wash. Rev. Code Ann. § 26.44.032 (2016). Legal defense of public employee

In cases in which a public employee subject to RCW 26.44.030 acts in good faith and without gross negligence in his or her reporting duty, and if the employee's judgment as to what constitutes reasonable cause to believe that a child has suffered abuse or neglect is being challenged, the public employer shall provide for the legal defense of the employee.

CREDIT(S)

1999 c 176 § 31; 1988 c 87 § 1.

Wash. Rev. Code Ann. § 26.44.040 (2016). Reports--Oral, written—Contents.

An immediate oral report must be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the alleged injury or injuries;
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

CREDIT(S)

1999 c 176 § 32; 1997 c 386 § 27; 1993 c 412 § 14; 1987 c 206 § 4; 1984 c 97 § 4; 1977 ex.s. c 80 § 27; 1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.

Wash. Rev. Code Ann. § 26.44.060 (2012). Immunity from civil or criminal liability--Confidential communications not violated--Actions against state not affected--False report, penalty.

(1)(a) Except as provided in (b) of this subsection, any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, cooperates in an investigation arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur.

CREDIT(S)

2007 c 118 § 1; 2004 c 37 § 1; 1997 c 386 § 29; 1988 c 142 § 3; 1982 c 129 § 9; 1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.

Wash. Rev. Code Ann. § 26.44.080 (2016). Violation—Penalty.

Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a gross misdemeanor.

CREDIT(S)

1982 c 129 § 10; 1971 ex.s. c 167 § 3.

Wash. Rev. Code Ann. § 9A.20.021 (2016). Maximum sentences for crimes committed July 1, 1984, and after

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

CREDIT(S)

2015 c 265 § 16; 2011 c 96 § 13. Prior: 2003 c 288 § 7; 2003 c 53 § 63; 1982 c 192 § 10.

WEST VIRGINIA

W. Va. Code Ann. § 49-6A-1 (2012). Purpose.

It is the purpose of this article, through the complete reporting of child abuse and neglect, to protect the best interests of the child, to offer protective services in order to prevent any further harm to the child or any other children living in the home, to stabilize the home environment, to preserve family life whenever possible, to promote adult responsibility for protecting children and to encourage cooperation among the states to prevent future incidents of child abuse and neglect and in dealing with the problems of child abuse and neglect.

W. Va. Code Ann. § 49-6A-2 (2012). Persons mandated to report suspected abuse and neglect.

(a) Any medical, dental or mental health professional, Christian Science practitioner, religious healer, school teacher or other school personnel, social service worker, child care or foster care worker, emergency medical services personnel, peace officer or law-

enforcement official, humane officer, member of the clergy, circuit court judge, family court judge, employee of the Division of Juvenile Services, magistrate, youth camp administrator or counselor, employee, coach or volunteer of an entity that provides organized activities for children, or commercial film or photographic print processor who has reasonable cause to suspect that a child is neglected or abused or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than forty-eight hours after suspecting this abuse or neglect, report the circumstances or cause a report to be made to the Department of Health and Human Resources: *Provided*, That in any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also immediately report, or cause a report to be made, to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint: *Provided, however*, That any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility or agency shall also immediately notify the person in charge of the institution, school, entity that provides organized activities for children, facility or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made.

(b) Any person over the age of eighteen who receives a disclosure from a credible witness or observes any sexual abuse or sexual assault of a child, shall immediately, and not more than forty-eight hours after receiving such a disclosure or observing the sexual abuse or sexual assault, report the circumstances or cause a report to be made to the Department of Health and Human Resources or the State Police or other law-enforcement agency having jurisdiction to investigate the report. In the event that the individual receiving the disclosure or observing the sexual abuse or sexual assault has a good faith belief that the reporting of the event to the police would expose either the reporter, the subject child, the reporter's children or other children in the subject child's household to an increased threat of serious bodily injury, the individual may delay making the report while he or she undertakes measures to remove themselves or the affected children from the perceived threat of additional harm: *Provided*, That the individual makes the report as soon as practicable after the threat of harm has been reduced. The law-enforcement agency that receives a report under this subsection shall report the allegations to the Department of Health and Human Resources and coordinate with any other law-enforcement agency, as necessary to investigate the report.

(c) Nothing in this article is intended to prevent individuals from reporting suspected abuse or neglect on their own behalf. In addition to those persons and officials specifically required to report situations involving suspected abuse or neglect of children, any other person may make a report if such person has reasonable cause to suspect that a child has been abused or neglected in a home or institution or observes the child being subjected to conditions or circumstances that would reasonably result in abuse or neglect.

W. Va. Code Ann. § 49-6A-3 (2016). Mandatory reporting to medical

examiner or coroner; postmortem investigation.

Any person or official who is required under section two of this article to report cases of suspected child abuse or neglect and who has reasonable cause to suspect that a child has died as a result of child abuse or neglect, shall report that fact to the appropriate medical examiner or coroner. Upon the receipt of such a report, the medical examiner or coroner shall cause an investigation to be made and report his findings to the police, the appropriate prosecuting attorney, the local child protective service agency and, if the institution making a report is a hospital, to the hospital.

W. Va. Code Ann. § 49-6A-4 (2016). Photographs and X rays.

Any person required to report cases of children suspected of being abused and neglected may take or cause to be taken, at public expense, photographs of the areas of trauma visible on a child and, if medically indicated, cause to be performed radiological examinations of the child. Any photographs or X rays taken shall be sent to the appropriate child protective service as soon as possible.

W. Va. Code Ann. § 49-6A-5 (2016). Reporting procedures.

(a) Reports of child abuse and neglect pursuant to this article shall be made immediately by telephone to the local state department child protective service agency and shall be followed by a written report within forty-eight hours if so requested by the receiving agency. The state department shall establish and maintain a twenty-four hour, seven-day-a-week telephone number to receive such calls reporting suspected or known child abuse or neglect.

(b) A copy of any report of serious physical abuse, sexual abuse or assault shall be forwarded by the department to the appropriate law-enforcement agency, the prosecuting attorney or the coroner or medical examiner's office. All reports under this article shall be confidential. Reports of known or suspected institutional child abuse or neglect shall be made and received as all other reports made pursuant to this article.

W. Va. Code Ann. § 49-6A-6 (2016). Immunity from liability.

Any person, official or institution participating in good faith in any act permitted or required by this article shall be immune from any civil or criminal liability that otherwise might result by reason of such actions.

W. Va. Code Ann. § 49-6A-7 (2016). Abrogation of privileged communications.

The privileged quality of communications between husband and wife and between any professional person and his patient or his client, except that between attorney and client, is hereby abrogated in situations involving suspected or known child abuse or neglect.

W. Va. Code Ann. § 49-6A-8 (2016). Failure to report; penalty.

Any person, official or institution required by this article to report a case involving a child known or suspected to be abused or neglected, or required by section five of this article to forward a copy of a report of serious injury, who knowingly fails to do so or knowingly prevents another person acting reasonably from doing so, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more than thirty days or fined not more than \$1,000, or both.

W. Va. Code Ann. § 49-6A-9 (2016). Establishment of child protective services; general duties and powers; immunity from civil liability; cooperation of other state agencies

(a) The state department shall establish or designate in every county a local child protective services office to perform the duties and functions set forth in this article.

(b) The local child protective services office shall investigate all reports of child abuse or neglect: *Provided*, That under no circumstances shall investigating personnel be relatives of the accused, the child or the families involved. In accordance with the local plan for child protective services, it shall provide protective services to prevent further abuse or neglect of children and provide for or arrange for and coordinate and monitor the provision of those services necessary to ensure the safety of children. The local child protective services office shall be organized to maximize the continuity of responsibility, care and service of individual workers for individual children and families: *Provided, however*, That under no circumstances may the secretary or his or her designee promulgate rules or establish any policy which restricts the scope or types of alleged abuse or neglect of minor children which are to be investigated or the provision of appropriate and available services.

Each local child protective services office shall:

(1) Receive or arrange for the receipt of all reports of children known or suspected to be

abused or neglected on a 24-hour, seven-day-a-week basis and cross-file all such reports under the names of the children, the family and any person substantiated as being an abuser or neglecter by investigation of the Department of Health and Human Resources, with use of such cross-filing of such person's name limited to the internal use of the department;

(2) Provide or arrange for emergency children's services to be available at all times;

(3) Upon notification of suspected child abuse or neglect, commence or cause to be commenced a thorough investigation of the report and the child's environment. As a part of this response, within fourteen days there shall be a face-to-face interview with the child or children and the development of a protection plan, if necessary for the safety or health of the child, which may involve law-enforcement officers or the court;

(4) Respond immediately to all allegations of imminent danger to the physical well-being of the child or of serious physical abuse. As a part of this response, within seventy-two hours there shall be a face-to-face interview with the child or children and the development of a protection plan, which may involve law-enforcement officers or the court; and

(5) In addition to any other requirements imposed by this section, when any matter regarding child custody is pending, the circuit court or family law master may refer allegations of child abuse and neglect to the local child protective services office for investigation of the allegations as defined by this chapter and require the local child protective services office to submit a written report of the investigation to the referring circuit court or family law master within the time frames set forth by the circuit court or family law master.

(c) In those cases in which the local child protective services office determines that the best interests of the child require court action, the local child protective services office shall initiate the appropriate legal proceeding.

(d) The local child protective services office shall be responsible for providing, directing or coordinating the appropriate and timely delivery of services to any child suspected or known to be abused or neglected, including services to the child's family and those responsible for the child's care.

(e) To carry out the purposes of this article, all departments, boards, bureaus and other agencies of the state or any of its political subdivisions and all agencies providing services under the local child protective services plan shall, upon request, provide to the local child protective services office such assistance and information as will enable it to fulfill its responsibilities.

(f)(1) In order to obtain information regarding the location of a child who is the subject of an allegation of abuse or neglect, the Secretary of the Department of Health and Human Resources may serve, by certified mail or personal service, an administrative subpoena

on any corporation, partnership, business or organization for the production of information leading to determining the location of the child.

(2) In case of disobedience to the subpoena, in compelling the production of documents, the secretary may invoke the aid of: (A) The circuit court with jurisdiction over the served party if the person served is a resident; or (B) the circuit court of the county in which the local child protective services office conducting the investigation is located if the person served is a nonresident.

(3) A circuit court shall not enforce an administrative subpoena unless it finds that: (A) The investigation is one the Division of Child Protective Services is authorized to make and is being conducted pursuant to a legitimate purpose; (B) the inquiry is relevant to that purpose; (C) the inquiry is not too broad or indefinite; (D) the information sought is not already in the possession of the Division of Child Protective Services; and (E) any administrative steps required by law have been followed.

(4) If circumstances arise where the secretary, or his or her designee, determines it necessary to compel an individual to provide information regarding the location of a child who is the subject of an allegation of abuse or neglect, the secretary, or his or her designee, may seek a subpoena from the circuit court with jurisdiction over the individual from whom the information is sought.

(g) No child protective services caseworker may be held personally liable for any professional decision or action thereupon: arrived at in the performance of his or her official duties as set forth in this section or agency rules promulgated thereupon: *Provided*, That nothing in this subsection protects any child protective services worker from any liability arising from the operation of a motor vehicle or for any loss caused by gross negligence, willful and wanton misconduct or intentional misconduct.

W. Va. Code Ann. § 49-6A-10 (2016). Educational programs.

Subject to appropriation in the budget bill, the state department shall conduct educational and training programs for persons required to report suspected abuse or neglect, and the general public, as well as implement evidence-based programs that reduce incidents of child maltreatment including sexual abuse. Training for persons require to report and the general public shall include indicators of child abuse and neglect, tactics used by sexual abusers, how and when to make a report, and protective factors that prevent abuse and neglect in order to promote adult responsibility for protecting children, encourage maximum reporting of child abuse and neglect, and to improve communication, cooperation and coordination among all agencies involved in the identification, prevention and treatment of the abuse and neglect of children.

WISCONSIN

Wis. stat. ann. § 48.981 (2016). Abused or neglected children and abused unborn children

(1) Definitions. In this section:

(ag) “Agency” means a county department, the department in a county having a population of 500,000 or more or a licensed child welfare agency under contract with a county department or the department in a county having a population of 500,000 or more to perform investigations under this section.

(am) “Caregiver” means, with respect to a child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect, any of the following persons:

1. The child's parent, grandparent, greatgrandparent, stepparent, brother, sister, stepbrother, stepsister, half brother, or half sister.
2. The child's guardian.
3. The child's legal custodian.
4. A person who resides or has resided regularly or intermittently in the same dwelling as the child.
5. An employee of a residential facility or residential care center for children and youth in which the child was or is placed.
6. A person who provides or has provided care for the child in or outside of the child's home.
7. Any other person who exercises or has exercised temporary or permanent control over the child or who temporarily or permanently supervises or has supervised the child.
8. Any relative of the child other than a relative specified in subd. 1.

(b) “Community placement” means probation; extended supervision; parole; aftercare; conditional transfer into the community under s. 51.35(1); conditional transfer or discharge under s. 51.37(9); placement in a Type 2 residential care center for children and youth or a Type 2 juvenile correctional facility authorized under s. 938.539(5); conditional release under s. 971.17; supervised release under s. 980.06 or 980.08; participation in the community residential confinement program under s. 301.046, the

intensive sanctions program under s. 301.048, the corrective sanctions program under s. 938.533, the intensive supervision program under s. 938.534, or the serious juvenile offender program under s. 938.538; or any other placement of an adult or juvenile offender in the community under the custody or supervision of the department of corrections, the department of health services, a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 or any other person under contract with the department of corrections, the department of health services, or a county department under s. 46.215, 46.22, 46.23, 51.42, or 51.437 to exercise custody or supervision over the offender.

(ct) “Indian unborn child” means an unborn child who, when born, may be eligible for affiliation with an Indian tribe in any of the following ways:

1. As a member of the Indian tribe.
2. As a person who is eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe.

(cv) “Member of a religious order” means an individual who has taken vows devoting himself or herself to religious or spiritual principles and who is authorized or appointed by his or her religious order or organization to provide spiritual or religious advice or service.

(cx) “Member of the clergy” has the meaning given in s. 765.002(1) or means a member of a religious order, and includes brothers, ministers, monks, nuns, priests, rabbis, and sisters.

(f) “Record” means any document relating to the investigation, assessment and disposition of a report under this section.

(g) “Reporter” means a person who reports suspected abuse or neglect or a belief that abuse or neglect will occur under this section.

(h) “Subject” means a person or unborn child named in a report or record as any of the following:

1. A child who is the victim or alleged victim of abuse or neglect or who is threatened with abuse or neglect.

1m. An unborn child who is the victim or alleged victim of abuse or who is at substantial risk of abuse.

2. A person who is suspected of abuse or neglect or who has been determined to have abused or neglected a child or to have abused an unborn child.

(i) “Tribal agent” means the person designated under 25 CFR 23.12 by an Indian tribe to receive notice of involuntary child custody proceedings under the federal Indian Child

Welfare Act, 25 USC 1901 to 1963.

(2) Persons required to report. (a) Any of the following persons who has reasonable cause to suspect that a child seen by the person in the course of professional duties has been abused or neglected or who has reason to believe that a child seen by the person in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under subs. (2m) and (2r), report as provided in sub. (3):

1. A physician.
2. A coroner.
3. A medical examiner.
4. A nurse.
5. A dentist.
6. A chiropractor.
7. An optometrist.
8. An acupuncturist.
9. A medical or mental health professional not otherwise specified in this paragraph.
10. A social worker.
11. A marriage and family therapist.
12. A professional counselor.
13. A public assistance worker, including a financial and employment planner, as defined in s. 49.141(1)(d).
14. A school teacher.
15. A school administrator
16. A school counselor.
- 16m. A school employee not otherwise specified in this paragraph.
17. A mediator under s. 767.405.

18. A child care worker in a child care center, group home, or residential care center for children and youth.

19. A child care provider.

20. An alcohol or other drug abuse counselor.

21. A member of the treatment staff employed by or working under contract with a county department under s. 46.23, 51.42, or 51.437 or a residential care center for children and youth.

22. A physical therapist.

22m. A physical therapist assistant.

23. An occupational therapist.

24. A dietitian.

25. A speech-language pathologist.

26. An audiologist.

27. An emergency medical technician.

28. A first responder.

29. A police or law enforcement officer.

(b) A court-appointed special advocate who has reasonable cause to suspect that a child seen in the course of activities under s. 48.236(3) has been abused or neglected or who has reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, except as provided in subs. (2m) and (2r), report as provided in sub. (3).

(bm)1. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall report as provided in sub. (3) if the member of the clergy has reasonable cause to suspect that a child seen by the member of the clergy in the course of his or her professional duties:

a. Has been abused, as defined in s. 48.02(1)(b) to (f); or

b. Has been threatened with abuse, as defined in s. 48.02(1)(b) to (f), and abuse of the child will likely occur.

2. Except as provided in subd. 3. and subs. (2m) and (2r), a member of the clergy shall

report as provided in sub. (3) if the member of the clergy has reasonable cause, based on observations made or information that he or she receives, to suspect that a member of the clergy has done any of the following:

- a. Abused a child, as defined in s. 48.02(1)(b) to (f).
- b. Threatened a child with abuse, as defined in s. 48.02(1)(b) to (f), and abuse of the child will likely occur.

3. A member of the clergy is not required to report child abuse information under subd. 1. or 2. that he or she receives solely through confidential communications made to him or her privately or in a confessional setting if he or she is authorized to hear or is accustomed to hearing such communications and, under the disciplines, tenets, or traditions of his or her religion, has a duty or is expected to keep those communications secret. Those disciplines, tenets, or traditions need not be in writing.

(c) Any person not otherwise specified in par. (a), (b), or (bm), including an attorney, who has reason to suspect that a child has been abused or neglected or who has reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).

(d) Any person, including an attorney, who has reason to suspect that an unborn child has been abused or who has reason to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3).

(e) No person making a report under this subsection in good faith may be discharged from employment, disciplined or otherwise discriminated against in regard to employment, or threatened with any such treatment for so doing.

(2m) Exception to reporting requirement; health care services. (a) The purpose of this subsection is to allow children to obtain confidential health care services.

(b) In this subsection:

1. “Health care provider” means a physician, as defined under s. 448.01(5), a physician assistant, as defined under s. 448.01(6), or a nurse holding a certificate of registration under s. 441.06(1) or a license under s. 441.10(3).

2. “Health care service” means family planning services, as defined in s. 253.07(1)(b), 1995 stats., pregnancy testing, obstetrical health care or screening, diagnosis and treatment for a sexually transmitted disease.

(c) Except as provided under pars. (d) and (e), the following persons are not required to report as suspected or threatened abuse, as defined in s. 48.02(1)(b), sexual intercourse or sexual contact involving a child:

1. A health care provider who provides any health care service to a child.
4. A person who obtains information about a child who is receiving or has received health care services from a health care provider.

(d) Any person described under par. (c)1. or 4. shall report as required under sub. (2) if he or she has reason to suspect any of the following:

1. That the sexual intercourse or sexual contact occurred or is likely to occur with a caregiver.
2. That the child suffered or suffers from a mental illness or mental deficiency that rendered or renders the child temporarily or permanently incapable of understanding or evaluating the consequences of his or her actions.
3. That the child, because of his or her age or immaturity, was or is incapable of understanding the nature or consequences of sexual intercourse or sexual contact.
4. That the child was unconscious at the time of the act or for any other reason was physically unable to communicate unwillingness to engage in sexual intercourse or sexual contact.
5. That another participant in the sexual contact or sexual intercourse was or is exploiting the child.

(e) In addition to the reporting requirements under par. (d), a person described under par. (c)1. or 4. shall report as required under sub. (2) if he or she has any reasonable doubt as to the voluntariness of the child's participation in the sexual contact or sexual intercourse.

(2r) Exception to reporting requirement; person delegated parental powers. A person delegated care and custody of a child under s. 48.979 is not required to report as provided in sub. (3) any suspected or threatened abuse or neglect of the child as required under sub. (2)(a), (b), or (bm) or (2m)(d) or (e). Such a person who has reason to suspect that the child has been abused or neglected or who has reason to believe that the child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may report as provided in sub. (3).

(3) Reports; investigation. (a) Referral of report. 1. A person required to report under sub. (2) shall immediately inform, by telephone or personally, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department or the sheriff or city, village, or town police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur.

2. The sheriff or police department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the county department or, in a county having a

population of 500,000 or more, the department or a licensed child welfare agency under contract with the department all of the following types of cases reported to the sheriff or police department:

- a. Cases in which a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of a child.
- b. Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.
- c. Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.
- d. Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.

2d. The sheriff or police department may refer to the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department a case reported to the sheriff or police department in which a person who is not a caregiver is suspected of abuse or of threatened abuse of a child.

2g. The county department, department, or licensed child welfare agency may require that a subsequent report of a case referred under subd. 2. or 2d. be made in writing.

3. Except as provided in sub. (3m), a county department, the department, or a licensed child welfare agency under contract with the department shall within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the sheriff or police department all cases of suspected or threatened abuse, as defined in s. 48.02(1)(b) to (f), reported to it. For cases of suspected or threatened abuse, as defined in s. 48.02(1)(a), (am), (g), or (gm), or neglect, each county department, the department, and a licensed child welfare agency under contract with the department shall adopt a written policy specifying the kinds of reports it will routinely report to local law enforcement authorities.

4. If the report is of suspected or threatened abuse, as defined in s. 48.02(1)(b) to (f), the sheriff or police department and the county department, department, or licensed child welfare agency under contract with the department shall coordinate the planning and execution of the investigation of the report.

(b) Duties of local law enforcement agencies. 1. Any person reporting under this section may request an immediate investigation by the sheriff or police department if the person has reason to suspect that the health or safety of a child or of an unborn child is in immediate danger. Upon receiving such a request, the sheriff or police department shall immediately investigate to determine if there is reason to believe that the health or safety of the child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child.

2. If the investigating officer has reason under s. 48.19 (1) (c) or (cm) or (d) 5. or 8. to take a child into custody, the investigating officer shall take the child into custody and deliver the child to the intake worker under s. 48.20.

2m. If the investigating officer has reason under s. 48.193 (1) (c) or (d) 2. to take the adult expectant mother of an unborn child into custody, the investigating officer shall take the adult expectant mother into custody and deliver the adult expectant mother to the intake worker under s. 48.203.

3. If the sheriff or police department determines that criminal action is necessary, the sheriff or police department shall refer the case to the district attorney for criminal prosecution. Each sheriff and police department shall adopt a written policy specifying the kinds of reports of suspected or threatened abuse, as defined in s. 48.02(1)(b) to (f), that the sheriff or police department will routinely refer to the district attorney for criminal prosecution.

(bm) Notice of report to Indian tribal agent. In a county that has wholly or partially within its boundaries a federally recognized Indian reservation or a bureau of Indian affairs service area for the Ho-Chunk tribe, if a county department that receives a report under par. (a) pertaining to a child or unborn child knows or has reason to know that the child is an Indian child who resides in the county or that the unborn child is an Indian unborn child whose expectant mother resides in the county, the county department shall provide notice, which shall consist only of the name and address of the Indian child or expectant mother and the fact that a report has been received about that Indian child or Indian unborn child, within 24 hours to one of the following:

1. If the county department knows with which Indian tribe the child is affiliated, or with which Indian tribe the Indian unborn child, when born, may be eligible for affiliation, and the Indian tribe is a Wisconsin Indian tribe, the tribal agent of that tribe.

2. If the county department does not know with which Indian tribe the child is affiliated, or with which Indian tribe the Indian unborn child, when born, may be eligible for affiliation, or the child or expectant mother is not affiliated with a Wisconsin Indian tribe, the tribal agent serving the reservation or Ho-Chunk service area where the child or expectant mother resides.

3. If neither subd. 1. nor 2. applies, any tribal agent serving a reservation or Ho-Chunk service area in the county.

(c) Duties of county departments. 1. a. Immediately after receiving a report under par. (a), the agency shall evaluate the report to determine whether there is reason to suspect that a caregiver has abused or neglected the child, has threatened the child with abuse or neglect, or has facilitated or failed to take action to prevent the suspected or threatened abuse or neglect of the child. Except as provided in sub. (3m), if the agency determines that a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of the

child, determines that a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of the child, or cannot determine who abused or neglected the child, within 24 hours after receiving the report the agency shall, in accordance with the authority granted to the department under s. 48.48(17)(a)1. or the county department under s. 48.57(1)(a), initiate a diligent investigation to determine if the child is in need of protection or services. If the agency determines that a person who is not a caregiver is suspected of abuse or of threatened abuse, the agency may, in accordance with that authority, initiate a diligent investigation to determine if the child is in need of protection or services. Within 24 hours after receiving a report under par. (a) of suspected unborn child abuse, the agency, in accordance with that authority, shall initiate a diligent investigation to determine if the unborn child is in need of protection or services. An investigation under this subd. 1. a. shall be conducted in accordance with standards established by the department for conducting child abuse and neglect investigations or unborn child abuse investigations.

b. If the investigation is of a report of child abuse or neglect or of threatened child abuse or neglect by a caregiver specified in sub. (1)(am)5. to 8. who continues to have access to the child or a caregiver specified in sub. (1)(am)1. to 4., or of a report that does not disclose who is suspected of the child abuse or neglect and in which the investigation does not disclose who abused or neglected the child, the investigation shall also include observation of or an interview with the child, or both, and, if possible, an interview with the child's parents, guardian, or legal custodian. If the investigation is of a report of child abuse or neglect or threatened child abuse or neglect by a caregiver who continues to reside in the same dwelling as the child, the investigation shall also include, if possible, a visit to that dwelling. At the initial visit to the child's dwelling, the person making the investigation shall identify himself or herself and the agency involved to the child's parents, guardian, or legal custodian. The agency may contact, observe, or interview the child at any location without permission from the child's parent, guardian, or legal custodian if necessary to determine if the child is in need of protection or services, except that the person making the investigation may enter a child's dwelling only with permission from the child's parent, guardian, or legal custodian or after obtaining a court order permitting the person to do so.

2. a. If the person making the investigation is an employee of the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department and he or she determines that it is consistent with the child's best interest in terms of physical safety and physical health to remove the child from his or her home for immediate protection, he or she shall take the child into custody under s. 48.08(2) or 48.19(1)(c) and deliver the child to the intake worker under s. 48.20.

b. If the person making the investigation is an employee of a licensed child welfare agency which is under contract with the county department and he or she determines that any child in the home requires immediate protection, he or she shall notify the county department of the circumstances and together with an employee of the county department shall take the child into custody under s. 48.08(2) or 48.19(1)(c) and deliver the child to

the intake worker under s. 48.20.

2m. a. If the person making the investigation is an employee of the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department and he or she determines that it is consistent with the best interest of the unborn child in terms of physical safety and physical health to take the expectant mother into custody for the immediate protection of the unborn child, he or she shall take the expectant mother into custody under s. 48.08 (2), 48.19 (1) (cm) or 48.193 (1) (c) and deliver the expectant mother to the intake worker under s. 48.20 or 48.203.

b. If the person making the investigation is an employee of a licensed child welfare agency which is under contract with the county department and he or she determines that any unborn child requires immediate protection, he or she shall notify the county department of the circumstances and together with an employee of the county department shall take the expectant mother of the unborn child into custody under s. 48.08 (2), 48.19 (1) (cm) or 48.193 (1) (c) and deliver the expectant mother to the intake worker under s. 48.20 or 48.203.

3. If the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department determines that a child, any member of the child's family or the child's guardian or legal custodian is in need of services or that the expectant mother of an unborn child is in need of services, the county department, department or licensed child welfare agency shall offer to provide appropriate services or to make arrangements for the provision of services. If the child's parent, guardian or legal custodian or the expectant mother refuses to accept the services, the county department, department or licensed child welfare agency may request that a petition be filed under s. 48.13 alleging that the child who is the subject of the report or any other child in the home is in need of protection or services or that a petition be filed under s. 48.133 alleging that the unborn child who is the subject of the report is in need of protection or services.

4. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall determine, within 60 days after receipt of a report that the county department, department, or licensed child welfare agency investigates under subd. 1., whether abuse or neglect has occurred or is likely to occur. The determination shall be based on a preponderance of the evidence produced by the investigation. A determination that abuse or neglect has occurred may not be based solely on the fact that the child's parent, guardian, or legal custodian in good faith selects and relies on prayer or other religious means for treatment of disease or for remedial care of the child. In making a determination that emotional damage has occurred, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall give due regard to the culture of the subjects. This subdivision does not prohibit a court from ordering medical services for the child if the child's health requires it.

5. The agency shall maintain a record of its actions in connection with each report it receives. The record shall include a description of the services provided to any child and to the parents, guardian or legal custodian of the child or to any expectant mother of an unborn child. The agency shall update the record every 6 months until the case is closed.

5m. If the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department determines under subd. 4. that a specific person has abused or neglected a child, the county department, department or licensed child welfare agency, within 15 days after the date of the determination, shall notify the person in writing of the determination, the person's right to appeal the determination and the procedure by which the person may appeal the determination, and the person may appeal the determination in accordance with the procedures established by the department under this subdivision. The department shall promulgate rules establishing procedures for conducting an appeal under this subdivision. Those procedures shall include a procedure permitting an appeal under this subdivision to be held in abeyance pending the outcome of any criminal proceedings or any proceedings under s. 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under s. 48.13 based on the alleged abuse or neglect.

5r. If the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department determines under subd. 4. that a specific person has abused or neglected a child, the county department, department, or licensed child welfare agency, within 15 days after the date of the determination, shall provide the subunit of the department that administers s. 48.685 with information about the person who has been determined to have abused or neglected the child.

6. The agency shall, within 60 days after it receives a report from a person required under sub. (2) to report, inform the reporter what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

6m. If a person who is not required under sub. (2) to report makes a report and is a relative of the child, other than the child's parent, or is a relative of the expectant mother of the unborn child, that person may make a written request to the agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report. An agency that receives a written request under this subdivision shall, within 60 days after it receives the report or 20 days after it receives the written request, whichever is later, inform the reporter in writing of what action, if any, was taken to protect the health and welfare of the child or unborn child, unless a court order prohibits that disclosure, and of the duty to keep the information confidential under sub. (7) (e) and the penalties for failing to do so under sub. (7) (f). The agency may petition the court ex parte for an order prohibiting that disclosure and, if the agency does so, the time period within which the information must be disclosed is tolled on the date the petition is filed and remains tolled until the court issues a decision. The

court may hold an ex parte hearing in camera and shall issue an order granting the petition if the court determines that disclosure of the information would not be in the best interests of the child or unborn child.

7. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall cooperate with law enforcement officials, courts of competent jurisdiction, tribal governments and other human services agencies to prevent, identify and treat child abuse and neglect and unborn child abuse. The county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department shall coordinate the development and provision of services to abused and neglected children, to abused unborn children to families in which child abuse or neglect has occurred, to expectant mothers who have abused their unborn children, to children and families when circumstances justify a belief that abuse or neglect will occur and to the expectant mothers of unborn children when circumstances justify a belief that unborn child abuse will occur.

8. Using the format prescribed by the department, each county department shall provide the department with information about each report that the county department receives or that is received by a licensed child welfare agency that is under contract with the county department and about each investigation that the county department or a licensed child welfare agency under contract with the county department conducts. Using the format prescribed by the department, a licensed child welfare agency under contract with the department shall provide the department with information about each report that the child welfare agency receives and about each investigation that the child welfare agency conducts. The department shall use the information to monitor services provided by county departments or licensed child welfare agencies under contract with county departments or the department. The department shall use nonidentifying information to maintain statewide statistics on child abuse and neglect and on unborn child abuse, and for planning and policy development purposes.

9. The agency may petition for child abuse restraining orders and injunctions under s. 48.25(6).

(cm) Contract with licensed child welfare agencies. A county department may contract with a licensed child welfare agency to fulfill the county department's duties specified under par. (c)1., 2. b., 2m. b., 5., 5r., 6., 6m., and 8. The department may contract with a licensed child welfare agency to fulfill the department's duties specified under par. (c)1., 2. a., 2m. b., 3., 4., 5., 5m., 5r., 6., 6m., 7., 8., and 9. in a county having a population of 500,000 or more. The confidentiality provisions specified in sub. (7) shall apply to any licensed child welfare agency with which a county department or the department contracts.

(d) Independent investigation. 1. In this paragraph, "agent" includes a foster parent or other person given custody of a child or a human services professional employed by a county department under s. 51.42 or 51.437 or by a child welfare agency who is working

with a child or an expectant mother of an unborn child under contract with or under the supervision of the department in a county having a population of 500,000 or more or a county department under s. 46.22.

2. If an agent or employee of an agency required to investigate under this subsection is the subject of a report, or if the agency determines that, because of the relationship between the agency and the subject of a report, there is a substantial probability that the agency would not conduct an unbiased investigation, the agency shall, after taking any action necessary to protect the child or unborn child, notify the department. Upon receipt of the notice, the department, in a county having a population of less than 500,000 or a county department or child welfare agency designated by the department in any county shall conduct an independent investigation. If the department designates a county department under s. 46.22, 46.23, 51.42 or 51.437, that county department shall conduct the independent investigation. If a licensed child welfare agency agrees to conduct the independent investigation, the department may designate the child welfare agency to do so. The powers and duties of the department or designated county department or child welfare agency making an independent investigation are those given to county departments under par. (c).

(3m) Alternative response pilot program. (a) In this subsection, “substantial abuse or neglect” means abuse or neglect or threatened abuse or neglect that under the guidelines developed by the department under par. (b) constitutes severe abuse or neglect or a threat of severe abuse or neglect and a significant threat to the safety of a child and his or her family.

(b) The department shall establish a pilot program under which an agency in a county having a population of 500,000 or more or a county department that is selected to participate in the pilot program may employ alternative responses to a report of abuse or neglect or of threatened abuse or neglect. The department shall select agencies and county departments to participate in the pilot program in accordance with the department's request-for-proposal procedures and according to criteria developed by the department. Those criteria shall include an assessment of the plan of an agency or county department for involving the community in providing services for a family that is participating in the pilot program and a determination of whether an agency or a county department has an agreement with local law enforcement agencies and the representative of the public under s. 48.09 to ensure interagency cooperation in implementing the pilot program. To implement the pilot program, the department shall provide all of the following:

1. Guidelines for determining the appropriate alternative response to a report of abuse or neglect or of threatened abuse or neglect, including guidelines for determining what types of abuse or neglect or threatened abuse or neglect constitute substantial abuse or neglect. The department need not promulgate those guidelines as rules under ch. 227.
2. Training and technical assistance for an agency or county department that is selected to participate in the pilot program.

(c) Immediately after receiving a report under sub. (3)(a), an agency or county department that is participating in the pilot program shall evaluate the report to determine the most appropriate alternative response under subds. 1. to 3. to the report. Based on that evaluation, the agency or county department shall respond to the report as follows:

1. If the agency or county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation under sub. (3) is otherwise necessary to ensure the safety of the child and his or her family, the agency or county department shall investigate the report as provided in sub. (3). If in conducting that investigation the agency or county department determines that it is not necessary for the safety of the child and his or her family to complete the investigation, the agency or county department may terminate the investigation and conduct an assessment under subd. 2. If the agency or county department terminates an investigation, the agency or county department shall document the reasons for terminating the investigation and notify any law enforcement agency that is cooperating in the investigation.

2. a. If the agency or county department determines that there is reason to suspect that abuse or neglect, other than substantial abuse or neglect, has occurred or is likely to occur, but that under the guidelines developed by the department under par. (b) there is no immediate threat to the safety of the child and his or her family and court intervention is not necessary, the agency or county department shall conduct a comprehensive assessment of the safety of the child and his or her family, the risk of subsequent abuse or neglect, and the strengths and needs of the child's family to determine whether services are needed to address those issues assessed and, based on the assessment, shall offer to provide appropriate services to the child's family on a voluntary basis or refer the child's family to a service provider in the community for the provision of those services.

b. If the agency or county department employs the assessment response under subd. 2. a., the agency or county department is not required to refer the report to the sheriff or police department under sub. (3)(a)3. or determine by a preponderance of the evidence under sub. (3)(c)4. that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child. If in conducting the assessment the agency or county department determines that there is reason to suspect that substantial abuse or neglect has occurred or is likely to occur or that an investigation under sub. (3) is otherwise necessary to ensure the safety of the child and his or her family, the agency or county department shall immediately commence an investigation under sub. (3).

3. If the agency or county department determines that there is no reason to suspect that abuse or neglect has occurred or is likely to occur, the agency or county department shall refer the child's family to a service provider in the community for the provision of appropriate services on a voluntary basis. If the agency or county department employs the community services response under this subdivision, the agency or county department is not required to conduct an assessment under subd. 2., refer the report to the sheriff or police department under sub. (3)(a)3., or determine by a preponderance of the evidence

under sub. (3)(c)4. that abuse or neglect has occurred or is likely to occur or that a specific person has abused or neglected the child.

(d) The department shall conduct an evaluation of the pilot program and, by July 1, 2012, shall submit a report of that evaluation to the governor and to the appropriate standing committees of the legislature under s. 13.172(3). The evaluation shall assess the issues encountered in implementing the pilot program and the overall operations of the pilot program, include specific measurements of the effectiveness of the pilot program, and make recommendations to improve that effectiveness. Those specific measurements shall include all of the following:

1. The turnover rate of the agency or county department caseworkers providing services under the pilot program.
2. The number of families referred for each type of response specified in par. (c)1. to 3.
3. The number of families that accepted, and the number of families that declined to accept, services offered under par. (c)2. and 3.
4. The effectiveness of the evaluation under par. (c)(intro.) in determining the appropriate response under par. (c)1. to 3.
5. The impact of the pilot program on the number of out-of-home placements of children by the agencies or county departments participating in the pilot program.
6. The availability of services to address the issues of child and family safety, risk of subsequent abuse or neglect, and family strengths and needs in the communities served under the pilot project.
- 7g. The rate at which children referred for each type of response specified in par. (c)1. to 3. are subsequently the subjects of reports of suspected or threatened abuse or neglect.
- 7m. The satisfaction of families referred for each type of response specified in par. (c)1. to 3. with the process used to respond to those referrals.
- 7r. The cost effectiveness of responding to reports of suspected or threatened abuse or neglect in the manner provided under the pilot program.

(4) Immunity from liability. Any person or institution participating in good faith in the making of a report, conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

(5) Coroner's report. Any person or official required to report cases of suspected child abuse or neglect who has reasonable cause to suspect that a child died as a result of child abuse or neglect shall report the fact to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation and shall report the findings to the appropriate district attorney; to the department or, in a county having a population of 500,000 or more, to a licensed child welfare agency under contract with the department; to the county department and, if the institution making the report initially is a hospital, to the hospital.

(6) Penalty. Whoever intentionally violates this section by failure to report as required may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(7) Confidentiality. (a) All reports made under this section, notices provided under sub. (3)(bm) and records maintained by an agency and other persons, officials and institutions shall be confidential. Reports and records may be disclosed only to the following persons:

1. The subject of a report, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

1m. A reporter described in sub. (3) (c) 6m. who makes a written request to an agency for information regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report, unless a court order under sub. (3) (c) 6m. prohibits disclosure of that information to that reporter, except that the only information that may be disclosed is information in the record regarding what action, if any, was taken to protect the health and welfare of the child or unborn child who is the subject of the report.

2. Appropriate staff of an agency or a tribal social services department.

2m. A person authorized to provide or providing intake or dispositional services for the court under s. 48.067, 48.069 or 48.10.

2r. A person authorized to provide or providing intake or dispositional services under s. 938.067, 938.069 or 938.10.

3. An attending physician for purposes of diagnosis and treatment.

3m. A child's parent, guardian or legal custodian or the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

4. A child's foster parent or other person having physical custody of the child or a person having physical custody of the expectant mother of an unborn child, except that the person or agency maintaining the record or report may not disclose any information that would identify the reporter.

4m. A relative of a child placed outside of his or her home only to the extent necessary to facilitate the establishment of a relationship between the child and the relative or a placement of the child with the relative or to a person provided with the notice under s. 48.21(5)(e), 48.355(2)(cm), or 48.357(2v)(d). In this subdivision, “relative” includes a relative whose relationship is derived through a parent of the child whose parental rights are terminated.

4p. A public or private agency in this state or any other state that is investigating a person for purposes of licensing the person to operate a foster home or placing a child for adoption in the home of the person.

5. A professional employee of a county department under s. 51.42 or 51.437 who is working with the child or the expectant mother of the unborn child under contract with or under the supervision of the county department under s. 46.22 or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department.

6. A multidisciplinary child abuse and neglect or unborn child abuse team recognized by the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department.

6m. A person employed by a child advocacy center recognized by the county board, the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department, to the extent necessary to perform the services for which the center is recognized by the county board, the county department, the department or the licensed child welfare agency.

8. A law enforcement officer or law enforcement agency or a district attorney for purposes of investigation or prosecution.

8m. The department of corrections, the department of health services, a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 or any other person under contract with the department of corrections, the department of health services or a county department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 to exercise custody or supervision over a person who is subject to community placement for purposes of investigating or providing services to a person who is subject to community placement and who is the subject of a report. In making its investigation, the department of corrections, department of health services, county department or other person shall cooperate with the agency making the investigation under sub. (3)(c) or (d).

8s. Authorized representatives of the department of corrections, the department of health services, the department of justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under ch. 980, if the reports or records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding under ch. 980 is pending may issue any protective orders that it

determines are appropriate concerning information made available or disclosed under this subdivision. Any representative of the department of corrections, the department of health services, the department of justice, or a district attorney may disclose information obtained under this subdivision for any purpose consistent with any proceeding under ch. 980.

9. A court or administrative agency for use in a proceeding relating to the licensing or regulation of a facility regulated under this chapter.

10. A court conducting proceedings under s. 48.21 or 48.213, a court conducting proceedings related to a petition under s. 48.13, 48.133 or 48.42 or a court conducting dispositional proceedings under subch. VI or VIII in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

10g. A court conducting proceedings under s. 48.21, a court conducting proceedings related to a petition under s. 48.13(3m) or (10m) or a court conducting dispositional proceedings under subch. VI in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.

10j. A court conducting proceedings under s. 938.21, a court conducting proceedings relating to a petition under ch. 938 or a court conducting dispositional proceedings under subch. VI of ch. 938 in which abuse or neglect of the child who is the subject of the report or record is an issue.

10m. A tribal court, or other adjudicative body authorized by an Indian tribe to perform child welfare functions, that exercises jurisdiction over children and unborn children alleged to be in need of protection or services for use in proceedings in which abuse or neglect of the child who is the subject of the report or record or abuse of the unborn child who is the subject of the report or record is an issue.

10r. A tribal court, or other adjudicative body authorized by an Indian tribe to perform child welfare functions, that exercises jurisdiction over children alleged to be in need of protection or services for use in proceedings in which an issue is the substantial risk of abuse or neglect of a child who, during the time period covered by the report or record, was in the home of the child who is the subject of the report or record.

11. The county corporation counsel or district attorney representing the interests of the public, the agency legal counsel and the counsel or guardian ad litem representing the interests of a child in proceedings under subd. 10., 10g or 10j and the guardian ad litem representing the interests of an unborn child in proceedings under subd. 10.

11m. An attorney representing the interests of an Indian tribe in proceedings under subd. 10m. or 10r., of an Indian child in proceedings under subd. 10m. or 10r. or of an Indian unborn child in proceedings under subd. 10m.

11r. A volunteer court-appointed special advocate designated under s. 48.236(1) or person employed by a court-appointed special advocate program recognized by the chief judge of a judicial administrative district under s. 48.07(5), to the extent necessary for the court-appointed special advocate to perform the advocacy services specified in s. 48.236(3) that the court-appointed special advocate was designated to perform in proceedings related to a petition under s. 48.13.

12. A person engaged in bona fide research, with the permission of the department. Information identifying subjects and reporters may not be disclosed to the researcher.

13. The department, a county department under s. 48.57(1)(e) or (hm) or a licensed child welfare agency ordered to conduct a screening or an investigation of a stepparent under s. 48.88(2)(c).

14. A grand jury if it determines that access to specified records is necessary for the conduct of its official business.

14m. A judge conducting proceedings under s. 968.26.

15. A child fatality review team recognized by the county department or, in a county having a population of 500,000 or more, the department or a licensed child welfare agency under contract with the department.

15g. A citizen review panel established or designated by the department or a county department.

15m. A coroner, medical examiner or pathologist or other physician investigating the cause of death of a child whose death is unexplained or unusual or is associated with unexplained or suspicious circumstances.

17. A federal agency, state agency of this state or any other state or local governmental unit located in this state or any other state that has a need for a report or record in order to carry out its responsibility to protect children from abuse or neglect or to protect unborn children from abuse.

(am) Notwithstanding par. (a)(intro.), a tribal agent who receives notice under sub. (3)(bm) may disclose the notice to a tribal social services department.

(b) Notwithstanding par. (a), either parent of a child may authorize the disclosure of a record for use in a child custody proceeding under s. 767.41 or 767.451 or in an adoption proceeding under s. 48.833, 48.835, 48.837 or 48.839 when the child has been the subject of a report. Any information that would identify a reporter shall be deleted before disclosure of a record under this paragraph.

(c) Notwithstanding par. (a), the subject of a report may authorize the disclosure of a

record to the subject's attorney. The authorization shall be in writing. Any information that would identify a reporter shall be deleted before disclosure of a record under this paragraph.

(cm) Notwithstanding par. (a), an agency may disclose information from its records for use in proceedings under s. 48.25(6), 813.122 or 813.125.

(cr)1. In this paragraph:

a. "Incident of death or serious injury" means an incident in which a child has died or been placed in serious or critical condition, as determined by a physician, as a result of any suspected abuse or neglect that has been reported under this section or in which a child who has been placed outside the home by a court order under this chapter or ch. 938 is suspected to have committed suicide.

b. "Incident of egregious abuse or neglect" means an incident of suspected abuse or neglect that has been reported under this section, other than an incident of death or serious injury, involving significant violence, torture, multiple victims, the use of inappropriate or cruel restraints, exposure of a child to a dangerous situation, or other similar, aggravated circumstances.

2. Notwithstanding par. (a), if an agency that receives a report under sub. (3) has reason to suspect that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, within 2 working days after determining that such an incident is suspected to have occurred the agency shall provide all of the following information to the subunit of the department responsible for statewide oversight of child abuse and neglect programs:

a. The name of the agency and the name of a contact person at the agency.

b. Information about the child, including the age of the child.

c. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child.

d. A brief history of any reports under sub. (3) received in which the child, a member of the child's family, or the person suspected of the abuse or neglect was the subject and of any services under this chapter offered or provided to any of those persons.

e. A statement of whether the child was residing in his or her home or was placed outside the home when the incident occurred.

f. The identity of any law enforcement agency that referred the report of the incident and of any law enforcement agency, district attorney, or other officer or agency to which the report of the incident was referred.

3. a. Within 2 working days after receiving the information provided under subd. 2., the subunit of the department that received the information shall disclose to the public the fact that the subunit has received the information; whether the department is conducting a review of the incident and, if so, the scope of the review and the identities of any other agencies with which the department is cooperating at that point in conducting the review; whether the child was residing in the home or was placed in an out-of-home placement at the time of the incident; and information about the child, including the age of the child. If the information received is about an incident of egregious abuse or neglect, the subunit of the department shall make the same disclosure to a citizen review panel, as described in par. (a)15g., and, in a county having a population of 500,000 or more, to the Milwaukee child welfare partnership council.

b. Within 90 days after receiving the information provided under subd. 2., the subunit of the department that received the information shall prepare, transmit to the governor and to the appropriate standing committees of the legislature under s. 13.172(3), and make available to the public a summary report that contains the information specified in subd. 4. or 5., whichever is applicable. That subunit may also include in the summary report a summary of any actions taken by the agency in response to the incident and of any changes in policies or practices that have been made to address any issues raised in the review and recommendations for any further changes in policies, practices, rules, or statutes that may be needed to address those issues. If the subunit does not include those actions or changes and recommended changes in the summary report, the subunit shall prepare, transmit to the governor and to the appropriate standing committees of the legislature under s. 13.172(3), and make available to the public a report of those actions or changes and recommended changes within 6 months after receiving the information provided under subd. 2. Those committees shall review all summary reports and reports of changes and recommended changes transmitted under this subd. 3. b., conduct public hearings on those reports no less often than annually, and submit recommendations to the department regarding those reports.

c. Subdivision 3. a. and b. does not preclude the subunit of the department that prepares the summary report from releasing to the governor, to the appropriate standing committees of the legislature under s. 13.172(3), or to the public any of the information specified in subd. 4. or 5. before the summary report is transmitted to the governor and to those committees and made available to the public; adding to or amending a summary report if new information specified in subd. 4. or 5. is received after the summary report is transmitted to the governor and to those committees and made available to the public; or releasing to the governor, to those committees, and to the public any information at any time to correct any inaccurate information reported in the news media.

4. If the child was residing in his or her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report under subd. 3. shall contain all of the following:

a. Information about the child, including the age, gender, and race or ethnicity of the child, a description of the child's family, and, if relevant to the incident, a description of

any special needs of the child.

b. A statement of whether any services under this chapter or ch. 938 were being provided to the child, any member of the child's family, or the person suspected of the abuse or neglect, or whether any of those persons was the subject of a report being investigated under sub. (3) or of a referral to the agency for services, at the time of the incident and, if so, the date of the last contact between the agency providing those services and the person receiving those services.

c. A summary of all involvement of the child's parents and of the person suspected of the abuse or neglect in any incident reported under sub. (3) or in receiving services under this chapter or ch. 938 in the 5 years preceding the date of the incident.

d. A summary of any actions taken by the agency with respect to the child, any member of the child's family, and the person suspected of the abuse or neglect, including any investigation by the agency under sub. (3) of a report in which any of those persons was the subject and any referrals by the agency of any of those persons for services.

e. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child, as reported by the agency under subd. 2. c.

f. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

g. A summary of any investigation that has been conducted under sub. (3) of a report in which the child, any member of the child's family, or the person suspected of the abuse or neglect was the subject and of any services that have been provided to the child and the child's family since the date of the incident.

5. If the child was placed in an out-of-home placement under this chapter or ch. 938 at the time of the incident of death or serious injury or incident of egregious abuse or neglect, the summary report under subd. 3. shall contain all of the following:

a. Information about the child, including the age, gender, and race or ethnicity of the child and, if relevant to the incident, a description of any special needs of the child.

b. A description of the out-of-home placement, including the basis for the decision to place the child in that placement.

c. A description of all other persons residing in the out-of-home placement.

d. The licensing history of the out-of-home placement, including the type of license held by the operator of the placement, the period for which the placement has been licensed, and a summary of all violations by the licensee of any provisions of licensure under s.

48.70(1) or rules promulgated by the department under s. 48.67 and of any other actions by the licensee or an employee of the licensee that constitute a substantial failure to protect and promote the health, safety, and welfare of a child.

e. The date of the incident and the suspected cause of the death, serious injury, or egregious abuse or neglect of the child, as reported by the agency under subd. 2. c.

f. The findings on which the agency bases its reasonable suspicion that an incident of death or serious injury or an incident of egregious abuse or neglect has occurred, including any material circumstances leading to the death, serious injury, or egregious abuse or neglect of the child.

6. A summary report or other release or disclosure of information under subd. 3. may not include any of the following:

a. Any information that would reveal the identity of the child who is the subject of the summary report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child.

b. Any information that would reveal the identity of the person suspected of the abuse or neglect or any employee of any agency that provided services under this chapter to the child or that participated in the investigation of the incident of death or serious injury or the incident of egregious abuse or neglect.

c. Any information that would reveal the identity of a reporter or of any other person who provides information relating to the incident of death or serious injury or the incident of egregious abuse or neglect.

d. Any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report, any member of the child's family, any member of the child's household who is a child, or any caregiver of the child, as determined by the subunit of the department that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect, the district attorney of the county in which the incident occurred, or the court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information.

e. Any information the disclosure of which is not authorized by state law or rule or federal law or regulation.

7. The subunit of the department that prepares a summary report or otherwise transmits, releases, or discloses information under subd. 3. may not transmit the summary report to the governor and to the appropriate standing committees of the legislature under s. 13.172(3), make the summary report available to the public, or transmit, release, or disclose the information to the governor, to those standing committees, or to the public if

the subunit determines that transmitting or making the summary report available or transmitting, releasing, or disclosing the information would jeopardize any of the following:

- a. Any ongoing or future criminal investigation or prosecution or a defendant's right to a fair trial.
- b. Any ongoing or future civil investigation or proceeding or the fairness of such a proceeding.

8. If the department fails to disclose to the governor, to the appropriate standing committees of the legislature under s. 13.172(3), or to the public any information that the department is required to disclose under this paragraph, any person may request the department to disclose that information. If the person's request is denied, the person may petition the court to order the disclosure of that information. On receiving a petition under this subdivision, the court shall notify the department, the agency, the district attorney, the child, and the child's parent, guardian, or legal custodian of the petition. If any person notified objects to the disclosure, the court may hold a hearing to take evidence and hear argument relating to the disclosure of the information. The court shall make an in camera inspection of the information sought to be disclosed and shall order disclosure of the information, unless the court finds that any of the circumstances specified in subd. 6. or 7. apply.

9. Any person acting in good faith in providing information under subd. 2., in preparing, transmitting, or making available a summary report under subd. 3., or in otherwise transmitting, releasing, or disclosing information under subd. 3. is immune from any liability, civil or criminal, that may result by reason of those actions. For purposes of any proceeding, civil or criminal, the good faith of a person in providing information under subd. 2., in preparing, transmitting, or making available a summary report under subd. 3., or in otherwise transmitting, releasing, or disclosing information under subd. 3. shall be presumed.

(d) Notwithstanding par. (a), the department may have access to any report or record maintained by an agency under this section.

(dm) Notwithstanding par. (a), an agency may enter the content of any report or record maintained by the agency into the statewide automated child welfare information system established under s. 48.47(7g).

(e) A person to whom a report or record is disclosed under this subsection may not further disclose it, except to the persons and for the purposes specified in this section.

(f) Any person who violates this subsection, or who permits or encourages the unauthorized dissemination or use of information contained in reports and records made under this section, may be fined not more than \$1,000 or imprisoned not more than 6 months or both.

(8) Education, training and program development and coordination. (a) The department, the county departments, and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more to the extent feasible shall conduct continuing education and training programs for staff of the department, the county departments, licensed child welfare agencies under contract with the department or a county department, law enforcement agencies, and the tribal social services departments, persons and officials required to report, the general public, and others as appropriate. The programs shall be designed to encourage reporting of child abuse and neglect and of unborn child abuse, to encourage self-reporting and voluntary acceptance of services and to improve communication, cooperation, and coordination in the identification, prevention, and treatment of child abuse and neglect and of unborn child abuse. Programs provided for staff of the department, county departments, and licensed child welfare agencies under contract with county departments or the department whose responsibilities include the investigation or treatment of child abuse or neglect shall also be designed to provide information on means of recognizing and appropriately responding to domestic abuse, as defined in s. 49.165(1)(a). The department, the county departments, and a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more shall develop public information programs about child abuse and neglect and about unborn child abuse.

(b) The department shall to the extent feasible ensure that there are available in the state administrative procedures, personnel trained in child abuse and neglect and in unborn child abuse, multidisciplinary programs and operational procedures and capabilities to deal effectively with child abuse and neglect cases and with unborn child abuse cases. These procedures and capabilities may include, but are not limited to, receipt, investigation and verification of reports; determination of treatment or ameliorative social services; or referral to the appropriate court.

(c) In meeting its responsibilities under par. (a) or (b), the department, a county department or a licensed child welfare agency under contract with the department in a county having a population of 500,000 or more may contract with any public or private organization which meets the standards set by the department. In entering into the contracts the department, county department or licensed child welfare agency shall give priority to parental organizations combating child abuse and neglect or unborn child abuse.

(d)1. Each agency staff member and supervisor whose responsibilities include investigation or treatment of child abuse and neglect or of unborn child abuse shall successfully complete training in child abuse and neglect protective services and in unborn child abuse protective services approved by the department. The training shall include information on means of recognizing and appropriately responding to domestic abuse, as defined in s. 49.165(1)(a). The department shall monitor compliance with this subdivision according to rules promulgated by the department.

2. Each year the department shall make available training programs that permit intake

workers and agency staff members and supervisors to satisfy the requirements under subd. 1. and s. 48.06(1)(am)3. and (2)(c).

(9) Annual and quarterly reports. (a) Annual reports. Annually, the department shall prepare and transmit to the governor, and to the legislature under s. 13.172(2), a report on the status of child abuse and neglect programs and on the status of unborn child abuse programs. The report shall include a full statistical analysis of the child abuse and neglect reports, and the unborn child abuse reports, made through the last calendar year, an evaluation of services offered under this section and their effectiveness, and recommendations for additional legislative and other action to fulfill the purpose of this section. The department shall provide statistical breakdowns by county, if requested by a county.

(b) Quarterly reports. 1. Within 30 days after the end of each calendar quarter, the department shall prepare and transmit to the governor, and to the appropriate standing committees of the legislature under s. 13.172(3), a summary report of all reports received by the department under sub. (3)(c)8. during the previous calendar quarter of abuse, as defined in s. 48.02(1)(b) to (f), of a child who is placed in the home of a foster parent or relative other than a parent or in a group home, shelter care facility, or residential care center for children and youth. For each report included in the summary report the department shall provide the number of incidents of abuse reported; the dates of those incidents; the county in which those incidents occurred; the age or age group of the child who is the subject of the report; the type of placement in which the child was placed at the time of the incident; whether it was determined under sub. (3)(c)4. that abuse occurred; and, if so, the nature of the relationship between the child and the person who abused the child, but may not provide any of the information specified in sub. (7)(cr)6. or any information that would jeopardize an investigation, prosecution, or proceeding described in sub. (7)(cr)7. a. or b.

2. In every 4th summary report prepared and transmitted under subd. 1., the department shall provide for all reports of abuse, as defined in s. 48.02(1)(b) to (f), of a child who is placed as described in subd. 1. received by the department under sub. (3)(c)8. during the previous year information indicating whether the abuse resulted in any injury, disease, or pregnancy that is known to be directly caused by the abuse, but may not provide any of the information specified in sub. (7)(cr)6. or any information that would jeopardize an investigation, prosecution, or proceeding described in sub. (7)(cr)7. a. or b. A county department reporting under sub. (3)(c)8. shall make an active effort to obtain that information and report the information to the department under sub. (3)(c)8.

3. The appropriate standing committees of the legislature shall review all summary reports transmitted under subd. 1., conduct public hearings on those summary reports no less often than annually, and submit recommendations to the department regarding those summary reports. The department shall also make those summary reports available to the public.

(10) Current list of tribal agents. The department shall annually provide to each agency

described in sub. (3)(bm)(intro.) a current list of all tribal agents in the state.

WYOMING

Wyo. Stat. Ann. § 14-3-205 (2016). Child abuse or neglect; persons required to report.

(a) Any person who knows or has reasonable cause to believe or suspect that a child has been abused or neglected or who observes any child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, shall immediately report it to the child protective agency or local law enforcement agency or cause a report to be made.

(b) If a person reporting child abuse or neglect is a member of the staff of a medical or other public or private institution, school, facility or agency, he shall notify the person in charge or his designated agent as soon as possible, who is thereupon also responsible to make the report or cause the report to be made. Nothing in this subsection is intended to relieve individuals of their obligation to report on their own behalf unless a report has already been made or will be made.

(c) Any employer, public or private, who discharges, suspends, disciplines or penalizes an employee solely for making a report of neglect or abuse under W.S. 14-3-201 through 14-3-215 is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

(d) Any person who knowingly and intentionally makes a false report of child abuse or neglect, or who encourages or coerces another person to make a false report of child abuse or neglect, is guilty of a misdemeanor punishable by imprisonment for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both.

Wyo. Stat. Ann. § 14-3-207 (2016). Abuse or neglect as suspected cause of death; coroner's investigation

Any person who knows or has reasonable cause to suspect that a child has died as a result of child abuse or neglect shall report to the appropriate coroner. The coroner shall investigate the report and submit his findings in writing to the law enforcement agency, the appropriate district attorney and the local child protective agency.

Wyo. Stat. § 14-3-209 (2016). Immunity from liability.

Any person, official, institution or agency participating in good faith in any act required or permitted by W.S. 14-3-201 through 14-3-215 is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required by W.S. 14-3-201 through 14-3-215 shall be presumed.

Wyo. Stat. § 14-3-210 (2016). Admissibility of evidence constituting privileged communications

(a) Evidence regarding a child in any judicial proceeding resulting from a report made pursuant to W.S. 14-3-201 through 14-3-215 shall not be excluded on the ground it constitutes a privileged communication:

- (i) Between husband and wife;
- (ii) Claimed under any provision of law other than W.S. 1-12-101(a)(i) and (ii); or
- (iii) Claimed pursuant to W.S. 1-12-116.

FEDERAL LEGISLATION

42 U.S.C.A. § 5106a (2016). Grants to States for child abuse or neglect prevention and treatment programs

(a) Development and operation grants

The Secretary shall make grants to the States, from allotments made under subsection (f) for each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective services system of each such State in--

- (1) the intake, assessment, screening, and investigation of reports of child abuse or neglect;
- (2)(A) creating and improving the use of multidisciplinary teams and interagency, intra-agency, interstate, and intrastate protocols to enhance investigations; and
- (B) improving legal preparation and representation, including--
 - (i) procedures for appealing and responding to appeals of substantiated reports of child abuse or neglect; and

- (ii) provisions for the appointment of an individual appointed to represent a child in judicial proceedings;
- (3) case management, including ongoing case monitoring, and delivery of services and treatment provided to children and their families;
- (4) enhancing the general child protective system by developing, improving, and implementing risk and safety assessment tools and protocols, including the use of differential response;
- (5) developing and updating systems of technology that support the program and track reports of child abuse and neglect from intake through final disposition and allow interstate and intrastate information exchange;
- (6) developing, strengthening, and facilitating training including--
 - (A) training regarding research-based strategies, including the use of differential response, to promote collaboration with the families;
 - (B) training regarding the legal duties of such individuals;
 - (C) personal safety training for case workers; and
 - (D) training in early childhood, child, and adolescent development;
- (7) improving the skills, qualifications, and availability of individuals providing services to children and families, and the supervisors of such individuals, through the child protection system, including improvements in the recruitment and retention of caseworkers;
- (8) developing, facilitating the use of, and implementing research-based strategies and training protocols for individuals mandated to report child abuse and neglect;
- (9) developing, implementing, or operating programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including--
 - (A) existing social and health services;
 - (B) financial assistance;
 - (C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption; and
 - (D) the use of differential response in preventing child abuse and neglect;

(10) developing and delivering information to improve public education relating to the role and responsibilities of the child protection system and the nature and basis for reporting suspected incidents of child abuse and neglect, including the use of differential response;

(11) developing and enhancing the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level;

(12) supporting and enhancing interagency collaboration between the child protection system and the juvenile justice system for improved delivery of services and treatment, including methods for continuity of treatment plan and services as children transition between systems;

(13) supporting and enhancing interagency collaboration among public health agencies, agencies in the child protective service system, and agencies carrying out private community-based programs--

(A) to provide child abuse and neglect prevention and treatment services (including linkages with education systems), and the use of differential response; and

(B) to address the health needs, including mental health needs, of children identified as victims of child abuse or neglect, including supporting prompt, comprehensive health and developmental evaluations for children who are the subject of substantiated child maltreatment reports; or

(14) developing and implementing procedures for collaboration among child protective services, domestic violence services, and other agencies in--

(A) investigations, interventions, and the delivery of services and treatment provided to children and families, including the use of differential response, where appropriate; and

(B) the provision of services that assist children exposed to domestic violence, and that also support the caregiving role of their nonabusing parents.

(b) Eligibility requirements

(1) State plan

(A) In general

To be eligible to receive a grant under this section, a State shall submit to the Secretary a State plan that specifies the areas of the child protective services system described in subsection (a) that the State will address with amounts received under the grant.

(B) Duration of plan

Each State plan shall--

- (i) remain in effect for the duration of the State's participation under this section; and
- (ii) be periodically reviewed and revised as necessary by the State to reflect changes in the State's strategies and programs under this section.

(C) Additional information

The State shall provide notice to the Secretary--

- (i) of any substantive changes, including any change to State law or regulations, relating to the prevention of child abuse and neglect that may affect the eligibility of the State under this section; and
- (ii) of any significant changes in how funds provided under this section are used to support activities described in this section, which may differ from the activities described in the current State application.

(2) Contents

A State plan submitted under paragraph (1) shall contain a description of the activities that the State will carry out using amounts received under the grant to achieve the objectives of this subchapter, including--

(A) an assurance that the State plan, to the maximum extent practicable, is coordinated with the State plan under part B of title IV of the Social Security Act ([42 U.S.C. 621 et seq.](#)) relating to child welfare services and family preservation and family support services;

(B) an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes--

- (i) provisions or procedures for an individual to report known and suspected instances of child abuse and neglect, including a State law for mandatory reporting by individuals required to report such instances;”;
- (ii) policies and procedures (including appropriate referrals to child protection service systems and for other appropriate services) to address the needs of infants born with and identified as being affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure, or a Fetal Alcohol Spectrum Disorder, including a requirement that health care providers involved in the delivery or care of such infants notify the child protective services system of the occurrence of such condition in such infants, except that such notification shall not be construed to--

- (I) establish a definition under Federal law of what constitutes child abuse or neglect; or
- (II) require prosecution for any illegal action;
- (iii) the development of a plan of safe care for the infant born and identified as being affected by illegal substance abuse or withdrawal symptoms, or a Fetal Alcohol Spectrum Disorder;
- (iv) procedures for the immediate screening, risk and safety assessment, and prompt investigation of such reports;
- (v) triage procedures, including the use of differential response, for the appropriate referral of a child not at risk of imminent harm to a community organization or voluntary preventive service;
- (vi) procedures for immediate steps to be taken to ensure and protect the safety of a victim of child abuse or neglect and of any other child under the same care who may also be in danger of child abuse or neglect and ensuring their placement in a safe environment;
- (vii) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;
- (viii) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including requirements ensuring that reports and records made and maintained pursuant to the purposes of this subchapter and subchapter III of this chapter shall only be made available to--
 - (I) individuals who are the subject of the report;
 - (II) Federal, State, or local government entities, or any agent of such entities, as described in clause (ix);
 - (III) child abuse citizen review panels;
 - (IV) child fatality review panels;
 - (V) a grand jury or court, upon a finding that information in the record is necessary for the determination of an issue before the court or grand jury; and
 - (VI) other entities or classes of individuals statutorily authorized by the State to receive such information pursuant to a legitimate State purpose;
- (ix) provisions to require a State to disclose confidential information to any Federal, State, or local government entity, or any agent of such entity, that has a need for such

information in order to carry out its responsibilities under law to protect children from child abuse and neglect;

(x) provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;

(xi) the cooperation of State law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services in the investigation, assessment, prosecution, and treatment of child abuse and neglect;

(xii) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective services agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk and safety assessment;

(xiii) provisions and procedures requiring that in every case involving a victim of child abuse or neglect which results in a judicial proceeding, a guardian ad litem, who has received training appropriate to the role, including training in early childhood, child, and adolescent development, and who may be an attorney or a court appointed special advocate who has received training appropriate to that role (or both), shall be appointed to represent the child in such proceedings--

(I) to obtain first-hand, a clear understanding of the situation and needs of the child; and

(II) to make recommendations to the court concerning the best interests of the child;

(xiv) the establishment of citizen review panels in accordance with subsection (c);

(xv) provisions, procedures, and mechanisms--

(I) for the expedited termination of parental rights in the case of any infant determined to be abandoned under State law; and

(II) by which individuals who disagree with an official finding of child abuse or neglect can appeal such finding;

(xvi) provisions, procedures, and mechanisms, that assure that the State does not require reunification of a surviving child with a parent who has been found by a court of competent jurisdiction--

(I) to have committed murder (which would have been an offense under section 1111(a) of Title 18 if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(II) to have committed voluntary manslaughter (which would have been an offense under section 1112(a) of Title 18 if the offense had occurred in the special maritime or territorial jurisdiction of the United States) of another child of such parent;

(III) to have aided or abetted, attempted, conspired, or solicited to commit such murder or voluntary manslaughter;

(IV) to have committed a felony assault that results in the serious bodily injury to the surviving child or another child of such parent;

(V) to have committed sexual abuse against the surviving child or another child of such parent; or

(VI) to be required to register with a sex offender registry under section 16913(a) of this title;

(xvii) an assurance that, upon the implementation by the State of the provisions, procedures, and mechanisms under clause (xvi), conviction of any one of the felonies listed in clause (xvi) constitute grounds under State law for the termination of parental rights of the convicted parent as to the surviving children (although case-by-case determinations of whether or not to seek termination of parental rights shall be within the sole discretion of the State);

(xviii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse or neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xix) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

(xx) provisions and procedures for improving the training, retention, and supervision of caseworkers;

(xxi) provisions and procedures for referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to early intervention services funded under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(xxii) provisions and procedures for requiring criminal background record checks that meet the requirements of section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) for prospective foster and adoptive parents and other adult relatives and non-relatives residing in the household; and

(xxiii) provisions for systems of technology that support the State child protective service system described in subsection (a) and track reports of child abuse and neglect from intake through final disposition;

(C) an assurance that the State has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for--

(i) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(ii) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions); and

(iii) authority, under State law, for the State child protective services system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from infants with disabilities who have life-threatening conditions;

(D) a description of--

(i) the services to be provided under the grant to individuals, families, or communities, either directly or through referrals aimed at preventing the occurrence of child abuse and neglect;

(ii) the training to be provided under the grant to support direct line and supervisory personnel in report taking, screening, assessment, decision making, and referral for investigating suspected instances of child abuse and neglect;

(iii) the training to be provided under the grant for individuals who are required to report suspected cases of child abuse and neglect;

(iv) policies and procedures encouraging the appropriate involvement of families in decisionmaking pertaining to children who experienced child abuse or neglect;

(v) policies and procedures that promote and enhance appropriate collaboration among child protective service agencies, domestic violence service agencies, substance abuse treatment agencies, and other agencies in investigations, interventions, and the delivery of services and treatment provided to children and families affected by child abuse or neglect, including children exposed to domestic violence, where appropriate; and

(vi) policies and procedures regarding the use of differential response, as applicable;

(E) an assurance or certification that the programs or projects relating to child abuse and neglect carried out under part B of title IV of the Social Security Act (42 U.S.C.A. § 621 et seq.) comply with the requirements set forth in paragraph (1) and this paragraph;

(F) an assurance or certification that programs and training conducted under this subchapter address the unique needs of unaccompanied homeless youth, including access to enrollment and support services and that such youth are eligible for under parts B and E of title IV of the Social Security Act (42 U.S.C. 621 et seq., 670 et seq.) and meet the requirements of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

(G) an assurance that the State, in developing the State plan described in paragraph (1), has collaborated with community-based prevention agencies and with families affected by child abuse or neglect.

Nothing in subparagraph (B) shall be construed to limit the State's flexibility to determine State policies relating to public access to court proceedings to determine child abuse and neglect, except that such policies shall, at a minimum, ensure the safety and well-being of the child, parents, and families.

(3) Limitation

With regard to clauses (vi) and (vii) of paragraph (2)(B), nothing in this section shall be construed as restricting the ability of a State to refuse to disclose identifying information concerning the individual initiating a report or complaint alleging suspected instances of child abuse or neglect, except that the State may not refuse such a disclosure where a court orders such disclosure after such court has reviewed, in camera, the record of the State related to the report or complaint and has found it has reason to believe that the reporter knowingly made a false report.

(4) Definitions

For purposes of this subsection--

(A) the term “near fatality” means an act that, as certified by a physician, places the child in serious or critical condition; and

(B) the term “serious bodily injury” means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(c) Citizen review panels

(1) Establishment

(A) In general

Except as provided in subparagraph (B), each State to which a grant is made under this section shall establish not less than 3 citizen review panels.

(B) Exceptions

(i) Establishment of panels by States receiving minimum allotment

A State that receives the minimum allotment of \$175,000 under section 5116b(b)(1)(A) of this title for a fiscal year shall establish not less than 1 citizen review panel.

(ii) Designation of existing entities

A State may designate as panels for purposes of this subsection one or more existing entities established under State or Federal law, such as child fatality panels or foster care review panels, if such entities have the capacity to satisfy the requirements of paragraph (4) and the State ensures that such entities will satisfy such requirements.

(2) Membership

Each panel established pursuant to paragraph (1) shall be composed of volunteer members who are broadly representative of the community in which such panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect, and may include adult former victims of child abuse or neglect.

(3) Meetings

Each panel established pursuant to paragraph (1) shall meet not less than once every 3 months.

(4) Functions

(A) In general

Each panel established pursuant to paragraph (1) shall, by examining the policies, procedures, and practices of State and local agencies and where appropriate, specific cases, evaluate the extent to which State and local child protection system agencies are effectively discharging their child protection responsibilities in accordance with--

(i) the State plan under subsection (b) of this section;

(ii) the child protection standards set forth in subsection (b) of this section; and

(iii) any other criteria that the panel considers important to ensure the protection of children, including--

(I) a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act (42 U.S.C.A. § 670 et seq.); and

(II) a review of child fatalities and near fatalities (as defined in subsection (b)(4) of this section).

(B) Confidentiality

(i) In general

The members and staff of a panel established under paragraph (1)--

(I) shall not disclose to any person or government official any identifying information about any specific child protection case with respect to which the panel is provided information; and

(II) shall not make public other information unless authorized by State statute.

(ii) Civil sanctions

Each State that establishes a panel pursuant to paragraph (1) shall establish civil sanctions for a violation of clause (i).

(C) Public outreach

Each panel shall provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its obligations under subparagraph (A).

(5) State assistance

Each State that establishes a panel pursuant to paragraph (1)--

(A) shall provide the panel access to information on cases that the panel desires to review if such information is necessary for the panel to carry out its functions under paragraph (4); and

(B) shall provide the panel, upon its request, staff assistance for the performance of the duties of the panel.

(6) Reports

Each panel established under paragraph (1) shall prepare and make available to the State and the public, on an annual basis, a report containing a summary of the activities of the panel and recommendations to improve the child protection services system at the State

and local levels. Not later than 6 months after the date on which a report is submitted by the panel to the State, the appropriate State agency shall submit a written response to State and local child protection systems and the citizen review panel that describes whether or how the State will incorporate the recommendations of such panel (where appropriate) to make measurable progress in improving the State and local child protective system.

(d) Annual State data reports

Each State to which a grant is made under this section shall annually work with the Secretary to provide, to the maximum extent practicable, a report that includes the following:

(1) The number of children who were reported to the State during the year as victims of child abuse or neglect.

(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were--

(A) substantiated;

(B) unsubstantiated; or

(C) determined to be false.

(3) Of the number of children described in paragraph (2)--

(A) the number that did not receive services during the year under the State program funded under this section or an equivalent State program;

(B) the number that received services during the year under the State program funded under this section or an equivalent State program; and

(C) the number that were removed from their families during the year by disposition of the case.

(4) The number of families that received preventive services, including use of differential response, from the State during the year.

(5) The number of deaths in the State during the year resulting from child abuse or neglect.

(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

(7)(A) The number of child protective service personnel responsible for the--

- (i) intake of reports filed in the previous year;
 - (ii) screening of such reports;
 - (iii) assessment of such reports; and
 - (iv) investigation of such reports.
- (B) The average caseload for the workers described in subparagraph (A).
- (8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.
- (9) The response time with respect to the provision of services to families and children where an allegation of child abuse or neglect has been made.
- (10) For child protective service personnel responsible for intake, screening, assessment, and investigation of child abuse and neglect reports in the State--
- (A) information on the education, qualifications, and training requirements established by the State for child protective service professionals, including for entry and advancement in the profession, including advancement to supervisory positions;
 - (B) data on the education, qualifications, and training of such personnel;
 - (C) demographic information of the child protective service personnel; and
 - (D) information on caseload or workload requirements for such personnel, including requirements for average number and maximum number of cases per child protective service worker and supervisor.
- (11) The number of children reunited with their families or receiving family preservation services that, within five years, result in subsequent substantiated reports of child abuse or neglect, including the death of the child.
- (12) The number of children for whom individuals were appointed by the court to represent the best interests of such children and the average number of out of court contacts between such individuals and children.
- (13) The annual report containing the summary of the activities of the citizen review panels of the State required by subsection (c)(6) of this section.
- (14) The number of children under the care of the State child protection system who are transferred into the custody of the State juvenile justice system.
- (15) The number of children referred to a child protective services system under

subsection (b)(2)(B)(ii).

(16) The number of children determined to be eligible for referral, and the number of children referred, under subsection (b)(2)(B)(xxi), to agencies providing early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.).

(e) Annual report by Secretary

Within 6 months after receiving the State reports under subsection (d) of this section, the Secretary shall prepare a report based on information provided by the States for the fiscal year under such subsection and shall make the report and such information available to the Congress and the national clearinghouse for information relating to child abuse and neglect.

(f) Allotments

(1) Definitions

In this subsection:

(A) Fiscal year 2009 grant funds

The term “fiscal year 2009 grant funds” means the amount appropriated under section 5106h of this title for fiscal year 2009, and not reserved under section 5106h(a)(2) of this title.

(B) Grant funds

The term “grant funds” means the amount appropriated under section 5106h of this title for a fiscal year and not reserved under section 5106h(a)(2) of this title.

(C) State

The term “State” means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(D) Territory

The term “territory” means Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(2) In general

Except as otherwise provided in this section, the Secretary shall make allotments to each State and territory that applies for a grant under this section in an amount equal to the sum of--

(A) \$50,000; and

(B) an amount that bears the same relationship to any grant funds remaining after all such States and territories have received \$50,000, as the number of children under the age of 18 in the State or territory bears to the number of such children in all States and territories that apply for such a grant.

(3) Allotments for decreased appropriation years

In the case where the grant funds for a fiscal year are less than the fiscal year 2009 grant funds, the Secretary shall ratably reduce each of the allotments under paragraph (2) for such fiscal year.

(4) Allotments for increased appropriation years

(A) Minimum allotments to States for increased appropriations years

In any fiscal year for which the grant funds exceed the fiscal year 2009 grant funds by more than \$1,000,000, the Secretary shall adjust the allotments under paragraph (2), as necessary, such that no State that applies for a grant under this section receives an allotment in an amount that is less than--

(i) \$100,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by more than \$1,000,000 but less than \$2,000,000;

(ii) \$125,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by at least \$2,000,000 but less than \$3,000,000; and

(iii) \$150,000, for a fiscal year in which the grant funds exceed the fiscal year 2009 grant funds by at least \$3,000,000.

(B) Allotment adjustment

In the case of a fiscal year for which subparagraph (A) applies and the grant funds are insufficient to satisfy the requirements of such subparagraph (A), paragraph (2), and paragraph (5), the Secretary shall, subject to paragraph (5), ratably reduce the allotment of each State for which the allotment under paragraph (2) is an amount that exceeds the applicable minimum under subparagraph (A), as necessary to ensure that each State receives the applicable minimum allotment under subparagraph (A).

(5) Hold harmless

Notwithstanding paragraphs (2) and (4), except as provided in paragraph (3), no State or territory shall receive a grant under this section in an amount that is less than the amount such State or territory received under this section for fiscal year 2009.

42 U.S.C.S. § 13031 (2016). Child Abuse Reporting.

(a) In general

A person who, while engaged in a professional capacity or activity described in subsection (b) of this section on Federal land or in a federally operated (or contracted) facility, learns of facts that give reason to suspect that a child has suffered an incident of child abuse, shall as soon as possible make a report of the suspected abuse to the agency designated under subsection (d) of this section.

(b) Covered professionals

Persons engaged in the following professions and activities are subject to the requirements of subsection (a) of this section:

(1) Physicians, dentists, medical residents or interns, hospital personnel and administrators, nurses, health care practitioners, chiropractors, osteopaths, pharmacists, optometrists, podiatrists, emergency medical technicians, ambulance drivers, undertakers, coroners, medical examiners, alcohol or drug treatment personnel, and persons performing a healing role or practicing the healing arts.

(2) Psychologists, psychiatrists, and mental health professionals.

(3) Social workers, licensed or unlicensed marriage, family, and individual counselors.

(4) Teachers, teacher's aides or assistants, school counselors and guidance personnel, school officials, and school administrators.

(5) Child care workers and administrators.

(6) Law enforcement personnel, probation officers, criminal prosecutors, and juvenile rehabilitation or detention facility employees.

(7) Foster parents.

(8) Commercial film and photo processors.

(c) Definitions

For the purposes of this section--

(1) the term “child abuse” means the physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child;

(2) the term “physical injury” includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe bruising or serious bodily harm;

(3) the term “mental injury” means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or

outward aggressive behavior, or a combination of those behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

(4) the term “sexual abuse” includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person to engage in, sexually explicit conduct or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

(5) the term “sexually explicit conduct” means actual or simulated--

(A) sexual intercourse, including sexual contact in the manner of genital-genital, oral-genital, anal-genital, or oral-anal contact, whether between persons of the same or of opposite sex; sexual contact means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify sexual desire of any person;

(B) bestiality;

(C) masturbation;

(D) lascivious exhibition of the genitals or pubic area of a person or animal; or

(E) sadistic or masochistic abuse;

(6) the term “exploitation” means child pornography or child prostitution;

(7) the term “negligent treatment” means the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, or medical care so as to seriously endanger the physical health of the child; and

(8) the term “child abuse” shall not include discipline administered by a parent or legal guardian to his or her child provided it is reasonable in manner and moderate in degree and otherwise does not constitute cruelty.

(d) Agency designated to receive report and action to be taken

For all Federal lands and all federally operated (or contracted) facilities in which children are cared for or reside, the Attorney General shall designate an agency to receive and investigate the reports described in subsection (a) of this section. By formal written agreement, the designated agency may be a non-Federal agency. When such reports are received by social services or health care agencies, and involve allegations of sexual abuse, serious physical injury, or life-threatening neglect of a child, there shall be an immediate referral of the report to a law enforcement agency with authority to take emergency action to protect the child. All reports received shall be promptly investigated, and whenever appropriate, investigations shall be conducted jointly by social services and law enforcement personnel, with a view toward avoiding unnecessary multiple interviews

with the child.

(e) Reporting form

In every federally operated (or contracted) facility, and on all Federal lands, a standard written reporting form, with instructions, shall be disseminated to all mandated reporter groups. Use of the form shall be encouraged, but its use shall not take the place of the immediate making of oral reports, telephonically or otherwise, when circumstances dictate.

(f) Immunity for good faith reporting and associated actions

All persons who, acting in good faith, make a report by subsection (a) of this section, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

(g) Omitted

(h) Training of prospective reporters

All individuals in the occupations listed in subsection (b)(1) of this section who work on Federal lands, or are employed in federally operated (or contracted) facilities, shall receive periodic training in the obligation to report, as well as in the identification of abused and neglected children.