

CHILD PROTECTION  
MINORS ACT

The Reporter

**Who is permitted to report child abuse or neglect?**

Anyone who knows, has reason to believe, or suspects that a child is being, or has been, neglected or physically or sexually abused.

**Who is required to report child abuse or neglect?**

An individual who knows or has reason to believe a child is being or has within the past three years been neglected or abused, and who is one of the following:

(1) a member of the clergy who receives the information while engaged in ministerial duties, excluding information exempt under the confessional privilege

(2) a professional or the professional's delegate who is engaged in:

- the healing arts
- social services, including employee assistance counseling, guardian ad litem, and parenting time expeditor
- hospital administration
- psychological or psychiatric treatment
- child care
- education
- law enforcement
- correctional supervision, probation, and correctional services

A parent, guardian, or caretaker who knows or reasonably should know a child's health is in serious danger must report medical neglect. These individuals are subject to criminal penalties for failing to report if the child suffers substantial or great bodily harm or dies for lack of medical care. The criminal law that permits reliance on spiritual means or prayer for health care does not eliminate this reporting duty.

**What is the penalty for failing to make a required report?**

Failing to make a required report is a misdemeanor exclusively prosecuted by the county attorney rather than the city attorney, who usually prosecutes misdemeanors.

**What are the consequences of making a false report?**

An individual who makes a false report in good faith is immune from civil or criminal liability. An individual who knowingly or recklessly makes a false report is liable in a civil suit for actual and punitive damages, costs, and reasonable attorney fees.

**Reportable Abuse and Neglect**

**Whose abuse or neglect is reportable under the act?**

**Person Responsible for the Child's Care.** A "person responsible for the child's care" includes the following:

- parent
- guardian
- teacher
- school administrator
- school employee or agent
- day care provider
- paid or unpaid babysitter
- counselor
- coach
- other custodian with care responsibilities

**Person in a Position of Authority.** A "person in a position of authority" is a parent or someone acting in a parent's place who has responsibility for the health, welfare, or supervision of a child for any period of time, however brief.

"Persons in a position of authority" are covered by the act only when they commit sexual abuse.

**Person with a Significant Relationship to the Child.** A person who has a significant relationship to the child is someone who has that relationship because of being a relative or stepparent, or because of intermittently or regularly residing in the child's home.

This group of individuals is covered by the act if they commit sexual abuse.

### **What is "abuse" under the act?**

**Physical Abuse.** Physical abuse or threatened physical abuse includes the following:

- physical injury, mental injury,<sup>1</sup> or threatened injury<sup>2</sup> inflicted other than by accident
- physical or mental injury not reasonably explained by the child's history of injuries
- aversive or deprivation procedures (e.g., electric shock) not authorized by Department of Human Services rules
- regulated interventions (e.g., time out) not authorized by Department of Education rules

Excluded from this definition is reasonable and moderate discipline by a parent or guardian or use of reasonable force by a teacher, principal, or school employee.

**Sexual Abuse.** Sexual abuse or threatened sexual abuse includes the following:

- soliciting a child to practice prostitution
- criminal sexual conduct
- receiving profit derived from prostitution by a child
- hiring or agreeing to hire a child as a prostitute
- using a minor in a sexual performance or pornographic work

### **What is "neglect" under the act?**

Neglect includes the following:

- failure to supply necessary food, clothing, shelter, or medical care when reasonably able to do so
- failure to protect a child from serious danger to physical or mental health when reasonably able to do so, including a growth delay, referred to as failure to thrive
- failure to provide necessary supervision or appropriate child care
- chronic and severe use of alcohol or a controlled substance by a parent or person responsible for the child's care that adversely affects the child's basic needs and safety
- emotional harm demonstrated by a substantial and observable effect on the child
- withholding medically indicated treatment from a disabled infant with a life-threatening condition
- prenatal exposure to specified controlled substances<sup>4</sup>
- failure to ensure that a child is educated in accordance with state law

### **What else must be reported under the act?**

A mandated reporter must report to law enforcement kidnapping or actions that deprive a parent of custodial or parenting time rights. This report does not trigger a local social services agency assessment.

### **Creation of Reports**

#### **Where can a child abuse report be made?**

In most cases a person may report to either the police, the county sheriff, the local social services agency, or the agency responsible for assessing the report.

Exceptions:

- If a person required to report believes a child died because of neglect or abuse, the report must be made to the medical examiner or coroner.
- If abuse or neglect occurs in a licensed facility (day care, foster care, etc.), a person required to report must report to the agency that licenses the facility.

- If abuse or neglect occurs in a school, a board or licensing entity must provide information about the circumstances of the alleged maltreatment to the Department of Education.

### **How is a report made?**

The initial report may be oral. If the reporter is an individual required to report under the act, an oral report must be followed by a written report within 72 hours, exclusive of weekends and holidays.

### **What must be included in the report?**

The following information must be included in the report:

- the child's identity
- the person believed responsible for the abuse or neglect, if known
- the nature and extent of abuse or neglect
- the reporter's name and address