

# Information for Mandatory Reporters



CHILDREN'S  
LAW OFFICE

This information packet is intended for professionals who are required by South Carolina law to report suspected child abuse and neglect.

It includes legal requirements, an overview of how reports are processed, indicators of maltreatment, and guidelines for making reports. Words that appear in bold are defined in the final section.

For more information, or to schedule a training session, contact the Children's Law Office at (803) 777-1646 or <http://childlaw.sc.edu>.

The Children's Law Office is funded in part by the SC Bar Foundation



School of Law  
University of South Carolina

*South Carolina established a system for the reporting and investigation of child abuse and neglect with passage of the Child Protection Act in 1977. This law has since been amended, but the primary purpose has remained constant: to safeguard the welfare and safety of children. Mandatory reporters play a key role in this effort to protect children by identifying possible maltreatment and reporting their concerns to the agency responsible for investigation and intervention.*

## Legal Requirements for Reporting

### Mandatory Reporters

South Carolina law requires that certain professionals report suspected cases of child abuse or neglect. Because they have unique opportunities to observe and interact with children, the following professionals are mandated reporters of child abuse or neglect: physicians, nurses, dentists, optometrists, medical examiners or coroners or their employees, emergency medical services, mental health or allied health professionals, teachers, counselors, principals, social or public assistance workers, substance abuse treatment staff, childcare workers, foster care providers, police or law enforcement officers, undertakers, funeral home directors or their employees, film processors, computer technicians, judges, and clergy, including Christian Science Practitioners or religious healers (subject to laws governing privileged communication).

### When to Report

Mandated reporters must report abuse or neglect when, in their professional capacity they receive information giving them reason to believe that a child's physical or mental health has been or may be adversely affected by abuse or neglect. A decision to report must be based upon a reasonable belief that a child has been or may be abused or neglected. Thus, mandatory reporters need not have conclusive proof that a child has been abused or neglected prior to reporting abuse or neglect to the proper authorities.

A person who is required to report and fails to do so is guilty of a misdemeanor. Upon conviction, he or she may be fined up to \$500 or imprisoned up to six months, or both.

### Where to Report

Whether a mandatory reporter makes the report to DSS or to law enforcement depends upon the identity of the alleged perpetrator of the abuse or neglect. When the alleged perpetrator of the abuse or neglect is the child's parent, guardian, or a **person responsible for the child's welfare**, mandated reporters must report to the county department of social services or to law enforcement in the county where the child resides or is found.

When the alleged perpetrator of the abuse or neglect is not the child's parent, guardian, or other person responsible for the child's welfare, the law requires that a report be made to law enforcement. All law enforcement officers are authorized to exercise emergency protective custody to protect a child who might be in imminent and substantial danger. However, only the law enforcement agency where the incident occurred has authority to conduct an investigation. Mandated reporters who suspect that a child has died as a result of abuse or neglect are required to report to the appropriate medical examiner or coroner.

## Confidentiality

DSS and law enforcement must keep the identity of the person making a report confidential. The law provides only limited circumstances under which the identity of the reporter may be revealed. DSS and law enforcement must share the name of the reporter with one another and the name of the reporter must only be disclosed to the extent necessary to further the criminal investigation. If it becomes necessary for the reporter to testify in a trial, it must not be disclosed that the reporter was the individual who made the report.

DSS may release the name of the reporter to the subjects of the report by court order, but only under extremely limited circumstances. The alleged perpetrator in an unsubstantiated case may file an action requesting that the court order the release of the reporter's name. The court will review the case records and may review written arguments or hear oral arguments. The court may order that DSS disclose the identity of the reporter, but only if the court finds probable cause to believe that the reporter acted in **bad faith** or maliciously in making the report.

DSS is authorized to summarize the outcome of an investigation to the reporter if requested at the time of the report. DSS has the discretion to limit the information disclosed based upon the reporter's relationship with the child.

## Immunity from Liability

The law creates a rebuttable presumption that mandated reporters have acted in **good faith** in reporting suspected abuse or neglect. Persons required or permitted to report suspected abuse or neglect, or who participate in an investigation or court proceeding as a result of a report, are immune from civil and criminal liability, provided that such persons have acted in good faith. Immunity covers full disclosure of all the facts that led the person to reasonably believe that a child has been or may be abused or neglected.

## False or Malicious Reports

It is unlawful to knowingly make a false or malicious report. False or malicious reporting is a misdemeanor and upon conviction, punishable by a fine up to \$5000 or imprisonment up to 90 days, or both.

## Photographs

Mandated reporters may take color photographs of areas of visible trauma on a child who is the subject of a report. Copies of all photographs and negatives must be sent to DSS at the time of the report, or as soon as possible after the report is made.

## Detainment by Medical Professionals and Medical Examinations

When a physician or hospital suspects that a child has been abused or neglected, the law authorizes the physician or hospital to detain the child for up to 24 hours until law enforcement arrives to make a decision about emergency removal. The physician or hospital must make a report to law enforcement and to DSS, and may detain the child only when the physician or hospital believe that releasing the child would present an imminent danger to the child's life, health, or physical safety. Physicians may order x-rays or other medical examinations or tests if medically indicated, without the consent of the child's parents or guardians.

If child abuse or neglect is suspected and release of the child would place the child in imminent danger, a physician or hospital that detains the child in good faith is immune from civil or criminal liability for detaining the child.

## Prenatal Exposure to Controlled Substances and Alcohol

Under South Carolina law, a viable fetus is considered to be a **child**. Prenatal exposure to controlled substances and alcohol falls within the definition of **child abuse or neglect or harm**. In some instances,

the law presumes that a newborn child testing positive for any amount of a controlled substance or alcohol is an abused or neglected child who cannot be protected without removal from the parents. Therefore, mandatory reporters of child abuse and neglect should respond to any case involving prenatal exposure to controlled substances or alcohol by reporting to DSS or law enforcement, unless the exposure is attributed to medical treatment.

## Privileged Communication

In the interest of protecting children from abuse or neglect, mandatory reporting laws make void the privileged nature of communication between husband and wife, as well as professional and patient or client. However, communication between attorney and client remains privileged, and communication between clergy and penitent is privileged. The clergy and penitent privilege is limited to confidential communications from the alleged perpetrator of abuse to an ordained minister, priest, or rabbi when necessary to enable the cleric to discharge the functions of the office according to the usual practice or discipline of the church or religious body.

## Processing the Report: The Child Protection System

The purpose of the child protection system is to ensure the safety of children, and to provide supportive intervention to reduce the occurrence of maltreatment. The Department of Social Services (DSS) is responsible for investigating reports of abuse or neglect when the suspected perpetrator is the child's parent or guardian, or person responsible for the child's welfare. A person whose contact with the child is incidental, such as a babysitter, is not a person responsible for the welfare of the child as defined by state law. If it is not clear from a report whether the suspected perpetrator has assumed the role of parent or guardian for the child, DSS may use information gathered by law enforcement to determine whether

to initiate an investigation. If this information is not available within 24 hours of receipt of the report, DSS must begin an investigation.

## Investigation of Reports

Within 24 hours of receipt of a report of suspected abuse or neglect, DSS will begin an investigation and will see the child. DSS rates the risk of harm to the child to decide a response time. Based upon the nature of the report, if DSS determines the child is at high risk, the investigating caseworker will respond in a shorter amount of time. DSS refers reports of sexual abuse to law enforcement within 24 hours. DSS must also refer other reports that involve violations of criminal law to law enforcement.

DSS will notify the parent or guardian as soon as possible after initiating the investigation. During the investigation, DSS may interview the child and other children in the home outside the presence of their caregivers. DSS may also inspect the child's residence, as well as obtain copies of school, medical, or other records concerning the child. Because of its obligation to preserve and reunify families whenever possible, DSS may implement a safety plan with a family that is being investigated. The safety plan is a temporary agreement between the child's family and DSS that is designed to prevent removal of the child from the home.

DSS has 45 days to complete its investigation by deciding whether to **indicate** or **unfound** the report. However, upon a showing of good cause, this period of time may be extended for 15 days. If the investigation yields a **preponderance of evidence** to support a finding of abuse or neglect, DSS indicates the report and coordinates services to correct the causes for the abuse or neglect. An indicated case may result in the name of the perpetrator being entered in the **Central Registry of Child Abuse and Neglect**. If, for any reason, the investigation does not yield a preponderance of evidence to support a finding of abuse or neglect, DSS must unfound the report. For cases that are indicated, DSS may coordinate

services for the family without court involvement (a treatment case), or the department may file a complaint in family court seeking the court's involvement in the implementation of a plan of services.

When there is to be court involvement, DSS may coordinate services for families without removing the child from the home (an intervention case) or may ask the family court to remove a child and order protective services (a removal case). In all child maltreatment cases brought before the family court, a guardian ad litem will be appointed to represent the best interest of the child.

## Family Court Hearings

Following is a brief explanation of the various types of hearings held in child maltreatment cases that are brought before the family court.

**Intervention.** DSS files a complaint in family court. An intervention hearing is held within 35 days. If the court finds that the child was abused or neglected, DSS provides services to the family under the authority of the court, but the child remains in the home.

**Emergency Protective Custody.** Some children who are in DSS custody are in foster care because a law enforcement officer or family court judge believes their lives, health, or physical safety are in imminent and substantial danger. After a child is taken into emergency protective custody, the child is placed with DSS. DSS begins an investigation. There is a hearing within 72 hours of emergency removal, to determine whether emergency removal was proper and whether the child should temporarily remain in DSS custody.

**Removal.** Children who are not in imminent and substantial danger, but who have been abused or neglected, may also be placed in foster care. The removal process begins with DSS filing a complaint in family court which asks the court to remove the child from the parent's home and order protective services.

There will be a hearing within 35 days to determine whether the child is abused or neglected, whether the child should be placed in DSS custody, and what protective services should be offered to the family.

**Permanency Planning.** Permanency Planning hearings are required for every child in foster care. At a minimum, DSS must initiate permanency planning within 12 months of the child's entry into foster care. At the permanency planning hearing, the court decides whether to return a child to his or her parent, place the child in the custody of a relative (or non-relative), or terminate parental rights.

**Termination of Parental Rights.** The process of terminating parental rights begins with the filing of a complaint asking the court to terminate rights. Legal rights between a parent and a child may be severed when there is at least one statutorily defined reason to terminate parental rights and termination of parental rights is in the best interest of the child.

## Processing the Report: Law Enforcement

Law enforcement officers become involved in child maltreatment cases in various ways. Law enforcement officers are authorized to take a child into emergency protective custody if there is probable cause to believe the child is in imminent and substantial danger due to abuse or neglect. Law enforcement officers investigate child maltreatment in addition to DSS when the alleged perpetrator is a parent or guardian and the maltreatment violates the state's criminal laws. Law enforcement has sole authority to investigate child abuse or neglect when the perpetrator is someone other than the child's parent or guardian. Although, law enforcement and DSS may coordinate their child maltreatment investigations, the two processes are separate and distinct. The primary purposes underlying law enforcement's investigation are to determine whether a crime has been committed and if so, to prosecute the offender. When law enforcement

has probable cause to believe that an individual has committed a crime, the suspect is arrested. A bond hearing will be held and the suspect may be released pending final disposition of the charge. After the bond hearing, there is a preliminary hearing to determine whether law enforcement had probable cause to make the arrest. Then, the grand jury reviews the case to decide whether the evidence is sufficient to formally charge (indict) the suspect.

If a suspect is indicted, the next hearing is usually the hearing at which a decision will be made concerning the suspect's guilt or innocence. At this hearing, the suspect may be tried by a jury of his or her peers or may enter a guilty plea. If the suspect is found guilty or if the suspect pleads guilty, he or she may be sentenced to a term of incarceration or placed on probation.

*Note: Criminal cases involving suspected offenders under age 17 are handled in a different manner through the juvenile justice system. Contact the Children's Law office for further information about this system.*

## Recognizing Child Abuse or Neglect

The first step in helping abused or neglected children is learning to recognize possible signs of maltreatment. The law does not contain specific injuries or circumstances that require a report. Rather, mandatory reporters must be familiar with indicators and exercise judgment in deciding whether a report is appropriate. Indicators of child maltreatment can be obvious, but are sometimes subtle and difficult to recognize. The presence of indicators does not necessarily mean abuse or neglect is occurring; however, when these signs appear repeatedly or in combination, professionals should take a close look at the situation and consider the need to report. Although child maltreatment can be divided into types

(physical abuse, neglect, sexual abuse, mental injury), these types often occur in combination. The following material is based on a fact sheet published by the National Clearinghouse on Child Abuse and Neglect, *Recognizing Child Abuse and Neglect: Signs and Symptoms (2003)*.

### General Indicators of Maltreatment

Child:

- Shows sudden changes in behavior or school performance
- Has not received help for physical or medical problems brought to the parents' attention
- Is always watchful, as though preparing for something bad to happen
- Is overly compliant, passive, or withdrawn
- Comes to school or other activities early, stays late, or does not want to go home

Parent:

- Shows little concern for the child
- Treats one child differently from siblings
- Denies the existence of – or blames the child for – the child's problems
- Asks teachers or other caretakers to use harsh physical discipline if child misbehaves
- Sees the child as entirely bad, worthless, or burdensome
- Demands a level of physical or academic performance the child cannot achieve
- Looks primarily to the child for care, attention, and satisfaction of emotional needs

### Signs of Physical Abuse

Child:

- Has unexplained burns, bites, bruises, broken bones, or black eyes
- Has injuries that reflect the shape of an object
- Has bruises in various stages of healing, or on different body planes
- Has bruises on the fleshy parts of the body
- Has fading injuries after an absence from school
- Attempts to hide injuries

- Seems frightened of the parents and does not want to go home
- Shrinks at the approach of adults
- Reports injury by a parent or guardian

Parent:

- Offers conflicting, unconvincing, or no explanation for the child's injury
- Does not seek medical care when needed for the child's injuries
- Describes the child in a very negative way
- Uses harsh physical discipline with the child
- Has a history of abuse as a child

**Signs of Neglect**

Child:

- Is frequently absent from or late to school
- Is always hungry; begs or steals food or money
- Is consistently tired
- Has slow physical development or is underweight
- Lacks needed routine or urgent medical or dental care
- Has poor hygiene; is consistently dirty and has a body odor
- Lacks appropriate clothing for the weather
- Abuses alcohol or other drugs
- States that there is no one at home to provide care or supervision

Parent:

- Appears to be indifferent to the child
- Seems apathetic or depressed
- Behaves irrationally or in a bizarre manner
- Is abusing alcohol or other drugs

**Signs of Sexual Abuse**

Child:

- Child reports sexual abuse
- Has difficulty walking or sitting
- Refuses to change for P.E. or participate in activities
- Reports nightmares or bedwetting

- Experiences a sudden change in appetite or weight
- Has a sudden change in grades
- Appears withdrawn or depressed
- Demonstrates unusual sexual knowledge or behavior
- Becomes pregnant or contracts a sexually transmitted disease, particularly if under age 14
- Runs away from home

Parent:

- Is unduly protective of the child or severely limits the child's contact with other children, especially of the opposite sex
- Is secretive and isolated
- Is jealous or controlling with family members

**Signs of Mental Injury (Emotional Maltreatment)**

Child:

- Shows extremes in behavior, such as overly compliant or demanding behavior, extreme passivity, or aggression
- Is either inappropriately adult (e.g. parenting other children) or inappropriately infantile (e.g. rocking or head-banging)
- Has attempted suicide or harms self
- Exhibits a lack of attachment to parents

Parent:

- Constantly blames, belittles, or berates the child
- Is unconcerned about the child and refuses to consider offers of help for the child's problems
- Overtly rejects the child

**Guidelines for Mandatory Reporters**

When confronted with the possibility that a child has been or may be abused or neglected there are several steps that should be taken to protect the child.

The following are suggested guidelines to further assist mandatory reporters in recognizing and reporting suspected child abuse and neglect.

### **Responding to a Child**

- Listen attentively while the child is talking to you.
- Do not probe for details, particularly concerning sexual abuse. (Proving sexual abuse in court often depends heavily on the child's statement. Discussing details of the abuse with the child is essentially handling evidence, and should only be done by trained investigators).
- Do not remove clothing to examine the child's body unless you are a medical professional.
- Do not indicate doubt or disbelief.
- Do not express shock or anger at the possible perpetrator. Children often love the person who mistreats them.
- Tell the child what you will do, for example that you are going to contact DSS and a caseworker will come to talk with the child.
- Do not give the child false assurances, or promise that you will keep the information confidential.

### **Documentation**

- Document the basis of your concerns, including physical and behavioral signs.
- Document the child's statements to you. Try to use the child's exact words.
- Document the child's demeanor while talking with you. Note any signs of fear or distress.
- If you make the report orally, record the date, time, and the person and agency you contacted. If you make the report in writing, keep a copy of the correspondence.
- Be aware that your records concerning the report may be subject to subpoena.

### **Making a Report**

- Make the report as soon as possible after receiving the information which causes you to suspect abuse or neglect. Mandatory reporters cannot "cause" a report to be made by delegating this responsibility to someone else. You must personally make the report.
- You do not need to have conclusive proof. The law requires you to report when you have "reason to believe" a child is being or may be abused or neglected.
- Do not attempt to investigate or excessively question the child. Specially trained DSS caseworkers and law enforcement officers will investigate the allegations.
- In addition to making the report to DSS or law enforcement, follow your employer's procedures regarding notification of supervisors.
- Collect as much of the following information as possible to convey to the investigating agency: child's name, age, date of birth, and address; child's present location; names and ages of siblings, parents' names and addresses.
- Explain why you are concerned about the child.
- At the time of the report, or as soon as possible thereafter, provide copies of all photographs, negatives, and medical reports to DSS.
- Although reports can be made anonymously, it is often helpful to provide your name and address in the event that further information is needed.
- At the time the report is made, you can request to be notified of the outcome of an investigation.
- After you have made a report, if you learn new information or if you learn additional information, report to DSS or law enforcement.

### **Contact with Parents**

- In general, it is best not to contact the child's parents about your suspicions before making the report. Informing parents before

appropriate intervention can be made may lead to retribution against the child or destruction of evidence. In some cases, if the child does not appear to be in imminent danger or if the suspected offender is someone other than a parent, you may choose to maintain open communication with the parent.

- Never accuse a parent of abuse or neglect. You may explain that you are legally required to report based upon the possibility that the child has been or may be harmed.

- Your continued help may be necessary. All professionals and agencies must work together to improve outcomes for children. Be willing to meet with multidisciplinary teams and/or testify in court if requested.

### Follow-Up

## Definitions

---

### Child

A person under the age of eighteen.

### Child Abuse or Neglect or Harm

Child abuse or neglect or harm occurs when the parent, guardian, or other person responsible for the child's welfare:

- (a) inflicts or allows to be inflicted upon the child **physical or mental injury** or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:
  - (i) is administered by a parent or person in loco parentis;
  - (ii) is perpetrated for the sole purpose of restraining or correcting the child;
  - (iii) is reasonable in manner and moderate in degree
  - (iv) has not brought about permanent or lasting damage to the child; and
  - (v) is not reckless or grossly negligent behavior by the parents.
- (b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

*Note: Under South Carolina law, such sexual offenses may involve fondling, intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body.*

- (c) fails to supply the child with adequate food, clothing, shelter, or education. . . supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absence from school may not be considered abuse



or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate.

- (d) abandons the child;
- (e) encourages, condones, or approves the commission of delinquent acts by the child and the commission of acts are shown to be the result of the encouragement, condonation, or approval; or
- (f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes a part of the person's household is at substantial risk of one of those forms of abuse or neglect.

**Person Responsible for a Child's Welfare**

The child's parent, guardian, foster parent, an operator, employee, or caregiver of a public or private residential home, institution, agency or childcare facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian.

**Physical Injury**

Death or permanent or temporary disfigurement or impairment of any bodily organ or function.

**Mental Injury**

Injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of mental health professional or medical professional.

**Abandonment**

A parent or guardian willfully deserts a child or willfully surrenders physical possession of a child without making adequate arrangements for the child's needs or the continuing care of the child.

**Indicated Report**

Report of child abuse or neglect supported by facts which warrant a finding by a preponderance of evidence that abuse or neglect is more likely than not to have occurred.

**Unfounded Report**

Report for which there is not a preponderance of evidence to believe that the child is abused or neglect.

**Preponderance of Evidence**

Evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.

**Good Faith**

Honesty of purpose, freedom from intention to defraud, and, generally speaking means being faithful to one's duty or obligation.

**Bad Faith**

Generally implying or involving actual or constructive fraud, or a design to mislead or deceive another, or a neglect or refusal to fulfill some duty or some contractual obligation, not prompted by an honest mistake as to one's rights or duties, but by some interested or sinister motive.

### **Central Registry of Child Abuse and Neglect**

A statewide data system which identifies abused and neglected children and their parents and guardians. The Central Registry of Child Abuse and Neglect is not a public record. Information concerning an individual in the Central Registry can be disclosed only when screening of an individual's background is required by statute or regulations for employment, licensing, or other purposes.

## **References**

### South Carolina Codes

§ 63-7-20	Definitions
§ 63-7-310	Persons required or permitted to report; method, confidentiality
§ 63-7-610	Authority of officers in all counties and municipalities
§ 63-7-410	Penalties
§ 63-7-330	Confidentiality of reports and records, penalties
§ 63-7-940	Retention and disclosure of unfounded reports
§ 63-7-390	Immunity from Liability
§ 63-7-430	Bad faith or false reporting; civil action; fees
§ 63-7-440	Knowingly making false report of abuse or neglect; penalties
§ 63-7-390	Photographs and x-rays; other medical examinations
§ 63-7-750	Detainment of child by medical professional
§ 63-7-420	Abrogation of privileged communication; clergy and penitent privilege
§ 63-7-610	Emergency protective custody
§ 63-7-1610(A)	Jurisdiction of family court; removal proceedings; procedures
§ 63-7-1650	Intervention and provision of services without removal of custody
§ 63-7-1700	Permanency planning hearings
§ 63-7-1920	Central Registry of Child Abuse and Neglect
§16-3-651	Criminal Sexual Conduct Definitions
§ 16-15-140	Committing or attempting lewd act upon a child under sixteen

Black's Law Dictionary, Sixth Edition

