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## ABSTRACT

### Mandated Reporting in Georgia: A Policy Recommendation and Rationale for Why Mandated Reporter Training Should be a Requirement

By

Amanda Jo Wilcox

4/29/16

In 2015, The U.S, Department of Health and Human Services Children's Bureau, documented 3.6 million referrals from Child Protective Services comprising 6.6 million children suspected to have been subject to some form of maltreatment. To increase the likelihood of maltreatment being correctly identified and reported, States require certain individuals called, "Mandated Reporters", to report suspected maltreatment. However, the laws and policies surrounding mandated reporting are not uniform and largely vary across States, which has been correlated with inconsistencies in how child maltreatment cases are reported and treated. Currently, in the state of Georgia, there is no policy requiring mandated reporters to receive training. Additionally, there is no governing or approving body that has been charged with creating a standardized curriculum for the pre-existing mandated reporter trainings. The goal of this project is to produce policy recommendations regarding Mandated Reporting training requirements in hopes of enhancing communication and consistency in the early recognition and reporting of suspected maltreatment in the state of Georgia. This project will focus on the Mandated Reporting present in Georgia, and discuss problems occurring as a result of Georgia's policies including a lack of policies on specific issues. Additionally, policies from California and Pennsylvania, who have been commended as having coherent and high-quality child maltreatment legislation, will be presented for comparison.

Mandated Reporting in Georgia: A Policy Recommendation and Rationale for Why  
Mandated Reporter Training Should be a Requirement

By

Amanda Jo Wilcox

B.S., West Virginia University

A Capstone Submitted to the Graduate Faculty  
of Georgia State University in Partial Fulfillment  
of the  
Requirements for the Degree

MASTER OF PUBLIC HEALTH

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APPROVAL PAGE

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Mandated Reporter Training Should be a Requirement

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## Author's Statement Page

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Amanda Jo Wilcox  
Signature of Author

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## **I. Introduction**

### **A. Background**

Child Maltreatment is a multifaceted public health problem that results in immediate harm for those directly affected and is linked to long-term negative consequences such as poor academic achievement, increased healthcare costs, greater likelihood of engaging in criminal behavior, and productivity losses (Child Welfare, n.d.). Estimates of the costs resulting from child maltreatment amount to \$210,012 per child victim, as well as a total lifetime cost of \$124 billion for all fatal and nonfatal cases (Fang, Brown, Florence, & Mercy, 2012). In the United States alone, The U.S. Department of Health and Human Services Children's Bureau, documented 3.6 million referrals from Child Protective Services comprising 6.6 million children suspected to have been subject to some form of maltreatment (U.S. Department of Health and Human Services, 2016). Acts of maltreatment, which encompass physical abuse, emotional abuse, sexual abuse, and neglect resulted in a projected total of 702,000 child victims and decidedly more grave, a total of 1,580 child deaths in 2014 (Child Maltreatment Prevention, 2016). While data from the last five years reflect fluctuating trends in the number of maltreatment victims, the most recent records from the National Child Abuse and Neglect Data System demonstrate a slight increase from 698,000 in 2010 to 702,000 in 2014 (U.S. Department of Health and Human Services, 2016). However, these counts are underestimated because they only represent reported cases (U.S. Department of Health and Human Services, 2016). A full understanding of why many cases go unreported requires a review of the procedural processes governing how such reports are made and subsequently investigated.

## **B. Child Protective Services**

Across the nation, there are laws that exist for the sole purpose of protecting children. The governing entity present within each state that receives and responds to reports of child maltreatment is most commonly referred to as, Child Protective Services (DePanfilis & Salus, 2003). Child Protective Services (CPS) promote healthy development and protection of children by evaluating reports of maltreatment, conducting investigations, and determining the response that will adequately address the needs and interests of the child's welfare (DePanfilis & Salus, 2003). Additionally, CPS function in various forms and collaborate with law enforcement, legal personnel, healthcare providers, and other community workers in order to better serve children and their families (DePanfilis & Salus, 2003). CPS relies on receiving reports of suspected child maltreatment and is highly dependent on the judgment of both professionals and non-professionals in the general population to initiate the reporting process (DePanfilis & Salus, 2003). Unfortunately, knowledge about what actions constitute maltreatment are not unanimously agreed upon or recognized, which consequently produces discrepancies in reporting. In order to increase the likelihood of maltreatment being correctly identified and reported, States require certain individuals to be Mandated Reporters. Mandated Reporters can loosely be defined as people who are "required to report suspected child maltreatment to an appropriate agency, such as child protective services, a law enforcement agency, or a State's toll-free child abuse reporting hotline" (Child Welfare Information Gateway, 2014). While all States have mandated reporters, the laws and policies surrounding mandated reporting are not uniform and largely vary across States (Child Welfare Information Gateway, 2014). Consequently, these distinctions within State

statutes have been correlated with numerous complications and inconsistencies in how child maltreatment cases are reported and treated (Levi & Portwood, 2011).

### **C. Purpose and Goals**

The broad goal of this paper is to produce policy recommendations regarding Mandated Reporting training requirements in hopes of enhancing communication and consistency in the early recognition and reporting of suspected maltreatment in the state of Georgia. The primary focus of this paper is to examine differences in Mandated Reporter training across states. This paper will focus on the Mandated Reporting present in Georgia, and discuss problems occurring as a result of Georgia's policies including a lack of policies on specific issues. Additionally, policies from California and Pennsylvania, who have been commended as having coherent and high-quality child maltreatment legislation, will be presented for comparison.

## **II. Mandated Reporting**

As previously stated, mandated reporters are individuals who have a legal responsibility to report suspected cases of child maltreatment to the appropriate authorities (Child Welfare Information Gateway, 2014). However, the specifications that indicate *who* is considered to be a mandated reporter, *when* they should report, and finally, *how* and to *what* authority they should report to are considerably varied state-by-state. Currently, a total of 48 States restricts mandated reporters to only those individuals with professions either necessitating interaction with children or where interaction with children is probable per job requirements (Child Welfare Information Gateway, 2014). These professions typically include occupations such as social workers, school personnel, health-care workers, mental-health workers, childcare providers, and law enforcement or

legal workers (Child Welfare Information Gateway, 2014). A more comprehensive list of specified professionals can be found in the Mandatory Reporters of Child Abuse and Neglect State Statutes Report (Child Welfare Information Gateway, 2014). It is important to note that the term “restrict” is used only to indicate that the occupations listed as being mandated to report child abuse have legal obligations to report, however, anyone is permitted to make a report. Additionally, of the 48 States that list certain professionals as being Mandated Reporters, there are 18 states where all citizens are mandated reporters (Child Welfare Information Gateway, 2014). Meaning, these states equally charge professionals and non-professionals with the responsibility of aiding in the protection of its children. Referring back to the Mandated Reporters State Statutes document for guidance, the questions of how and to what authority the reports are to be communicated can be addressed. States also vary in reporting procedures concerning institutional cases, meaning the professional attempting to make a report is employed at an organization such as a hospital or school (Child Welfare Information Gateway, 2014). The procedures vary with respect to the chronological order in which a report is received. For example, many States have laws requiring an authority figure within the organization to first be informed of the report prior to it being received by a CPS agency (Child Welfare Information Gateway, 2014). Some states further require that the head of the institution must be the one to report the case, whereas other States require the employee to inform the CPS authority first and the institutional authority afterward (Child Welfare Information Gateway, 2014). Regardless of a particular organization’s procedures, any and all suspected cases must be reported to an associated CPS authority as required by law (Child Welfare Information Gateway, 2014).

## **A. National Reporting Data**

Annually, the U.S Department of Health and Human Services Children's Bureau collects and publishes data via the National Child Abuse and Neglect Data System (NCANDS) concerning multiple factors related to child maltreatment including referrals, assessments, investigations, form of maltreatment, and who is making the reports (U.S. Department of Health and Human Services, 2016). This report is a valuable resource for all government and non-government child-serving agencies because it provides a more comprehensive view of child maltreatment at the national level as well as state-by-state and allows for easy comparison. The most recent data from the NCANDS report documented that a national approximation of 3.6 million referrals were obtained by various CPS institutions, 2.2 million cases of which were "screened-in", meaning the report itself met certain criteria set by individual state policies to allow it to be considered for further investigation (U.S. Department of Health and Human Services, 2016; Child Welfare Information Gateway, 2013). The 3.6 million referrals from the year 2014 amount to a 14.6% increase in the number of referrals recorded in 2010 (U.S. Department of Health and Human Services, 2016). It is essential to note, however, that two states, New Jersey and Illinois, count all reports of child maltreatment received by CPS agencies as screened-in referrals (U.S. Department of Health and Human Services, 2016). It is not unusual for child victims to experience more than one type of maltreatment, but analysis of the 2014 dataset disclosed that neglect was the most commonly occurring form of maltreatment, effecting 75% of victims, while physical abuse accounted for 17%, and sexual abuse was 8.3% (U.S. Department of Health and Human Services, 2016).

## **B. Report Sources: Who is making the reports?**

Certain professionals, with the exception of those States requiring everyone to be mandated reporters, have been charged with this responsibility because they are more likely to be in regular contact with children, but how many reports are actually coming from mandated reporters? Records from the NCANDS report indicated that of the amount of screened-in referrals received, 62.7% of the child maltreatment reports were created by professionals, or individuals that would qualify as being mandated reporters by most States' standards (U.S. Department of Health and Human Services, 2016). The remaining 18.6% and 18.7% of reports were made by nonprofessionals and "unclassified", or "unknown" sources, respectively (U.S. Department of Health and Human Services, 2016). The NCANDS data also indicates the national percentage of "screened-out" reports or reports that do not meet certain criterion that permits further investigation, amounted to 39.3% or approximately 1.4 million cases, which may be suggestive of incorrect reporting (U.S. Department of Health and Human Services, 2016). Unfortunately, information pertaining to the sources of the screen-out reports is not available.

Moreover, while the national average rate for referrals was calculated to be 48.8 referrals per 1,000 children, 17 states had much higher rates for screened-in referrals and 29 states had higher rates for screened-out referrals (U.S. Department of Health and Human Services, 2016). Again, these discrepancies are not surprising considering each state has its own criteria for establishing which reports are screened-in. However, what is interesting is the fact that higher rates of referrals meeting criterion to be screened-in are from the States that require all citizens to be mandated reporters (U.S. Department of Health and Human Services, 2015). Rates of screened-in referrals from "required States", or states that require all citizens to report, are between 30.5-32.5 per 1,000 children as opposed to 24.0-

26.5 per 1,000 children referral rate for other States (U.S. Department of Health and Human Services, 2015). Despite the differences in screened-in referral rates, there is not enough evidence to infer that these states are in any way, “better” at reporting child maltreatment than other states. It does, however, raise questions concerning the relationship between mandated reporting and the volume of child maltreatment reports. Does mandating specific or all citizens to be reporters of child maltreatment result in more reports? And are these reports more likely to be screened-in reports? The following two studies offer some insight to help inform these questions.

An article analyzing mandated reporting across two comparable jurisdictions in Ireland and Australia, attempted to provide data pertaining to the effect of mandated reporting on reports of child maltreatment (Mathews, 2014). In his analysis, Mathews (2014) compared Ireland, a country with no laws pertaining to mandated reporting, and Australia, a country that does have mandated reporting laws. After a year of investigation, significant discoveries were reported (Mathews, 2014). The counts of reports made in Australia nearly doubled the amount of reports recorded for Ireland (Mathews, 2014). Additionally, 53% of the reports in Australia were from mandated reporters and in those cases where abuse was substantiated, 54% were cases informed by mandated reporters (Mathews, 2014). Despite these results arriving from analysis of countries other than the U.S., relevant information still remains that gives greater support for the utility of mandated reporters and the laws governing them.

Another study tabulated the number of child maltreatment reports by individuals from four main groups of professionals, who are mandated to report, and examined the portion of these reports that were substantiated (Kesner, 2008). These four groups, legal/

law enforcement, medical, education, and social service personnel, generated 352,601 reports of child maltreatment, 203,230 of which were substantiated (Kesner, 2008). The highest percentages of substantiated reports were from legal/law enforcement and medical personnel, with 68% and 60% of substantiated reports, respectively (Kesner, 2008). Only 50% of reports from educational personnel were substantiated cases of maltreatment, and there was a surprising lack of neglect reports, which could indicate a gap in maltreatment recognition knowledge (Kesner, 2008). Overall, this study supports the notion that while improving mandated reporting laws have been associated with increased numbers of reports, a large quantity of these reports are not substantiated, meaning the constituents of child maltreatment are still not widely understood or recognizable by those entrusted to “correctly” report it (Kesner, 2008).

### **III. Barriers to Mandated Reporting**

#### **A. Variations in Maltreatment Definitions**

One of the problems associated with the underestimation and lack of consistency regarding maltreatment reports stems from the variability of criteria used to define maltreatment. The definition of abuse and neglect serves to be the foundation for which such reports are created. The standards provided by the U.S. government to help define maltreatment is meant to function as a general guide and less like a concrete definition. The definition offered by the Child Abuse Prevention and Treatment Act for child maltreatment states, “Any recent act or failure to act on the part of parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation; or an act or failure to act, which presents an imminent risk of serious harm” (U.S. Department of Health and Human Services, 2016). It is from this standard that States are permitted to



construct individual definitions to inform the policies that will govern the methods in which child maltreatment is reported. All 50 states operate under similar definitions, but the definitions are not completely uniform. Furthermore, the lack of uniformity across state statutes can be linked to lack of homogeneity with reporting rates because the various standards set for CPS agencies and mandated reporters are derived from individual state statutes (Levi & Portwood, 2011). The state of Georgia currently operates under three varying definitions of abuse with the Georgia Code. Title 19 of Domestic Relations, Title 15 of Courts, and Title 16 of Crimes and Offenses, otherwise referred to as Domestic Relations Code, Juvenile Code, and the Criminal Code, each govern how child maltreatment is defined and reported (Georgia Code, O.C.G.A. §19-7-5; Georgia Code, O.C.G.A. § 15-11-2; Georgia Code, O.C.G.A. § 16-5-70). In addition, Georgia's child-serving agencies follow policies that have differing definitions for child maltreatment between state agencies (Georgia CAPTA Panels, 2014). These discrepancies specific to Georgia Laws will be further presented in greater detail in a later section.

### **B. Reasonable Suspicion: Dissension about the “Threshold” for Reporting**

The standard, by which the majority of state legislations provide the basis for reporting potential abuse and neglect, is “Reasonable Suspicion” (Child Welfare Information Gateway, 2014). “Reasonable Suspicion” is broadly expressed as being “if a person suspects or has reason to believe that a child has been abused or neglected”, and has been the source of much controversy regarding child maltreatment reporting laws and policies (Levi & Portwood, 2011; Child Welfare Information Gateway, 2014). The ambiguity and lack of any specified criteria has burdened those charged with the responsibility of reporting child maltreatment with the additional responsibility of creating

their own threshold, or standards for reporting abuse and neglect (Levi & Portwood, 2011). On the contrary, if the criteria are too specific then less observable cases of maltreatment may be missed. Levi et al. (2011) presented the findings from a review of several studies involving the collection of survey data from physicians as well as surveys of individuals considered to be experts in the field of child maltreatment. Of the more than 1,200 pediatricians that received one survey, 15% answered that the likelihood of abuse would have to be greater than or equal to 75% in order for abuse to be reasonably suspected (Levi et al., 2011). The same study recorded that 25% of the pediatricians responded with a threshold range of 60-70% and an additional 25% stated a threshold of 40-50%, with the remaining 35% stating a threshold of 10-35% (Levi et al., 2011). Explanations of thresholds, or one's level of certainty that an injury was caused by abuse, were based on the severity of the injury, loosely meaning, greater abuse suspicion was positively correlated with more severe injuries (Levi et al., 2011). However, the severity of an injury is not necessarily an adequate predictor of maltreatment (Levi et al., 2011). In fact, research shows that bruises are the most predominant injuries exhibited by cases of physical abuse (Sege, Flaherty, Jones, Price, Harris, Slora, Abney, & Wasserman, 2011). Unfortunately, these cases can be easily overlooked because it can be extremely difficult to discern between bruises characteristic of "normal" childhood accidents and those bruises that are a direct product of abuse (Sege et al., 2011). Exemplifying this subjective variability is a study involving a sample of 110 Pediatric Health Care Providers (PHCPs) and a panel of child abuse experts. Researchers found that PHCPs failed to report 21% of the cases that the panel determined to be reportable (Sege et al., 2011). Further complicating the assessment of abuse-related injuries are the difficulties associated with

identifying neglect in the pediatric setting. It is already known that neglect accounts for the greatest proportion of child maltreatment cases, but it can also be one of the most difficult forms of maltreatment to identify due to lack of consensus regarding certain criteria for establishing neglect (DePanfilis, 2006). Neglect has different indicators that vary in terms of child age and developmental stage and because children progress through these stages at various rates, it can make determining neglect for pediatricians even more difficult (DePanfilis, 2006). Additionally, neglect is not always intentional and may instead be the product of poor familial socioeconomic status or poverty (DePanfilis, 2006). Therefore, it is reasonable to consider that physicians with higher thresholds may be of greater risk for overlooking or disregarding potential cases of child neglect.

Crowell (2012) studied individuals working in the child welfare field and found that that respondents who previous education or training had a significantly lower threshold for reporting abuse than those with less education and training regarding reporting and identifying child maltreatment. Individuals employed as school counselors/nurses, social workers, and law enforcement officers had significantly lower thresholds for reporting compared to school teachers and daycare providers Crowell & Levi, 2012).

Though these outcomes are discouraging, they are reflective of what can be expected when no true “threshold” has been clearly defined. Furthermore, these articles pose relevant questions about how low should the threshold be in order to determine the probability that some form of maltreatment occurred (Levi et al., 2011)? Even more unclear may be how low should the threshold be in order to establish reportable suspicion of neglect? Proposing answers or solutions to these questions is beyond the scope of this particular paper. However, presenting this information is intended to add further

evidentiary support for the need to standardize and require training for mandated reporters in order to enhance consistency and competency pertaining to the reporting “threshold”, which will be discussed in more detail in a later section.

### **C. Other Barriers to Reporting**

Beyond the lack of clarity associated with “reasonable suspicion”, additional barriers have been identified that effect a mandated reporters’ decision to report or not report suspected child maltreatment. The type of maltreatment has been cited as being one of the largest barriers. Reports demonstrate that while physicians have almost no difficulty reporting maltreatment if the maltreatment type is physical abuse, however, they are less likely to produce reports concerning neglect, emotional abuse, or medical neglect (Flaherty & Sege, 2005). Physician specialty, physician opinion of acceptable parenting style, previous experience with CPS, and lack of knowledge or training were among the numerous factors found to affect such outcomes. While this study particularly focused on factors related to physician reporting, the same factors are also relevant for other mandated reporters as well. Additionally, it was discovered that physicians had higher thresholds for suspecting abuse if they were more accepting of a “physical discipline” type of parenting style (Flaherty & Sege, 2005). Moreover, societal or regional norms about physical discipline or corporal punishment being viewed as an acceptable form of child rearing may also influence all mandated reporters’ thresholds for child maltreatment. While not all states have legislation specifically mentioning corporal punishment, 31 states have prohibited its use in school, whereas the remaining states, Georgia included, permit corporal punishment (Gunderson National Child Protection Training Center, 2016). Researchers also found that while pediatricians typically had much lower thresholds for

maltreatment compared to general practitioners, pediatricians were not consistent regarding the reporting of “failure to thrive” to CPS (Flaherty & Sege, 2005). Perhaps even more concerning is that several surveyed physicians stated their hesitation to report or decision to not report at all, was out of fear of the consequences that may result from the report (Flaherty & Sege, 2005). Furthermore, the physicians were concerned that if a report was found to be “unsubstantiated” by CPS, the family in question would no longer see that physician, thus they may not continue to receive much needed medical care (Flaherty & Sege, 2005). For example, it is a common misconception among child-serving professionals that a child might be removed from a service if the parents suspect they will be reported to CPS. Having knowledge of the CPS system as well as maintaining a professional relationship, has the potential to mitigate some of the aforementioned concerns. Unfortunately, when asked about past experiences with CPS, the majority of physicians reported negative experiences mostly due to a lack of communication (Flaherty & Sege, 2005). One of the most common criticisms included CPS neglecting to keep physicians informed of the case, which consequently resulted in physicians’ believing that the report had an indifferent effect on the child’s wellbeing or the report produced no favorable outcomes at all (Flaherty & Sege, 2005). In Georgia, the state government agency that fulfills the Child Protective Services role, known as, The Division of Family and Children Services (DFCS), has policies about keeping mandated reporters informed about reports. The policy states that once a report has been made, the mandated reporter will receive a notification within 24 hours. Mandated reporters are then given the option to receive information about the investigation outcomes (Georgia Department of Human

Services, 2014). However, the processes regarding how this is being enforced or information about how well it is being enforced are not determined.

Despite physicians being required to receive some education concerning child maltreatment, which is specified by their respective university medical program or policies from their employed institution, there is still an apparent disconnect concerning knowledge not only about maltreatment but about CPS as well. A similar disconnect is evident in professionals who are required to report and are also required to receive some sort of training about the recognition and reporting of child maltreatment. This group includes educational instructors and or teachers.

There can be significant complications related to teachers underreporting and overreporting child maltreatment. One study attributes a portion of these reporting inconsistencies to the widening and narrowing of institutional policies defining child maltreatment (Webster, S.W., O'Toole, R., O'Toole, & Lucal, 2005). According to Webster et al. (2005) as research about child maltreatment has progressed, federal legislation has resultantly "expanded" definitions to incorporate the varying forms of maltreatment including physical, sexual, and emotional abuse, as well as neglect. While this expansion, "the widening of legislation", helped achieve increases in the identification and reporting of maltreatment, a large portion of these reports were and continue to be incorrect (Webster et al., 2005). The substantial influx of reports resulted with several unintended consequences such as burdening CPS agencies with an exacerbated caseload, which led to the "narrowing" of definitions used to substantiate cases (Webster et al., 2005). Furthermore, Webster et al. (2005) posited that teachers' decision to report is connected to the level of "certainty" pertaining to recognition and reporting, such that overreporting is

caused by the “level of certainty about reporting being greater than the level of recognition” and underreporting is the “level of certainty about recognition being greater than that of reporting”. “Level of certainty about reporting” is understood as being the teachers’ self-assurance in their knowledge about reporting requirements and procedures, whereas “certainty about recognition” is self-assurance in their ability to identify signs of maltreatment. In a sample of 480 teachers, 4.2% had a reporting score greater than the recognition score, which is indicative of overreporting, and 33.2%, had reporting scores less than the recognition scores, indicating, underreporting (Webster et al., 2005). Analysis revealed that rates of underreporting were associated with teachers who had less education, believed reporting would not have good outcomes for the child, and who had never made an abuse report (Webster et al., 2005).

Kenny (2004) further exposed knowledge gap as she investigated several factors thought to influence teachers’ views and understanding of child maltreatment. A sample of 200 ethnically diverse teachers from Florida was surveyed using the “Educators and Child Abuse Questionnaire” (ECAQ), which is a comprehensive tool designed to ask questions about three domains (Kenny, 2004). The three domains include ability to recognize maltreatment indicators, reporting procedure competency, and views towards corporal punishment (Kenny, 2004). The analysis revealed only 34% of the teachers received any education or information during college concerning child maltreatment, 78% of which asserted the information was either “minimally” or “inadequately” addressed (Kenny, 2004). Of those teachers who received any child maltreatment education post-college, only 37% considered the training to be “adequate” (Kenny, 2004). Among the various forms of child maltreatment, the signs and symptoms of sexual abuse and physical abuse was

recorded to be most identifiable by the teachers as opposed to neglect, which is concerning due to neglect being the most common form of maltreatment (Kenny, 2004; U.S. Department of Health and Human Services, 2016). In terms of awareness of reporting procedures, only 13% of teachers claimed to have any familiarity with such procedures, and 76% believed if they were to make a report, it would not be well-received or “supported” by school administrators (Kenny, 2004). Additionally, the majority of teachers were discovered to be in favor of corporal punishment (Kenny, 2004). It is worth noting that corporal punishment is still legal in the state of Florida (Gunderson National Child Protection Training Center, 2016). This study suggests that schools should provide teachers with clear information about reporting policies and procedures. The high percentages of teachers who felt they would receive some form of legal backlash demonstrates the need for teachers to be better informed of their rights and legal obligations as mandated reporters.

These studies further demonstrate the complex barriers that delay or prevent the reporting of child maltreatment by mandated reporters. It is important to emphasize and distinguish between the need for “more training and education” and the need for “adequate” training and education, meaning the training and education would ideally be evidenced-based, standardized, and encompass all the domains of maltreatment including reporting procedures. The professionals mentioned in this section are among those who are typically required to receive some training related to mandated reporting, and yet such high rates of reporting inconsistency and competency have been evidenced by the literature. If this is what is to be expected from these professionals, even greater disconnect and ineptitude can be anticipated for those individuals who are required to



report, but are not required to receive training. Again, the literature supports the need for adequate education as well as a need for standardized training requirements.

#### **IV. Impact of Mandated Reporter Training**

It is becoming progressively evident that these barriers are stemming from similar issues regarding adequate training and education. While there are very little concrete studies on mandated reporting training, the existing research does imply that increased training is associated with enhanced knowledge and self-efficacy regarding maltreatment recognition and reporting procedures, which were two of the main facets identified as barriers to reporting (Starling, Heisler, Paulson, & Youmans, 2009). Further, studies examining these barriers have suggested the inclusion of such information in the curricula for university students whose future professions will require them to be mandated reporters (Smith, 2006). Observed inconsistencies concerning mandated reporters' personal versus legal definitions of maltreatment can negatively influence their decision to report (Smith, 2006). Exposure to training that "addresses the definitions and forms of child maltreatment, reporting procedures, legal issues, and interactions with clients after a report is made" is posited to help mitigate the effects of these inconsistencies and improve mandated reporting (Smith, 2006).

#### **V. CAPTA**

##### **A. Brief History**

The Child Abuse Prevention and Treatment Act (CAPTA) was written into federal legislation in 1974 for the fundamental purpose of governing all United States' Child Protective Services organizations (Child Welfare Information Gateway, 2011). In addition to providing the standard by which all States derive their child abuse and neglect

definitions, CAPTA also serves as the funding source for States' child maltreatment "prevention, assessment, investigation, prosecution, and treatment activities" (Child Welfare Information Gateway, 2011). Likewise, grants are also made available to further assist States' programs that meet specified requirements (Child Welfare Information Gateway, 2011). It is through this legislation that the Office on Child Abuse and Neglect was later established within the Department of Health and Human Services, Children's Bureau to aid with the management and maintenance of all "research, evaluation, technical assistance, and data collection" about child maltreatment (Child Welfare Information Gateway, 2011).

### **B. Recent Amendments**

Since its conception, CAPTA has been amended on several occasions with the latest revision being in 2010. This revision, more formally known as the "Reauthorization of the Child Abuse Prevention and Treatment Act", had three main objectives to address which included: "improve[ing] program operation and data collection", "improve[ing] systems for supporting and training individuals who prevent, identify, and respond to reports of neglect, abuse, and maltreatment of children", and "strengthen[ing] coordination among providers who address the challenges associated with child abuse, maltreatment, and neglect as well as dating and domestic violence" (CAPTA Reauthorization Act of 2010, 2016).

In 2011, Senator Robert Casey of Pennsylvania and Senator Barbara Boxer of California introduced, the "Speak Up to Protect Every Abused Kid Act", which aimed to amend CAPTA to increase the amount of mandated reporters by requiring all states to make all adult citizens mandated reporters of child maltreatment (Schilling-Wolfe, 2012).

Additionally, funding to provide the increased mandated reporting training would be afforded to states meeting eligibility (Schilling-Wolfe, 2012). In lieu of enactment, it was recommended that the outcomes exhibited by states already requiring everyone to be mandated reporters, be examined and reviewed to further inform this potential legislation (Schilling-Wolfe, 2012). This bill was reintroduced twice, the latest being in December of 2015. Unfortunately, at this time, CAPTA does not overtly contain information indicating specifications, requirements, or standards related to Mandated Reporter training.

## **VI. Mandated Reporting in Georgia**

### **A. Abuse Definitions in Georgia**

The Georgia Code provides definitions regarding child maltreatment. However, within the Code, variations of these definitions exist between Title 15 of Juvenile Code, Title 19 of Domestic Relations, and Title 16 of Crimes and Offenses. Title 19 of Domestic Relations defines “child abuse” as “A) physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, 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 (Georgia Code, O.C.G.A. §19-7-5; Georgia Code, O.C.G.A. § 19-15-1). Note that Title 19 chapter 15 section 1 of Domestic relations is titled, “Child Abuse Definitions” and provides the same definitions listed in Title 19 chapter 7 section 5 of Domestic Relations. The Juvenile Code maintains a more specific definition, which includes, “physical injury which is inconsistent with the explanation given” and “acts or omissions of a person responsible for the care of the child” (Georgia Code, O.C.G.A. § 15-11-2). Also designated under abuse is, “Emotional” and “Prenatal” abuse as well as “an act of

family violence as defined in Code Section 19-13-1 in the presence of a child” (Georgia Code O.C.G.A. § 15-11-2). “Sexual abuse” as defined in Domestic Relations is “a person’s employing, using, persuading inducing enticing, or coercing any minor who is not that person’s spouse to engage in any [sexual act]”, whereas, the Juvenile Code states, “a caregiver or other person responsible for the care of child employing...” (Georgia Code, O.C.G.A. §19-7-5; Georgia Code O.C.G.A. § 19-15-1; Georgia Code O.C.G.A. § 15-11-2). The titles contain the same specific list of sexual acts, which can be located in Appendix A. While both titles reference title 16-12-200 of Crimes and Offenses to define “sexual exploitation” a similar difference exists such that, the Juvenile Code definition is “conduct by a caregiver or other person responsible for the care of a child who allows, permits encourages, or requires a child to engage in prostitution or sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct as defined in Code Section 16-12-200” and Domestic Relations states “conduct by any person” (Georgia Code O.C.G.A. § 15-11-2; Georgia Code, O.C.G.A. §19-7-5; Georgia Code, O.C.G.A. § 19-15-1; Georgia Code, O.C.G.A. § 16-5-70). The Juvenile Code defines neglect as, “the failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child’s physical, mental, or emotional health or morals”; adequate “supervision necessary for such child’s wellbeing”; or “the abandonment of a child by his or her parent, guardian, or legal custodian” (Georgia Code, O.C.G.A. § 15-11-2). Domestic Relations lists neglect, as a form of abuse, but it does not provide a definition. Additionally, the Criminal Code only provides definitions for sexual abuse labeled as, “sexual offenses” and does not provide specific definitions for emotional abuse, prenatal

abuse, or neglect (Georgia Code, O.C.G.A. § 16-5-70). A summary of the definitions of abuse in Georgia is provided in Table 1 of Appendix D.

## **B. Georgia Mandated Reporters**

### **i. Who are Mandated Reporters?**

Georgia Code (O.C.G.A. §19-7-5) charges certain individuals with the responsibility of being mandated reporters. This list of individuals includes: “hospital and medical personnel including interns, podiatrists, dentists, school personnel, counselors, social workers, psychologists, marriage and family therapists, child welfare agency personnel, child service organization personnel that provide children with care, treatment, education, training, supervision, coaching, recreational programs, or shelter, law enforcement personnel, reproductive health-care facility or pregnancy resource center personnel and volunteers, and persons who process or produce visual or printed matter” (Georgia Code, O.C.G.A. §19-7-5). Additionally, anyone who is not included in this list, while not legally required to report, may also make a report if they have “reasonable cause to believe” a child or children may be a victim of maltreatment (Child Welfare Information Gateway, 2014). One exception to reporting states members of the clergy are not required to report any information obtained through the “context of a confessional”, but are required to report any suspected child maltreatment otherwise (Georgia Code, O.C.G.A. §19-7-5). A more comprehensive list of Georgia mandated reporters are located in Appendix B.

### **ii. Who is required to receive training?**

The Georgia Code provides a list of those individuals who are required to report. However, it does not explicitly indicate who is required to receive training concerning mandated reporting. Certain institutions that specifically serve children such as, hospitals

and schools have their own policies that require employees to receive mandated reporter training, but the training required may be provided by that institution and, therefore, may not necessarily correspond to any statewide utilized trainings. For example, certain providers employed at Children’s Healthcare of Atlanta (CHOA) are required by CHOA’s policies to attend an annual Patient Care Provider Orientation (PCPO) during which they “receive an in-service on reporting laws and Children’s policies and indicators of child abuse” (Mckeen, Amber, personal communication, March 3, 2016). CHOA Policies require new staff to complete a web-based training on “child maltreatment, reporting laws, and Children’s policies” as a part of New Employee Orientation (CHOA, 2015). However, only certain providers *must* attend the PCPO and other providers such as, physicians and nurse practitioners attend a separate orientation, which includes 8 presentation slides of content dedicated to mandated reporting (Mckeen, Amber, personal communication, March 3, 2016). Other institutions such as, the Department of Education requires school personnel to receive training about identifying and reporting child maltreatment, but it does not specify who or what entity should provide the training (Department of Education: Office of Instructional Services, Division of Program Development and Student Support, 1990). The Department of Early Care and Learning (DECAL) only requires its child care staff to receive two credit hours about abuse and neglect detection during the first year of employment, and it does not include any stipulations for Georgia Pre-K (DECAL, 2016). Additionally, the Department of Juvenile Justice (DJJ) does not contain policies explicitly concerning child maltreatment training for staff or personnel (Department of Juvenile Justice, 2015)

**iii. Who provides the training?**

Mandated reporter training is available, free of charge through a consulting firm called, “Care Solutions Inc.” which offers three different online trainings through a website called “Pro Solutions”. However, Prevent Child Abuse Georgia and CHOA also provide free in-person training for general mandated reporting upon request. Other organizations may provide its employees with in-person trainings in the form of in-services or web-based trainings. However, these trainings may be created by that particular organization and not necessarily refer employees to the trainings provided by Care Solutions Inc.

**iv. Who is the approving body?**

The general mandated reporting web-training available from Pro-Solutions has been approved by the Governor’s Office for Children and Families, the Georgia Department of Human Services, Division of Family and Children Services (DFCS), and Bright from the Start: Georgia Department of Early Care and Learning (DECAL). However, there is not an officially appointed governing body that creates or approves mandated reporter trainings in Georgia.

**v. What content is delivered?**

The content delivered via online from Care Solutions includes the following learning objectives: “describe the mandated reporter's role in reporting suspected abuse and neglect, identify physical and behavioral indicators of the legally recognized types of abuse and neglect in Georgia, identify which groups of children may be at higher risk of being abused or neglected, and describe the steps necessary to report suspected abuse or neglect” (ProSolutions Training, 2016). The average amount of time it takes to complete this course is one hour. There are three different trainings offered through the Pro Solutions, which include a general training, which is geared toward all mandated reporters

regardless of profession, a training for medical professionals, and a training for employees, volunteers, and contractors of Georgia Public Schools (ProSolutions Training, 2016). It is worth mentioning that the training offered for Georgia Public Schools is not approved by Georgia Department of Early Care and Learning Bright from the Start, which is the entity focused on early child care and education and is charged with managing several programs that serve children and their families (DECAL, 2016; ProSolutions Training, 2016). Again, not all institutions require employees to complete the trainings offered by Pro Solutions.

### **C. Who is making the child maltreatment reports in Georgia?**

In 2014, a total of 68,350 referrals for potential child maltreatment cases were screened-in to either receive an investigation or alternative response (U.S. Department of Health and Human Services, 2016). Reports that received investigations amounted to a total of 24,321 (See Appendix C for a table showing child abuse and neglect reported in Georgia 2014). Of the 24,321 investigations, 16,749 were reported by mandated reporters, 6,383 were from non-mandated reporters, 1,189 came from sources classified as, “unknown” (Appendix C). While mandated reporters made the majority of the reports, 7,303 reports out of 16,749 reports were substantiated (Appendix C). The highest numbers of reports from mandated reporters were created by school personnel, followed by law enforcement, and professional counselors/social workers (Appendix C). However, law enforcement produced the most substantiated reports (Appendix C). The highest numbers of reports from non-mandated reporters were from relatives, other, and neighbor/friend (Appendix C). Relatives also produced the highest number of substantiated reports for non-mandated reporters (Appendix C).

## **VII. Mandated Reporting in California**



## **A. Abuse Definitions in California**

California legislation recognizes maltreatment to include, physical abuse, sexual abuse and exploitation, willful harming or injuring of a child, and unlawful corporal punishment or injury, and neglect (Child Abuse and Neglect Reporting Act, Cal. Penal Code §11164-11174.3). This section will focus briefly on these definitions. However, a complete list of definitions for all categories of maltreatment, written as they appear in the California Code, is available in Appendix A. Physical abuse is defined as “physical injury or death inflicted by other than accidental means upon a child by another person” (Cal. Penal Code §11164-11174.3). Sexual abuse is “sexual assault or sexual exploitation” (Cal. Penal Code §11164-11174.3). The willful harming or injuring of a child is “a situation in which any person willfully causes or permits any child to suffer” or “inflicts unjustifiable physical pain or mental suffering” (Cal. Penal Code §11164-11174.3). Unlawful corporal punishment or injury includes acts “willfully inflicted upon any child” that is “cruel or inhumane corporal punishment or injury resulting in a traumatic condition” (Cal. Penal Code §11164-11174.3). Neglect is the “negligent treatment or maltreatment of a child by a person responsible for a child’s welfare under circumstances indicating harm or threatened harm to the child’s health or welfare” (Cal. Penal Code §11164-11174.3).

## **B. California Mandated Reporters**

### **i. Who are the mandated reporters?**

Under the Child Abuse and Neglect Reporting Law (CANRA), California Penal Code 11164-11174.3 provides an extensive list of individuals that are mandated to report child maltreatment. In summary, the list includes several of the same professionals mentioned in Georgia’s legislation, but with numerous additions including, “employees of youth

centers, employees of child daycare facilities, foster parents, employees of school district security departments, district attorney investigators, peace officers, firefighters, optometrists, medical examiners, animal control or humane society officers, police and county sheriff's department personnel, employees or volunteers of a Court-Appointed Special Advocate program, athletic coaches, administrators, or directors employed by any public or private schools, and assistant coaches or graduate assistants involved in coaching at public or private postsecondary institutions" (Cal. Penal Code §11164-11174.3). The complete inclusive list is available in Appendix B. The only exception to mandated reporting is listed under section 11166 D for "Privileged Communications", which states members of the clergy are not required to report only if they "acquire knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication", or a "sacramental confession" (Cal. Penal Code §11164-11174.3). It is important to note that California Code only legally mandates certain volunteers of public or private organizations to report cases of maltreatment (Cal. Penal Code §11164-11174.3). The California Penal Code, along with most other States, also specifies that all other individuals who are not mandated reporters may make a report of maltreatment if they "reasonably suspect" it (Child Welfare Information Gateway, 2014). "Reasonable suspicion" is defined by section 11166.05 of the Penal Code as "it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position" to "suspect child abuse or neglect" (Cal. Penal Code §11164-11174.3). The code indicates that the individual who suspects abuse does not have to have evidence or "certainty" that abuse has taken place (Cal. Penal Code §11164-11174.3).

**ii. Who is required to receive training?**

Section 11165.7, paragraph (44) subdivision (d) of the Penal Code requires “school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools” to provide all employees identified as mandated reporters with training pertaining, but “not limited to child abuse and neglect identification and child abuse and neglect reporting” (Cal. Penal Code §11164-11174.3). Additionally, subdivision (e) under the same paragraph reads that persons receiving child care licensure or “an employee of a licensed child day care facility” “on and after January 1, 2018” will be required to receive mandated reporter training and renew the training biennially (Cal. Penal Code §11164-11174.3). While the code does not specifically indicate any other mandated reporters other than those mentioned above, are required to receive training, the code does state that “employers are strongly encouraged to provide employees who are mandated reporters with training” addressing “child abuse and neglect identification” and child abuse and neglect reporting” (Cal. Penal Code §11164-11174.3). Additionally, employers are required to provide employees who are mandated reporters, “prior to commencing his or her employment” with an agreement stating that the employee is aware of the mandated reporter law and subsequently, their rights and responsibilities as a mandated reporter (Cal. Penal Code §11164-11174.3). Employees are required to sign this statement as a “prerequisite to that employment (Cal. Penal Code §11164-11174.3).

**iii. Who provides and approves the training?**

Training for mandated reporters is provided by “The Child Abuse Mandated Reporter Training Project” (Mandated Reporter Online Training, n.d.). Initially created in 2003 by the California Institute on Human Services at Sonoma State University, it was

further enhanced by a panel of subject matter experts including but not limited to, professionals in the field of social work, criminal justice, healthcare, education and child care (Mandated Reporter Online Training, n.d.). The resulting product serves as the foundation for the most recent trainings being provided to California's mandated reporters (Mandated Reporter Online Training, n.d.). This project is funded by the Office of Child Abuse Prevention (OCAP) department within the California Department of Social Services (CDSS) and The Chadwick Center for Children and Families, a hospital-based child advocacy and trauma treatment center, has been charged with managing the project (Mandated Reporter Online Training, n.d.). The trainings are web-based and are available 24/7 via one centralized website (Mandated Reporter Online Training, n.d.). All training modules are approved by The Chadwick Center and are presented in a "self-paced" style format (Mandated Reporter Online Training, n.d.).

#### **iv. What content is delivered?**

There is a general training module as well as specialized modules that are designed for certain professions including social workers and mental health workers, law enforcement, medical personnel, child care providers, educators, and clergy (Mandated Reporter Online Training, n.d.). However, those reporters required to complete "profession-specific" modules are first required to complete the general training module (Mandated Reporter Online Training, n.d.). The modules are available in English and Spanish and information pertaining to what specific trainings are necessary for certain professionals are clearly outlined on the CDSS Child Abuse Mandated Reporter Training Website (Mandated Reporter Online Training, n.d.). The estimated amount of time to complete the trainings is 2-4 hours. While there is necessary variation in content for the

'profession-specific' trainings, the learning objectives typically include: 'what to do if you discover evidence of child abuse or neglect', 'how to talk to children about suspected abuse', and the 'special issues related to child abuse reporting' in the 'profession-specific' environment (Child Abuse Mandated Reporter Training California, 2011). The formats for the modules consist of scenarios or 'vignettes' that are relevant to the specified profession and a minimum score of 80% is required to achieve a certificate of completion (Child Abuse Mandated Reporter Training California, 2011).

### **C. Who is making the child maltreatment reports in California?**

The California Department of Social Services (CDSS) publishes child welfare data through the California Child Welfare Indicators Project (CCWIP) website. While this website contains information about the numbers of reports, data regarding the specific types of reporting sources is reported out by "number of children" and not the number of reports. Thus, the following information will be presented according the number of children and not the number of reports. Additionally, the following counts are "unique counts", meaning the child is counted "only once in the category of highest severity" (Webster, Armijo, Lee, Dawson, Magruder, Exel, Cuccaro-Alamin, Putnam-Hornstein, King, Rezvani, Wagstaff, Sandoval, Yee, Xiong, Benton, Tobler, & Romero, 2016). In 2014, the number of children receiving a maltreatment allegation was 497,208 (D. Webster et al., 2016). The number of children receiving a substantiated disposition was 82,389 (D. Webster et al., 2016). The number of these children with substantiated dispositions, mandated reporters made reports for 66,165 of them (D. Webster et al., 2016). Therefore, 80.3% of the children receiving a substantiated disposition were reported by Mandated reporters (D. Webster et al., 2016).

## **VIII. Mandated Reporting in Pennsylvania**

### **A. Abuse Definitions in Pennsylvania**

The Pennsylvania Child Protective Services Law Title 23, § 6303 provides definitions pertaining to child maltreatment. Physical abuse is defined as “any recent act or failure to act by a perpetrator that causes nonaccidental serious physical injury to a child under age 18” (The Child Protective Services Law, 23 Pa.C.S. § 6301-6385). Neglect includes “prolonged or repeated lack of supervision or the failure to provide essentials of life, including adequate medical care, that endangers a child’s life or development or impairs the child’s functioning” (23 Pa.C.S. § 6301-6385). Sexual abuse is “the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in any sexually explicit conduct or any simulation of any sexually explicit conduct” (23 Pa.C.S. § 6301-6385). Emotional Abuse is “an act or failure to act by a perpetrator that causes non-accidental serious mental injury to a child under age 18” (23 Pa.C.S. § 6301-6385). A complete list of definitions for all categories of maltreatment, written as they appear in the Pennsylvania Code, is available in Appendix A.

### **B. Pennsylvania Mandated Reporters**

#### **i. Who are the mandated reporters?**

The Pennsylvania Code under Pennsylvania Child Protective Services Law (PCPSL) made amendments in December 2014 to expand its list of mandated reporters. While the complete comprehensive list of mandated reporters is provided in Appendix B, a synopsis of some of the more notable inclusion criteria is presented as follows: “a person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State, an employee of a health care facility or provider licensed by the Department of

Health, religious healer or spiritual leader, 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, accepts responsibility for a child; employees of a public library, an individual supervised or managed by a person listed above who has direct contact with children in the course of their employment, an independent contractor who has direct contact with children, and an attorney affiliated with an entity that is responsible for the care, supervision, guidance or control of children, and foster parents" (23 Pa.C.S. § 6301-6385). Any other individual who is not listed, but has "reason to suspect" a child may be a victim of maltreatment, is permitted to report (23 Pa.C.S. § 6301-6385). Most recently, an amendment, 'Act 15 of 2015' was made to the PCPSL to include volunteers of specified organizations that are either directly responsible for the welfare of a child or who come into contact with children as part of their work (Changes in the Child Protective Services Law (CPSL), 2016). While Pennsylvania also has "Privileged Communications" legislation, title 23 of the Pennsylvania Child Protective Services Act Section 6311 states that this legislation does "not apply to situations involving child abuse" (23 Pa.C.S. § 6301-6385).

**ii. Who is required to receive training?**

Act 31 of the Pennsylvania Child Protective Services Law requires specific mandated reporters to receive training. The list of these individuals includes: "mandated reporters who hold a health-related license under the Pennsylvania Department of State, foster parents, and school employees" (Changes in the Child Protective Services Law (CPSL), 2016). Additionally, caregivers in family day care homes that are subject to registration by the Department of Human Services (DHS) as well as individuals who are operators of institutions, facilities or agencies that care for children and are subject to supervision by

DHS, and their employees who have direct contact with children must also receive mandated reporting training certifications (Changes in the Child Protective Services Law (CPSL), 2016). The law also states that those mandated reporters required to receive training who have a health-related license must receive two hours of training every five years (Changes in the Child Protective Services Law (CPSL), 2016). All other mandated reporters required to receive training must receive three hours of training every five years (Changes in the Child Protective Services Law (CPSL), 2016).

**iii. Who provides and approves the training?**

The Pennsylvania Department of State provides a list of approved mandated reporting training providers for the entire state (Act 31 Mandated Child Abuse Recognition and Reporting Continuing Education Providers, n.d.). Some of the providers are approved to train both mandated and permissive reporters while other providers may only be approved for training or continuing education credits for specified professionals (Act 31 Mandated Child Abuse Recognition and Reporting Continuing Education Providers, n.d.) The training curriculum must meet the stipulations of Act 126 and Act 31 for requirements for training of mandated reporters and must, therefore, be approved by the Pennsylvania Department of Human Services, the Department of State, and the Department of Education (Changes in the Child Protective Services Law (CPSL), 2016). There are trainings available for free or low cost via the web, in-person, or virtually (About Mandated Reporters Training, 2016). However, in 2014, a free online training program meeting Act 31 standards was created by the DHS along with the University of Pittsburgh and the Pennsylvania Child Welfare Resource Center (Act 31-Child Abuse Recognition and Reporting Requirements Frequently Asked Questions, n.d.).



#### **iv. What content is delivered?**

While the training varies slightly due to profession-specific requirements, all training content must meet the standards set by Act 126 and Act 31 in order to receive acceptable mandated reporting certifications. The general minimum requirements set by Act 31 state the training curriculum must be approved by the Department and include, the 'recognition of the signs of abuse and reporting requirements for suspected abuse in this [Pennsylvania] Commonwealth' and the specific policies for the 'institutions, facilities, and agencies' specified to be required to receive training (2014 Act 31.). The Department further provides an extensive detailed list for the required course content for child abuse recognition and reporting training (Department of Human Services Course Approval Outline for Child Abuse Recognition and Reporting Training for Mandated Reporters, 2015). A summary of the mandated reporting practices across all three states is provided in Table 2 of Appendix D.

#### **C. Who is making the child maltreatment reports in Pennsylvania?**

The Pennsylvania Department of Human Services releases an Annual Child Abuse Report, which includes data about several child maltreatment indicators. The most recent report from 2014 recorded a total of 29, 273 reports of suspected abuse. Mandated reporters made 22,253 of these reports while non-mandated reporters made 7,020 of the reports (Pennsylvania Department of Human Services, 2014). Of the reports that were substantiated, 79% were created by mandated reporters (Pennsylvania Department of Human Services, 2014). While the highest amount of reports from mandated reporters were produced by schools, public/private social service agencies, and hospitals, the hospital reports had the highest substantiation percentages at 18.6% (Pennsylvania

Department of Human Services, 2014). The highest amount of suspected abuse reports, as well as substantiated reports, from non-mandated reporters, were created by parents and guardians (Pennsylvania Department of Human Services, 2014).

## **IX. Policy Implications and Recommendations**

### **Issue:**

Presently, Georgia law does not require mandated reporters to receive mandated reporter training.

### **Recommendation 1:**

**Policy makers should amend the Georgia Code to make training a requirement for all Georgia mandated reporters.**

### **Rationale:**

Child Protective Services rely on individuals both mandated and non-mandated to not only report situations in which children are suspected to be victims of maltreatment but to also help identify situations in which there is potential for maltreatment. However, the signs and indicators of maltreatment are not always easily identifiable, especially without adequate information or training. Neglect is the most common form of maltreatment, but it is also the most difficult to identify (DePanfilis, 2006). Training curricula should place more emphasis on information regarding the scope of neglect indicators and how such indicators may be presented throughout the various developmental stages of a child's life. In addition to the information gap surrounding maltreatment identification, there also exists several misconceptions about the functions of CPS. Some of the more common misconceptions being that a report to CPS will result in children being removed from their homes or that a visit from CPS will result in worse outcomes for the child. The literature posits training that addresses CPS practices and

procedures promotes greater understanding of the reporting process and what happens when a report is made. Training curriculums including a more comprehensive review of mandated reporter laws would enhance understanding of mandated reporter rights and immunity privileges.

In 2014 Georgia produced 9,861 substantiated reports out of a potential 24,321 reports (Appendix C). While mandated reporters made 74.1% of the substantiated reports, they are also responsible for 64.9% of the unsubstantiated reports (Appendix C). It is important to note that “unsubstantiated” reports are defined as being those that did not have “sufficient evidence under state law to conclude or suspect that the child was maltreated or at-risk of being maltreated” (U.S. Department of Health and Human Services, 2016). However, it does not necessarily mean a report was “incorrect” or insignificant because while maltreatment may not have been evidenced, CPS may have determined the family in question was in need of additional services that would be better fulfilled by a referral to a more appropriate agency.

The overarching goal is not to just increase the number of reports, but to increase the number of substantiated reports from those who have been adequately trained to correctly identify maltreatment and who have been versed in CPS practices regarding reporting. Adequate training would facilitate opportunities to enhance child maltreatment knowledge by providing mandated reporters with specific information regarding the different forms of maltreatment as well as how to identify maltreatment indicators. This relevant knowledge and skill acquisition will address and improve self-efficacy and threshold issues surrounding reporting.

**Issue:**

Several potential challenges exist that need to be addressed in order to progress towards a policy change to improve mandated reporting in Georgia. One of the most prominent challenges is conflicting definitions of abuse among the Georgia Code and the policies or lack of policies from key child-serving governmental agencies.

**Recommendation 2:**

**Policymakers and relevant agencies should make it a goal to address the varying definitions of abuse listed in their policies.**

**Agencies should update their policies to include appropriate child abuse definitions that are consistent with the current definition in Title 15 of the Juvenile Code.**

**Rationale:**

The inconsistent terminology used to define maltreatment definitions in the various codes can affect how potential maltreatment referrals are reported and investigated. Several child-serving organizations including DCH, DECAL, DJJ and the DOE either lack consistent maltreatment definitions or lack definitions altogether (Georgia CAPTA Panels, 2014). Definitions provided by Title 19 of Domestic Relations and Title 49 of Social Services are referenced by Georgia's Child Abuse Protocol. Title 19 provides definitions for child abuse, sexual abuse, and sexual exploitation, while referencing the Criminal Code when appropriate. Title 19 does not define emotional abuse, prenatal abuse, or neglect (Georgia Code, O.C.G.A. §19-7-5). Modifying Title 19 of Domestic Relations to be consistent with or at least reference the definitions provided in Title 15 of the Juvenile Code would be beneficial in terms of achieving coherent maltreatment legislation. Title 15 of the Juvenile Code has been most recently updated and includes more comprehensive definitions for all forms of maltreatment including child abuse, sexual abuse, sexual exploitation, emotional abuse, prenatal abuse, and neglect. Title 15 also references the criminal code when defining sexual exploitation (Georgia Code, O.C.G.A. § 15-11-2). Additionally, the Juvenile

Code governs the Juvenile Courts, which serves as the authority over child maltreatment cases (Jones, 2006). Uniformity of the policies that affect child welfare would improve inter-agency communication regarding reporting and investigation practices and procedures.

**Issue:**

In addition to varying definitions across agencies, there is no officially appointed governing body to update and approve web-based or in-person training curricula or furthermore, enforce and or act as a repository for training certifications and renewals. As this paper previously addressed, while the Governor's Office for Children and Families, the Georgia Department of Human Services, Division of Family and Children Services (DFCS), and Georgia Department of Early Care and Learning (DECAL) each approve the Care Solutions/Pro Solutions on-line training, there is no legislation requiring those particular trainings to be completed, or specific stipulations about training criteria. Therefore, agencies are permitted to create their own versions and policies concerning mandated reporter training. There is no true systematic process to regulate training providers, what information is being delivered, if the information is up-to-date or correct, or who is receiving the trainings.

**Recommendation 3:**

**Officials from relevant agencies should consider appointing one entity to act as the governing body to create a mandated reporter training curriculum and create a list of approved training providers.**

**Rationale:**

Currently, there is very little research regarding mandated reporting and specific training curricula. However, research does indicate there are benefits to employing standardized trainings, with some variations for different professions (Smith, 2006).

Moreover, it may also be beneficial, in terms of curriculum standardization and consistency, to charge one entity with the responsibility of approving various mandated reporter trainings that agencies within the same state can provide. For example, the Pennsylvania Department of State maintains a list of agencies that provide mandated reporter trainings that have been approved by the Pennsylvania Department of Human Services, the Department of State, and the Department of Education (Changes in the Child Protective Services Law (CPSL), 2016). Having one official approving body helps to ensure the trainings that are being provided are up-to-date with the most current and correct information regarding child maltreatment and reporting laws and procedures.

#### **X. Reflection**

This report was created for Georgia's CAPTA Panel, the Children's Justice Act Task Force, to research current issues surrounding Georgia's existing policies effecting child maltreatment reporting and investigation procedures. The goal of this report is to potentially inform future policies with recommendations based on research findings and actual practices implemented in other states with more cohesive mandated reporting legislation.

Throughout the research for this paper I found both California and Pennsylvania laws and policies to not only be easier to locate and navigate, but the information being provided was also consistent across various reference sources. In contrast, information about Georgia's mandated reporter law and training was difficult to find, inconsistent across various sources, and on some occasions information was not accessible by the general public. Georgia needs policy to help organizations and agencies from varying child

welfare fields to all use the same language, reference the same training and resources, and clearly post their mandated reporter policies for employees and families to view.

Furthermore, Georgia can improve the knowledge and reporting of mandated reporters by requiring all mandated reporters to receive training. It is highly recommended that Georgia update relevant policies and or cross-reference policies when appropriate in order to create more uniform maltreatment definitions. Additionally, developing a standardized training curriculum and appointing an approving body would facilitate better regulation of training providers concerning the information being disseminated during such trainings. These improvements would work in concert to arguably increase the knowledge of mandated reporters so they can fulfill their legal duty.

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**APPENDIX A**  
**DEFINITIONS OF ABUSE BY STATE**

**GEORGIA**  
**DOMESTIC RELATIONS**

**Georgia Code O.C.G.A. § 19-15-1**  
**Title 19. Domestic Relations**  
**Chapter 15. Child Abuse**  
**O.C.G.A. § 19-15-1 Definitions**

As used in this chapter, the term:

(1) "Abused" means subjected to child abuse.

(2) "Child" means any person under 18 years of age.

(3) "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, 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.

(4) "Child protection professional" means any person who is employed by the state or a political subdivision of the state as a law enforcement officer, school teacher, school administrator, or school counselor or who is employed to render services to children by the Department of Public Health, the Department of Behavioral Health and Developmental Disabilities, or the Department of Human Services or any county board of health, community service board, or county department of family and children services.

(5) Reserved.

(6) "Investigation" in the context of child death includes all of the following:

(A) A post-mortem examination which may be limited to an external examination or may include an autopsy;

(B) An inquiry by law enforcement agencies having jurisdiction into the circumstances of the death, including a scene investigation and interview with the child's parents, guardian, or caretaker and the person who reported the child's death;

(C) A review of information regarding the child and family from relevant agencies, professionals, and providers of medical care.

(7) "Panel" means the Georgia Child Fatality Review Panel established pursuant to Code Section 19-15-4.

(8) "Protocol committee" means a multidisciplinary, multiagency committee established for a county pursuant to Code Section 19-15-2.

(9) "Report" means a standardized form designated by the panel which is required for collecting data on child fatalities reviewed by local child fatality review committees.

(10) "Review committee" means a multidisciplinary, multiagency child fatality review committee established for a county or circuit pursuant to Code Section 19-15-3.

(11) "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 three years older than the minor. This provision shall not be deemed or construed to repeal any law concerning the age or capacity to consent.

(12) "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.

**Citation:** Georgia Code, O.C.G.A. § 19-15-1

## **GEORGIA JUVENILE CODE**

### **Georgia Code O.C.G.A. § 15-11-2**

#### **Title 15. Courts**

#### **Chapter 11. Juvenile Code**

#### **O.C.G.A. § 15-11-2. Definitions**

As used in this chapter, the term:

(1) "Abandonment" or "abandoned" means any conduct on the part of a parent, guardian, or legal custodian showing an intent to forgo parental duties or relinquish parental claims. Intent to forgo



parental duties or relinquish parental claims may be evidenced by:

- (A) Failure, for a period of at least six months, to communicate meaningfully with a child;
- (B) Failure, for a period of at least six months, to maintain regular visitation with a child;
- (C) Leaving a child with another person without provision for his or her support for a period of at least six months;
- (D) Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite a child's parent, guardian, or legal custodian with his or her child;
- (E) Leaving a child without affording means of identifying such child or his or her parent, guardian, or legal custodian and:
  - (i) The identity of such child's parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and
  - (ii) A parent, guardian, or legal custodian has not come forward to claim such child within three months following the finding of such child;
- (F) Being absent from the home of his or her child for a period of time that creates a substantial risk of serious harm to a child left in the home;
- (G) Failure to respond, for a period of at least six months, to notice of child protective proceedings; or
- (H) Any other conduct indicating an intent to forgo parental duties or relinquish parental claims.

(2) "Abuse" means:

- (A) Any nonaccidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child;
- (B) Emotional abuse;
- (C) Sexual abuse or sexual exploitation;
- (D) Prenatal abuse; or
- (E) The commission of an act of family violence as defined in Code Section 19-13-1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term "presence" means physically present or able to see or hear.

(3) "Adult" means any individual who is not a child as defined in paragraph (10) of this Code section.

(4) "Affiliate court appointed special advocate program" means a locally operated program operating with the approval of the local juvenile court which screens, trains, and supervises volunteers to advocate for the best interests of an abused or neglected child in dependency proceedings.

(5) "Aggravated circumstances" means the parent has:

- (A) Abandoned a child;
- (B) Aided or abetted, attempted, conspired, or solicited to commit murder or voluntary manslaughter of another child of such parent;
- (C) Subjected a child or his or her sibling to torture, chronic abuse, sexual abuse, or sexual exploitation;
- (D) Committed the murder or voluntary manslaughter of his or her child's other parent or has been convicted of aiding or abetting, attempting, conspiring, or soliciting the murder or voluntary manslaughter of his or her child's other parent;
- (E) Committed the murder or voluntary manslaughter of another child of such parent; or
- (F) Committed an assault that resulted in serious bodily injury to his or her child or another child of such parent.

(6) "Biological father" means the male who impregnated the biological mother resulting in the birth of a child.

(7) "Business day" means Mondays through Fridays and shall not include weekends or legal holidays.

(8) "Caregiver" means any person providing a residence for a child or any person legally obligated to provide or secure adequate care for a child, including his or her parent, guardian, or legal custodian.

(9) "Case plan" means a plan which is designed to ensure that a child receives protection, proper care, and case management and may include services for a child, his or her parent, guardian, or legal custodian, and other caregivers.

(10) "Child" means any individual who is:

(A) Under the age of 18 years;

(B) Under the age of 17 years when alleged to have committed a delinquent act;

(C) Under the age of 22 years and in the care of DFCS as a result of being adjudicated dependent before reaching 18 years of age;

(D) Under the age of 23 years and eligible for and receiving independent living services through DFCS as a result of being adjudicated dependent before reaching 18 years of age; or

(E) Under the age of 21 years who committed an act of delinquency before reaching the age of 17 years and who has been placed under the supervision of the court or on probation to the court for the purpose of enforcing orders of the court.

(11) "Child in need of services" means:

(A) A child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:

(i) Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in Code Section 15-11-381, from school;

(ii) Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;

(iii) A runaway, as such term is defined in Code Section 15-11-381;

(iv) A child who has committed an offense applicable only to a child;

(v) A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

(vi) A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services; or

(vii) A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages; or

(B) A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation.

(12) "Class A designated felony act" means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of paragraph (1), (3), or (4) of subsection (b) or subsection (d), (e), (f), (j), or (m) of Code Section 16-5-21 or assault with a deadly weapon or with any object, device, or instrument which, when used offensively against a person, actually does result in serious bodily injury;

(B) Aggravated battery;

(C) Armed robbery not involving a firearm;

(D) Arson in the first degree;

(E) Attempted murder;

(F) Escape in violation of Code Section 16-10-52, if such child has previously been adjudicated to have committed a class A designated felony act or class B designated felony act;

(G) Hijacking a motor vehicle;

(G.1) Home invasion in the first degree;

(H) Kidnapping;

(I) Participating in criminal gang activity, as defined in subparagraphs (A) through (G) and (J) of

paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(J) Trafficking of substances in violation of Code Section 16-13-31 or 16-13-31.1;

(K) Any other act which, if committed by an adult, would be a felony in violation of Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location; or

(L) Any other act which, if committed by an adult, would be a felony, if such child has three times previously been adjudicated for delinquent acts all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 and one of which, if committed by an adult, would have been a felony in violation of Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(13) "Class B designated felony act" means a delinquent act committed by a child 13 years of age or older which, if committed by an adult, would be one or more of the following crimes:

(A) Aggravated assault in violation of subsection (g), (h), or (k) of Code Section 16-5-21 or assault with a deadly weapon or with any object, device, or instrument which, when used offensively against a person, would be likely to result in serious bodily injury but which did not result in serious bodily injury;

(B) Arson in the second degree;

(C) Attempted kidnapping;

(D) Battery in violation of Code Section 16-5-23.1, if the victim is a teacher or other school personnel;

(E) Racketeering in violation of Code Section 16-14-4;

(F) Robbery;

(F.1) Home invasion in the second degree;

(G) Participating in criminal gang activity, as defined in subparagraph (H) of paragraph (1) of Code Section 16-15-3, in violation of Code Section 16-15-4;

(H) Smash and grab burglary;

(I) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute, or offering to distribute a destructive device in violation of Code Section 16-7-82;

(J) Distributing certain materials to persons under the age of 21 in violation of Code Section 16-7-84;

(K) Any subsequent violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, if the property which was the subject of the theft was a motor vehicle and such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Sections 16-8-2 through 16-8-5 or 16-8-5.2 through 16-8-9, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(L) Any subsequent violation of Code Section 16-7-85 or 16-7-87, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(M) Any subsequent violation of subsection (b) of Code Section 16-11-132, if such child has had one or more separate, prior adjudications of delinquency based upon a violation of subsection (b) of Code Section 16-11-132, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location;

(N) (i) An act which constitutes a violation of Code Section 16-11-127.1 involving a:

(I) Firearm, as defined in Code Section 16-11-131;

(II) Dangerous weapon or machine gun, as defined in Code Section 16-11-121; or

(III) Weapon, as defined in Code Section 16-11-127.1, together with an assault; or  
(ii) An act which constitutes a second or subsequent adjudication of delinquency based on a violation of Code Section 16-11-127.1; or

(O) Any other act which, if committed by an adult, would be a felony in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, if such child has three times previously been adjudicated for delinquent acts, all of which, if committed by an adult, would have been felonies in violation of any chapter of Title 16 other than Chapter 5 or 6 of Title 16, provided that the prior adjudications of delinquency shall not have arisen out of the same transaction or occurrence or series of events related in time and location.

(13.1) "Community supervision officer" means an individual employed by the Department of Community Supervision who supervises probationers who were adjudicated for committing a Class A designated felony act or Class B designated felony act, placed in restrictive custody, and released from such custody.

(14) "Complaint" is the initial document setting out the circumstances that resulted in a child being brought before the court.

(15) "Court" means the juvenile court or the court exercising jurisdiction over juvenile matters.

(16) "Court appointed special advocate" or "CASA" means a community volunteer who:

(A) Has been screened and trained regarding child abuse and neglect, child development, and juvenile court proceedings;

(B) Has met all the requirements of an affiliate court appointed special advocate program;

(C) Is being actively supervised by an affiliate court appointed special advocate program; and

(D) Has been sworn in by a judge of the juvenile court in the court or circuit in which he or she wishes to serve.

(17) "Criminal justice purposes" means the performance of any activity directly involving:

(A) The investigation, detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of children or adults who are accused of, convicted of, adjudicated of, or charged with crimes or delinquent acts; or

(B) The collection, storage, and dissemination of criminal history record information.

(18) "DBHDD" means the Department of Behavioral Health and Developmental Disabilities.

(19) "Delinquent act" means:

(A) An act committed by a child designated a crime by the laws of this state, or by the laws of another state if the act occurred in that state, under federal laws, or by local ordinance, and the act is not an offense applicable only to a child or a juvenile traffic offense;

(B) The act of disobeying the terms of supervision contained in a court order which has been directed to a child who has been adjudicated to have committed a delinquent act; or

(C) Failing to appear as required by a citation issued for an act that would be a crime if committed by an adult.

(20) "Delinquent child" means a child who has committed a delinquent act and is in need of treatment or rehabilitation.

(21) "Department" means the Department of Human Services.

(22) "Dependent child" means a child who:

(A) Has been abused or neglected and is in need of the protection of the court;

(B) Has been placed for care or adoption in violation of law; or

(C) Is without his or her parent, guardian, or legal custodian.

(23) "Detention assessment" shall have the same meaning as set forth in Code Section 49-4A-1.

(24) "Developmental disability" shall have the same meaning as set forth in Code Section 37-1-1.

(25) "Developmental level" is a child's ability to understand and communicate, taking into account such factors as age, maturity, mental capacity, level of education, cultural background, and degree of language acquisition.

(26) "DFCS" means the Division of Family and Children Services of the department.

(27) "Diligent search" means the efforts of DFCS to identify and locate a parent whose identity or location is unknown or a relative or other person who has demonstrated an ongoing commitment to a child.

(28) "DJJ" means the Department of Juvenile Justice.

(29) "Emancipation" means termination of the rights of a parent to the custody, control, services, and earnings of a child.

(30) "Emotional abuse" means acts or omissions by a person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.

(31) "Evaluation" means a comprehensive, individualized examination of a child by an examiner that may include the administration of one or more assessment instruments, diagnosing the type and extent of a child's behavioral health disorders and needs, if any, making specific recommendations, and assessing a child's legal competencies.

(32) "Examiner" means a licensed psychologist, psychiatrist, or clinical social worker who has expertise in child development specific to severe or chronic disability of children attributable to intellectual impairment or mental illness and has received training in forensic evaluation procedures through formal instruction, professional supervision, or both.

(33) "Fictive kin" means a person who is known to a child as a relative, but is not, in fact, related by blood or marriage to such child and with whom such child has resided or had significant contact.

(34) "Foster care" means placement in foster family homes, child care institutions, or another substitute care setting approved by the department. Such term shall exclude secure residential facilities or other facilities operated primarily for the purpose of detention of a child adjudicated for delinquent acts.

(35) "Guardian ad litem" means an individual appointed to assist the court in determining the best interests of a child.

(36) "Guardianship order" means the court judgment that establishes a permanent guardianship and enumerates a permanent guardian's rights and responsibilities concerning the care, custody, and control of a child.

(37) "Identification data" means the fingerprints, name, race, sex, date of birth, and any other unique identifiers of a child.

(38) "Indigent person" means a person who, at the time of requesting an attorney, is unable without undue financial hardship to provide for full payment of an attorney and all other necessary expenses for representation or a child who is a party to a dependency proceeding. To determine indigence in a delinquency proceeding, the court shall follow the standards set forth in Chapter 12 of Title 17.

(39) "Informal adjustment" means the disposition of a case other than by formal adjudication and disposition.

(40) "Judge" means the judge of the court exercising jurisdiction over juvenile matters.

(41) "Juvenile court intake officer" means the juvenile court judge, associate juvenile court judge, court service worker, DJJ staff member serving as an intake officer, or person employed as a juvenile probation or intake officer designated by the juvenile court judge or, where there is none, the superior court judge, who is on duty for the purpose of determining whether any child taken into custody should be released or detained and, if detained, the appropriate place of detention.

(42) "Legal custodian" means:

(A) A person to whom legal custody of a child has been given by order of a court; or

(B) A public or private agency or other private organization licensed or otherwise authorized by law to receive and provide care for a child to which legal custody of such child has been given by

order of a court.

(43) "Legal father" means a male who has not surrendered or had terminated his rights to a child and who:

(A) Has legally adopted a child;

(B) Was married to the biological mother of a child at the time such child was conceived or was born, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(C) Married the legal mother of a child after such child was born and recognized such child as his own, unless paternity was disproved by a final order pursuant to Article 3 of Chapter 7 of Title 19;

(D) Has been determined to be the father of a child by a final paternity order pursuant to Article 3 of Chapter 7 of Title 19;

(E) Has legitimated a child by a final order pursuant to Code Section 19-7-22; or

(F) Has legitimated a child pursuant to Code Section 19-7-21.1.

(44) "Legal mother" means the female who is the biological or adoptive mother of a child and who has not surrendered or had terminated her rights to such child.

(45) "Mediation" means the proceeding in which a mediator facilitates communication between the parties concerning the matters in dispute and explores possible solutions to promote collaboration, understanding, and settlement.

(46) "Mediator" means a neutral third party who attempts to focus the attention of the parties upon their needs and interests rather than upon their rights and positions and who lacks the authority to impose any particular agreement upon the parties or to recommend any particular disposition of the case to the court.

(47) "Mentally ill" means having a disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(48) "Neglect" means:

(A) The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals;

(B) The failure to provide a child with adequate supervision necessary for such child's well-being; or

(C) The abandonment of a child by his or her parent, guardian, or legal custodian.

(49) "Nonsecure residential facility" means community residential facilities that provide 24 hour care in a residential setting that are not hardware secured.

(50) "Other persons who have demonstrated an ongoing commitment to a child" includes fictive kin and other individuals, including but not limited to neighbors, teachers, scout masters, caregivers, or parents of friends of such child and with whom such child has resided or had significant contact.

(51) "Parent" means either the legal father or the legal mother of a child.

(52) "Party" means the state, a child, parent, guardian, legal custodian, or other person subject to any judicial proceeding under this chapter; provided, however, that for purposes of Articles 5 and 6 of this chapter, only a child and the state shall be a party.

(53) "Permanency plan" means a specific written plan prepared by DFCS designed to ensure that a child is reunified with his or her family or ensure that such child quickly attains a substitute long-term home when return to such child's family is not possible or is not in such child's best interests.

(54) "Permanent placement" means:

(A) Return of the legal custody of a child to his or her parent;

(B) Placement of a child with an adoptive parent pursuant to a final order of adoption; or

(C) Placement of a child with a permanent guardian.

(55) "Person responsible for the care of a child" means:

(A) An adult member of a child's household;

(B) A person exercising supervision over a child for any part of the 24 hour day; or

(C) Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.

(56) "Prenatal abuse" means exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in Code Section 16-13-21, which results in:

(A) Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or

(B) Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

(57) "Probation and intake officer" means any probation officer and any personnel of a juvenile court to whom are delegated the duties of an intake officer under this chapter, other than a juvenile court judge, associate juvenile court judge, or court service worker.

(58) "Probation officer" means any personnel of a juvenile court or staff of DJJ to whom are delegated the duties of a probation officer under this chapter, other than a juvenile court judge or associate juvenile court judge.

(59) "Prosecuting attorney" means an attorney designated by the district attorney of the judicial circuit in which juvenile proceedings are instituted, unless otherwise provided in subsection (c) of Code Section 15-18-6.1.

(60) "Putative father registry" means the registry established and maintained pursuant to subsections (d) and (e) of Code Section 19-11-9.

(61) "Reasonable efforts" means due diligence and the provision of appropriate services.

(62) "Relative" means a person related to a child by blood, marriage, or adoption, including the spouse of any of those persons even if the marriage was terminated by death or dissolution.

(63) "Restitution" means any property, lump sum, or periodic payment ordered to be made to any victim. Restitution may also be in the form of services ordered to be performed by a child.

(64) "Restrictive custody" means in the custody of DJJ for purposes of housing in a secure residential facility or nonsecure residential facility.

(65) "Risk assessment" shall have the same meaning as set forth in Code Section 49-4A-1.

(66) "Screening" means a relatively brief process to identify a child who potentially may have mental health or substance abuse needs, through administration of a formal screening instrument, to identify a child who may warrant immediate attention or intervention or a further, more comprehensive evaluation.

(67) "Secure residential facility" means a hardware secure residential institution operated by or on behalf of DJJ and shall include a youth development center or a regional youth detention center.

(68) "Services" means assistance including but not limited to care, guidance, education, counseling, supervision, treatment, and rehabilitation or any combination thereof.

(69) "Sexual abuse" means a caregiver or other person responsible for the care of a child employing, using, persuading, inducing, enticing, or coercing any child 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) The 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 by a licensed health care professional.

(70) "Sexual exploitation" means conduct by a caregiver or other person responsible for the care of a child who allows, permits, encourages, or requires a child to engage in:

(A) Prostitution, in violation of Code Section 16-6-9; or

(B) Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of Code Section 16-12-100.

(71) "Sibling" means a person with whom a child shares a biological father or one or both parents in common by blood, adoption, or marriage, even if the marriage was terminated by death or dissolution.

(72) "Staffing" means a meeting held periodically to develop and review progress on plans for meeting the identified needs of a child.

(73) "Statutory overnight delivery" means delivery of notice as provided in Code Section 9-10-12.

(74) "Unsupervised probation" means a period of probation or community supervision prior to the termination of a child's disposition in which:

(A) All of the conditions and limitations imposed by the court in placing such child on probation remain intact;

(B) Such child may have reduced reporting requirements; and

(C) A probation officer shall not actively supervise such child.

(75) "Visitation" means a period of access to a child by a parent, guardian, legal custodian, sibling, other relative, or any other person who has demonstrated an ongoing commitment to a child in order to maintain parental and familial involvement in a child's life when he or she is not residing with such person.

(76) "Weekend" means Saturday or Sunday.

**Citation:** Georgia Code, O.C.G.A. § 15-11-2

## **GEORGIA CRIMINAL CODE**

**Georgia Code O.C.G.A. § 16-5-70**

**Title 16. Crimes and Offenses**

**Chapter 5. Crimes Against the Person**

**Article 5. Cruelty to Children**

**O.C.G.A. § 16-5-70. Cruelty to children**

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized.

(b) Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.

(c) Any person commits the offense of cruelty to children in the second degree when such person with criminal negligence causes a child under the age of 18 cruel or excessive physical or mental pain.

(d) Any person commits the offense of cruelty to children in the third degree when:

(1) Such person, who is the primary aggressor, intentionally allows a child under the age of 18 to witness the commission of a forcible felony, battery, or family violence battery; or



(2) Such person, who is the primary aggressor, having knowledge that a child under the age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family violence battery.

(e)(1) A person convicted of the offense of cruelty to children in the first degree as provided in this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

(2) A person convicted of the offense of cruelty to children in the second degree shall be punished by imprisonment for not less than one nor more than ten years.

(3) A person convicted of the offense of cruelty to children in the third degree shall be punished as for a misdemeanor upon the first or second conviction. Upon conviction of a third or subsequent offense of cruelty to children in the third degree, the defendant shall be guilty of a felony and shall be sentenced to a fine not less than \$1,000.00 nor more than \$5,000.00 or imprisonment for not less than one year nor more than three years or shall be sentenced to both fine and imprisonment.

HISTORY: Ga. L. 1878-79, p. 162, § 3; Code 1882, § 4612h; Penal Code 1895, § 708; Penal Code 1910, § 758; Code 1933, § 26-8001; Code 1933, § 26-2801, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1978, p. 228, § 1; Ga. L. 1981, p. 683, § 1; Ga. L. 1995, p. 957, § 2; Ga. L. 1996, p. 1071, § 1; Ga. L. 1999, p. 381, § 6; Ga. L. 2004, p. 57, § 3.

**Citation:** Georgia Code, O.C.G.A. § 16-5-70

## **Georgia Code O.C.G.A. § 16-12-100**

### **Title 16. Crimes and Offenses**

#### **Chapter 12. Offenses Against Public Health and Morals**

#### **Article 3. Obscenity and Related Offenses**

#### **Part 2. Offenses Related to Minors Generally**

#### **O.C.G.A. § 16-12-100. Sexual exploitation of children; reporting violation; civil forfeiture; penalties**

(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:

(1) The activities of law enforcement and prosecution agencies in the investigation and prosecution of criminal offenses;

(2) Legitimate medical, scientific, or educational activities; or

(3) Any person who creates or possesses a visual medium depicting only himself or herself engaged in sexually explicit conduct.

(e) (1) As used in this subsection, the terms "proceeds" and "property" shall have the same meaning as set forth in Code Section 9-16-2.

(2) Any property which is, directly or indirectly, used or intended to be used in any manner to facilitate a violation of this Code section and any proceeds are declared to be contraband and no person shall have a property right in them.

(3) Any property subject to forfeiture pursuant to paragraph (2) of this subsection shall be forfeited in accordance with the procedures set forth in Chapter 16 of Title 9.

(f) (1) Except as otherwise provided in paragraphs (2) and (3) 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; provided, however, that if 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.

HISTORY: 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.

**Citation: Georgia Code, O.C.G.A. § 16-12-100**

## CALIFORNIA

### California Penal Code

### Chapter 2. Child Abuse and Neglect Reporting Act

### Article 2.5

### Section 11164-11174.3

11164. (a) This article shall be known and may be cited as the Child Abuse and Neglect Reporting Act. (b) The intent and purpose of this article is to protect children from abuse and neglect. In any investigation of suspected child abuse or neglect, all persons participating in the investigation of the case shall consider the needs of the child victim and shall do whatever is necessary to prevent psychological harm to the child victim.

11165. As used in this article "child" means a person under the age of 18 years.

11165.1. As used in this article, "sexual abuse" means sexual assault or sexual exploitation as defined by the following:

(a) "Sexual assault" means conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), Section 264.1 (rape in concert), Section 285 (incest), Section 286 (sodomy), subdivision (a) or (b), or paragraph (1) of subdivision (c) of Section 288 (lewd or lascivious acts upon a child), Section 288a (oral copulation), Section 289 (sexual penetration), or Section 647.6 (child molestation).

(b) Conduct described as "sexual assault" includes, but is not limited to, all of the following:

(1) Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.

(2) Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.

(3) Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.

(4) The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.

(5) The intentional masturbation of the perpetrator's genitals in the presence of a child.

(c) "Sexual exploitation" refers to any of the following:

(1) Conduct involving matter depicting a minor engaged in obscene acts in violation of Section 311.2 (preparing, selling, or distributing obscene matter) or subdivision (a) of Section 311.4 (employment of minor to perform obscene acts).

(2) A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving obscene sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct. For the purpose of this section, "person responsible for a child's welfare" means a parent, guardian, foster parent, or a licensed administrator or employee of a public or private residential home, residential school, or other residential institution.

(3) A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described in subdivisions (c) and (e) of Section 311.3.

(d) "Commercial sexual exploitation" refers to either of the following:

(1) The sexual trafficking of a child, as described in subdivision (c) of Section 236.1.

(2) The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in this section or subdivision (c) of Section 236.1.

11165.2. As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

11165.3. As used in this article, "the willful harming or injuring of a child or the endangering of the person or health of a child," means a situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered.

11165.4. As used in this article, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. It does not include an amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to

obtain possession of weapons or other dangerous objects within the control of the pupil, as authorized by Section 49001 of the Education Code. It also does not include the exercise of the degree of physical control authorized by Section 44807 of the Education Code. It also does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

11165.5. As used in this article, the term "abuse or neglect in out-of-home care" includes physical injury or death inflicted upon a child by another person by other than accidental means, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, unlawful corporal punishment or injury as defined in Section 11165.4, or the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency. "Abuse or neglect in out-of-home care" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

11165.6. As used in this article, the term "child abuse or neglect" includes physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse as defined in Section 11165.1, neglect as defined in Section 11165.2, the willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Section 11165.3, and unlawful corporal punishment or injury as defined in Section 11165.4. "Child abuse or neglect" does not include a mutual affray between minors. "Child abuse or neglect" does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

**Citation:** Child Abuse and Neglect Reporting Act, Cal. Penal Code §11164-11174.3 Retrieved from <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>

## **PENNSYLVANIA**

### **Pennsylvania Consolidated Statutes Title 23 Domestic Relations Chapter 63. Child Protective Services Section 6303 Definitions**

(a) General rule. --The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:  
"Accept for service." Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

"Adult." An individual 18 years of age or older.

"Adult family member." A person 18 years of age or older who has the responsibility to provide care or services to an individual with an intellectual disability or chronic psychiatric disability.

"Bodily injury." Impairment of physical condition or substantial pain.

"Child." An individual under 18 years of age.

"Child-care services." Includes any of the following:

(1) Child day-care centers.

(2) Group day-care homes.

- (3) Family child-care homes.
- (4) Foster homes.
- (5) Adoptive parents.
- (6) Boarding homes for children.
- (7) Juvenile detention center services or programs for delinquent or dependent children.
- (8) Mental health services for children.
- (9) Services for children with intellectual disabilities.
- (10) Early intervention services for children.
- (11) Drug and alcohol services for children.
- (12) Day-care services or programs that are offered by a school.
- (13) Other child-care services that are provided by or subject to approval, licensure, registration or certification by the department or a county social services agency or that are provided pursuant to a contract with the department or a county social services agency.

The term does not apply to services provided by administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Child protective services." Those services and activities provided by the department and each county agency for child abuse cases.

"Children's advocacy center." A local public agency in this Commonwealth or a not-for-profit entity incorporated in this Commonwealth which:

(1) is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)); and

(2) operates within this Commonwealth for the primary purpose of providing a child-focused, facility-based program dedicated to coordinating a formalized multidisciplinary response to suspected child abuse that, at a minimum, either onsite or through a partnership with another entity or entities, assists county agencies, investigative teams and law enforcement by providing services, including forensic interviews, medical evaluations, therapeutic interventions, victim support and advocacy, team case reviews and a system for case tracking.

"Cooperation with an investigation or assessment." Includes, but is not limited to, a school or school district which permits authorized personnel from the department or county agency to interview a student while the student is in attendance at school.

"County agency." The county children and youth social service agency established pursuant to section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Department." The Department of Human Services of the Commonwealth.

"Direct contact with children." The care, supervision, guidance or control of children or routine interaction with children.

"Direct volunteer contact." The care, supervision, guidance or control of children and routine interaction with children.

"Education enterprise." An educational activity in this Commonwealth:

(1) for which college credits or continuing education units are awarded, continuing professional education is offered or tuition or fees are charged or collected; and

(2) that is sponsored by a corporation, entity or institution that is incorporated or authorized by other means in a state other than this Commonwealth and is approved and authorized to operate in this Commonwealth under 15 Pa.C.S. Pt. II Subpt. B (relating to business corporations) or C (relating to nonprofit corporations) and 24 Pa.C.S. Ch. 65 (relating to private colleges, universities and seminaries).

"Electronic technologies." The transfer of information in whole or in part by technology having electrical, digital, magnetic, wireless, optical, electromagnetic, photo-electronic or photo-optical systems, or similar capabilities. The term includes, but is not limited to, e-mail, Internet

communication or other means of electronic transmission.

"Expunge." To strike out or obliterate entirely so that the expunged information may not be stored, identified or later recovered by any mechanical or electronic means or otherwise.

"Family child-care home." A residence where child day care is provided at any time to no less than four children and no more than six children who are not relatives of the caregiver.

"Family members." Spouses, parents and children or other persons related by consanguinity or affinity.

"Founded report." A child abuse report involving a perpetrator that is made pursuant to this chapter, if any of the following applies:

(1) There has been a judicial adjudication based on a finding that a child who is a subject of the report has been abused and the adjudication involves the same factual circumstances involved in the allegation of child abuse. The judicial adjudication may include any of the following:

(i) The entry of a plea of guilty or nolo contendere.

(ii) A finding of guilt to a criminal charge.

(iii) A finding of dependency under 42 Pa.C.S. § 6341 (relating to adjudication) if the court has entered a finding that a child who is the subject of the report has been abused.

(iv) A finding of delinquency under 42 Pa.C.S. § 6341 if the court has entered a finding that the child who is the subject of the report has been abused by the child who was found to be delinquent.

(2) There has been an acceptance into an accelerated rehabilitative disposition program and the reason for the acceptance involves the same factual circumstances involved in the allegation of child abuse.

(3) There has been a consent decree entered in a juvenile proceeding under 42 Pa.C.S. Ch. 63 (relating to juvenile matters), the decree involves the same factual circumstances involved in the allegation of child abuse and the terms and conditions of the consent decree include an acknowledgment, admission or finding that a child who is the subject of the report has been abused by the child who is alleged to be delinquent.

(4) A final protection from abuse order has been granted under section 6108 (relating to relief), when the child who is a subject of the report is one of the individuals protected under the protection from abuse order and:

(i) only one individual is charged with the abuse in the protection from abuse action;

(ii) only that individual defends against the charge;

(iii) The adjudication involves the same factual circumstances involved in the allegation of child abuse; and

(iv) The protection from abuse adjudication finds that the child abuse occurred.

"Founded report for school employee." (Deleted by amendment).

"General protective services." Those services and activities provided by each county agency for cases requiring protective services, as defined by the department in regulations.

"Health care facility." As defined in section 802.1 of the act of July 19, 1979 (P.L.130, No.48), known as the Health Care Facilities Act.

"Health care provider." A licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

"Immediate vicinity." An area in which an individual is physically present with a child and can see, hear, direct and assess the activities of the child.

"Independent contractor." An individual who provides a program, activity or service to 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.

The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Indicated report."

(1) Subject to paragraphs (2) and (3), a report of child abuse made pursuant to this chapter if an investigation by the department or county agency determines that substantial evidence of the alleged abuse by a perpetrator exists based on any of the following:

- (i) Available medical evidence.
- (ii) The child protective service investigation.
- (iii) An admission of the acts of abuse by the perpetrator.

(2) A report may be indicated under paragraph (1)(i) or (ii) for any child who is the victim of child abuse, regardless of the number of alleged perpetrators.

(3) A report may be indicated under paragraph (1)(i) or (ii) listing the perpetrator as "unknown" if substantial evidence of abuse by a perpetrator exists, but the department or county agency is unable to identify the specific perpetrator.

"Indicated report for school employee." (Deleted by amendment).

"Individual residing in the same home as the child." (Deleted by amendment).

"Institution of higher education." Any of the following:

(1) A community college which is an institution now or hereafter created pursuant to Article XIX-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, or the act of August 24, 1963 (P.L.1132, No.484), known as the Community College Act of 1963.

(2) An independent institution of higher education which is an institution of higher education located in and incorporated or chartered by the Commonwealth, entitled to confer degrees as set forth in 24 Pa.C.S. § 6505 (relating to power to confer degrees) and entitled to apply to itself the designation "college," "university" or "seminary" as provided for by standards and qualifications prescribed by the State Board of Education under 24 Pa.C.S. Ch. 65.

(3) A State-owned institution.

(4) A State-related institution.

(5) An education enterprise.

"Intentionally." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Knowingly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Law enforcement official." The term includes the following:

- (1) The Attorney General.
- (2) A Pennsylvania district attorney.
- (3) A Pennsylvania State Police officer.
- (4) A municipal police officer.

"Mandated reporter." A person who is required by this chapter to make a report of suspected child abuse.

"Matriculated student." A student who is enrolled in an institution of higher education and pursuing a program of study that results in a postsecondary credential, such as a certificate, diploma or degree.

"Near fatality." A child's serious or critical condition, as certified by a physician, where that child is a subject of the report of child abuse.

"Newborn." As defined in section 6502 (relating to definitions).

"Nonaccidental." (Deleted by amendment).

"Parent." A biological parent, adoptive parent or legal guardian.

"Perpetrator." A person who has committed child abuse as defined in this section. The following shall apply:

- (1) The term includes only the following:



- (i) A parent of the child.
  - (ii) A spouse or former spouse of the child's parent.
  - (iii) A paramour or former paramour of the child's parent.
  - (iv) A person 14 years of age or older and responsible for the child's welfare or having direct contact with children as an employee of child-care services, a school or through a program, activity or service.
  - (v) An individual 14 years of age or older who resides in the same home as the child.
  - (vi) An individual 18 years of age or older who does not reside in the same home as the child but is related within the third degree of consanguinity or affinity by birth or adoption to the child.
- (2) Only the following may be considered a perpetrator for failing to act, as provided in this section:

- (i) A parent of the child.
  - (ii) A spouse or former spouse of the child's parent.
  - (iii) A paramour or former paramour of the child's parent.
  - (iv) A person 18 years of age or older and responsible for the child's welfare.
  - (v) A person 18 years of age or older who resides in the same home as the child.
- "Person affiliated with." A person that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with a specified person.
- "Person responsible for the child's welfare." A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control.

"Police department." A public agency of a political subdivision having general police powers and charged with making arrests in connection with the enforcement of criminal or traffic laws.

"Police officer." A full-time or part-time employee assigned to criminal or traffic law enforcement duties of a police department of a county, city, borough, town or township. The term also includes a member of the State Police Force.

"Police station." The station or headquarters of a police department or a Pennsylvania State Police station or headquarters.

"Private agency." A children and youth social service agency subject to the requirements of 55 Pa. Code Ch. 3680 (relating to administration and operation of a children and youth social service agency).

"Program, activity or service." Any of the following in which children participate and which is sponsored by a school or a public or private organization:

- (1) A youth camp or program.
- (2) A recreational camp or program.
- (3) A sports or athletic program.
- (4) A community or social outreach program.
- (5) An enrichment or educational program.
- (6) A troop, club or similar organization.

"Protective services." Those services and activities provided by the department and each county agency for children who are abused or are alleged to be in need of protection under this chapter.

"Recent act." Any act committed within two years of the date of the report to the department or county agency.

"Recent act or failure to act." Any act or failure to act committed within two years of the date of the report to the department or county agency.

"Recklessly." The term shall have the same meaning as provided in 18 Pa.C.S. § 302 (relating to general requirements of culpability).

"Resource family." A family which provides temporary foster or kinship care for children who need out-of-home placement and may eventually provide permanency for those children,

including an adoptive family.

"Risk assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services based on the risk of harm to the child.

"Routine interaction." Regular and repeated contact that is integral to a person's employment or volunteer responsibilities.

"Safety assessment." A Commonwealth-approved systematic process that assesses a child's need for protection or services, based on the threat to the safety of the child.

"School." A facility providing elementary, secondary or postsecondary educational services. The term includes the following:

- (1) Any school of a school district.
- (2) An area vocational-technical school.
- (3) A joint school.
- (4) An intermediate unit.
- (5) A charter school or regional charter school.
- (6) A cyber charter school.
- (7) A private school licensed under the act of January 28, 1988 (P.L.24, No.11), known as the Private Academic Schools Act.
- (8) A private school accredited by an accrediting association approved by the State Board of Education.
- (9) A nonpublic school.
- (10) An institution of higher education.
- (11) (Deleted by amendment).
- (12) (Deleted by amendment).
- (13) (Deleted by amendment).
- (14) A private school licensed under the act of December 15, 1986 (P.L.1585, No.174), known as the Private Licensed Schools Act.
- (15) The Hiram G. Andrews Center.
- (16) A private residential rehabilitative institution as defined in section 914.1-A(c) of the Public School Code of 1949.

"School employee." An individual who is employed by a school or who provides a program, activity or service sponsored by a school. The term does not apply to administrative or other support personnel unless the administrative or other support personnel have direct contact with children.

"Secretary." The Secretary of Human Services of the Commonwealth.

"Serious bodily injury." Bodily injury which creates a substantial risk of death or which causes serious permanent disfigurement or protracted loss or impairment of function of any bodily member or organ.

"Serious mental injury." A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that:

- (1) renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or
- (2) seriously interferes with a child's ability to accomplish age-appropriate developmental and social tasks.

"Serious physical injury." (Deleted by amendment).

"Serious physical neglect." Any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury or impairs a child's health, development or functioning:

- (1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.
- (2) The failure to provide a child with adequate essentials of life, including food, shelter or

medical care.

"Sexual abuse or exploitation." Any of the following:

(1) The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

(i) Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.

(ii) Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.

(iii) Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.

(iv) Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

This paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

(2) Any of the following offenses committed against a child:

(i) Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).

(ii) Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(iii) Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(iv) Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(v) Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).

(vi) Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(vii) Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).

(viii) Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).

(ix) Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).

(x) Prostitution as defined in 18 Pa.C.S. § 5902 (relating to prostitution and related offenses).

(xi) Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

(xii) Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

(xiii) Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

"Student." An individual enrolled in a public or private school, intermediate unit or area vocational-technical school who is under 18 years of age.

"Subject of the report." Any child, parent, guardian or other person responsible for the welfare of a child or any alleged or actual perpetrator in a report made to the department or a county agency under this chapter.

"Substantial evidence." Evidence which outweighs inconsistent evidence and which a reasonable person would accept as adequate to support a conclusion.

"Substantiated child abuse." Child abuse as to which there is an indicated report or founded report.

"Under investigation." A child abuse report pursuant to this chapter which is being investigated to determine whether it is "founded," "indicated" or "unfounded."

"Unfounded report." Any report made pursuant to this chapter unless the report is a "founded report" or an "indicated report."

(b) Child abuse.--(Deleted by amendment).

(b.1) Child abuse. --The term "child abuse" shall mean intentionally, knowingly or recklessly doing any of the following:

(1) Causing bodily injury to a child through any recent act or failure to act.

(2) Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

(3) Causing or substantially contributing to serious mental injury to a child through any act or failure to act or a series of such acts or failures to act.

(4) Causing sexual abuse or exploitation of a child through any act or failure to act.

(5) Creating a reasonable likelihood of bodily injury to a child through any recent act or failure to act.

(6) Creating a likelihood of sexual abuse or exploitation of a child through any recent act or failure to act.

(7) Causing serious physical neglect of a child.

(8) Engaging in any of the following recent acts:

(i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child.

(ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement.

(iii) Forcefully shaking a child under one year of age.

(iv) Forcefully slapping or otherwise striking a child under one year of age.

(v) Interfering with the breathing of a child.

(vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement.

(vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known:

(A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed.

(B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors.

(C) Has been determined to be a sexually violent delinquent child as defined in 42 Pa.C.S. § 9799.12 (relating to definitions).

(9) Causing the death of the child through any act or failure to act.

(c) Restatement of culpability.--Conduct that causes injury or harm to a child or creates a risk of injury or harm to a child shall not be considered child abuse if there is no evidence that the person acted intentionally, knowingly or recklessly when causing the injury or harm to the child or creating a risk of injury or harm to the child.

(d) Child abuse exclusions.--The term "child abuse" does not include any conduct for which an exclusion is provided in section 6304 (relating to exclusions from child abuse).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Mar. 31, 1995, 1st Sp.Sess., P.L.985, No.10, eff. 60 days; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Nov. 29, 2004, P.L.1291, No.160, eff. 60 days; Nov. 9, 2006, P.L.1358, No.146, eff. 180 days; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1170, No.108, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1195, No.117, eff. Dec. 31, 2014; Dec. 18, 2013, P.L.1201, No.119, eff. Dec. 31, 2014; Jan. 22, 2014, P.L.6, No.4, eff. 90 days; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; May 14, 2014, P.L.653, No.45, eff. Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, e eff. imd.)

**2015 Amendment.** Act 15 amended the defs. of "child-care services," "independent

contractor," "perpetrator," "person responsible for the child's welfare," "program, activity or service," "school" and "school employee" and added the defs. of "adult family member," "direct volunteer contact," "education enterprise," "family child-care home," "immediate vicinity," "institution of higher education," "matriculated student" and "routine interaction" in subsec. (a).

**2014 Amendments.** Act 4 added the defs. of "health care provider" and "safety assessment" in subsec. (a), Act 29 amended the defs. of "child-care services" and added the defs. of "electronic technologies," "law enforcement official" and "mandated reporter" in subsec. (a), Act 33 amended the def. of "school employee" and added the defs. of "adult," "direct contact with children," "health care facility," "independent contractor," "mandated reporter," "person affiliated with," "program, activity or service" and "school" in subsec. (a), Act 44 amended the defs. of "bodily injury," "founded report," "general protective services," "near fatality" and "school employee," added the def. of "school" and deleted the defs. of "indicated report for school employee" and "individual residing in the same home as the child" in subsec. (a), Act 45 amended the defs. of "serious physical neglect" and "subject of the report" and deleted the def. of "founded report for school employee" in subsec. (a), Act 91 added the defs. of "police department," "police officer" and "police station" in subsec. (a) and Act 153 amended par. (13) of the def. of "child-care services" and the defs. of "child protective services," "cooperation with an investigation or assessment," "county agency," "department," "indicated report," "protective services," "recent act," "recent act or failure to act," "secretary" and "subject of the report" in subsec. (a). The amendments by Acts 29 and 33, adding the def. of "mandated reporter," are identical and have both been given effect in setting forth the text of "mandated reporter." The amendments by Acts 33 and 44, amending the def. of "school employee," are identical and have both been given effect in setting forth the text of "school employee."

**2013 Amendments.** Act 108 amended the defs. of "child," "founded report," "indicated report," "recent acts or omissions" and "sexual abuse or exploitation," added the defs. of "bodily injury," "intentionally," "knowingly," "parent," "recent act," "recklessly" and "serious physical neglect" and deleted the defs. of "nonaccidental" and "serious physical injury" in subsec. (a), added subsecs. (b.1), (c) and (d) and deleted subsec. (b), Act 117 amended the defs. of "perpetrator" and "person responsible for the child's welfare" in subsec. (a) and Act 119 added the def. of "child-care services" in subsec. (a).

**2008 Amendment.** Act 33 added the defs. of "children's advocacy center" and "substantiated child abuse."

**2006 Amendments.** Act 146 added the defs. of "near fatality" and "nonaccidental" in subsec. (a) and Act 179 amended the def. of "sexual abuse or exploitation" in subsec. (a).

**2004 Amendment.** Act 160 added the defs. of "private agency" and "resource family" in subsec. (a).

**2002 Amendment.** Act 201 added the defs. of "child" and "newborn" in subsec. (a).

**Cross References.** Section 6303 is referred to in sections 6340, 6368, 6502 of this title; sections 4306, 4958 of Title 18 (Crimes and Offenses); sections 62A05, 6302, 6336.1 of Title 42 (Judiciary and Judicial Procedure); section 4109 of Title 51 (Military Affairs); section 1905 of Title 75 (Vehicles).

**Citation:** The Child Protective Services Law, 23 Pa.C.S. § 6301-6385, Retrieved from <http://www.legis.state.pa.us/cfdocs/legis/LI/Public/MergeSections.cfm>

## APPENDIX B

### MANDATED REPORTER LAWS BY STATE

#### GEORGIA

**Georgia Code O.C.G.A. § 19-7-5**

**Title 19. Domestic Relations**

**Chapter 7. Parent and Child Relationship Generally**

**Article 1. General Provisions**

**O.C.G.A. § 19-7-5 (2015) Reporting of child abuse; when mandated or authorized; content of report; to whom made; immunity from liability; report based upon privileged communication; penalty for failure to report**

(a) The purpose of this Code section is to provide for the protection of children. It is intended that mandatory reporting will cause the protective services of the state to be brought to bear on the situation in an effort to prevent abuses, to protect and enhance the welfare of 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 15-11-681.

(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 suspected child abuse has occurred shall report or cause reports of such abuse to be made as provided in this Code section:

(A) Physicians licensed to practice medicine, physician assistants, 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 26

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 counselors, visiting teachers, school social workers, or school psychologists certified pursuant to Chapter 2 of Title 20;

(K) Child welfare agency personnel, as such agency is defined in 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 such 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, such person shall notify the person in charge of such hospital, school, agency, or 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, or modification or make any 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.

(3) When a person identified in paragraph (1) of this subsection has reasonable cause to believe that child abuse has occurred involving a person who 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, the person who received such information shall notify the person in charge of such hospital, school, agency, or 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, or modification or make any 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 suspected child abuse has occurred may report or cause reports to be made as provided in this Code section.

(e) With respect to reporting required by subsection (c) of this Code section, an oral report by telephone or other oral communication or a written report by electronic submission or facsimile shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe that suspected child abuse has occurred. When a report is being made by electronic submission or facsimile to the Division of Family and Children Services of the Department of Human Services, it shall be done in the manner specified by the division. Oral reports shall be followed by a later report in writing, if requested, to a child welfare agency providing protective services, as designated by the Division of Family and Children Services of 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.

**HISTORY:** 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.

**Citation:** Georgia Code, O.C.G.A. §19-7-5

## CALIFORNIA

### California Penal Code

#### Chapter 2. Child Abuse and Neglect Reporting Act

#### Article 2.5

#### Section 11165.7-11174.3

11165.7. (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) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) 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.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency, as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.

(17) A person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in a public or private school.

(18) 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.

(19) 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.

(20) A firefighter, except for volunteer firefighters.

(21) 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.

(22) 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.

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

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

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

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

(27) A coroner.

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

(29) 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 disc, 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.

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

(31) 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.

(32) 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.

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

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

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

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

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

(38) 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.

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

(40) A clinical counselor intern registered under Section 4999.42 of the Business and Professions Code.

(41) An employee or administrator of a public or private postsecondary educational 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) An athletic coach, athletic administrator, or athletic director employed by any public or private school that provides any combination of instruction for kindergarten, or grades 1 to 12, inclusive.

(43) (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.

(44) Any athletic coach, including, but not limited to, an assistant coach or a graduate assistant involved in coaching, at public or private postsecondary educational institutions.

(b) Except as provided in paragraph (35) 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) Except as provided in subdivision (d), 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) Pursuant to Section 44691 of the Education Code, school districts, county offices of education, state special schools and diagnostic centers operated by the State Department of Education, and charter schools shall annually train their employees and persons working on their behalf specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

(e) (1) On and after January 1, 2018, pursuant to Section 1596.8662 of the Health and Safety Code, a child care licensee applicant shall take training in the duties of mandated reporters under the child abuse reporting laws as a condition of licensure, and a child care administrator or an employee of a licensed child daycare facility shall take training in the duties of mandated reporters during the first 90 days when he or she is employed by the facility.

(2) A person specified in paragraph (1) who becomes a licensee, administrator, or employee of a licensed child day care facility shall take renewal mandated reporter training every two years following the date on which he or she completed the initial mandated reporter training. The training shall include, but not necessarily be limited to, training in child abuse and neglect identification and child abuse and neglect reporting.

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

(g) 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.

11165.9. 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.

11165.11. As used in this article, "licensing agency" means the State Department of Social Services office responsible for the licensing and enforcement of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code), the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code), and Chapter 3.5 (commencing with Section 1596.90) of Division 2 of the Health and Safety Code), or the county licensing agency which has contracted with the state for performance of those duties.

1165.12. As used in this article, the following definitions shall control:

(a) "Unfounded report" means a report that is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6.

(b) "Substantiated report" means a report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, as defined in Section 11165.6, based upon evidence that makes it more likely than not that child abuse or neglect, as defined, occurred. A substantiated report shall not include a report where the investigator who conducted the investigation found the report to be false, inherently improbable, to involve an accidental injury, or to not constitute child abuse or neglect as defined in Section 11165.6.

(c) "Inconclusive report" means a report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6, has occurred.

11165.13. For purposes of this article, a positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse or neglect. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to Section 123605 of the Health and Safety Code. If other factors are present that indicate risk to a child, then a report shall be made. However, a report 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 shall be made only to a county welfare or probation department, and not to a law enforcement agency.

11165.14. The appropriate local law enforcement agency shall investigate a child abuse complaint filed by a parent or guardian of a pupil with a school or an agency specified in Section 11165.9 against a school employee or other person that commits an act of child abuse, as defined in this article, against a pupil at a schoolsite and shall transmit a substantiated report, as defined in Section 11165.12, of that investigation to the governing board of the appropriate school district or county office of education. A substantiated report received by a governing board of a school district or county office of education shall be subject to the provisions of Section 44031 of the Education Code.

11165.15. For the purposes of this article, the fact that a child is homeless or is classified as an unaccompanied youth, as defined in Section 11434a of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11301 et seq.), is not, in and of itself, a sufficient basis for reporting child abuse or neglect. This section shall not limit a mandated reporter, as defined in Section 11165.7, from making a report pursuant to Section 11166 whenever the mandated reporter has knowledge of or observes an unaccompanied minor whom the mandated reporter knows or reasonably suspects to be the victim of abuse or neglect.

11166. (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 follow-up 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) A 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) A 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 and 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) A 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 practicably 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) A 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 materials 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 (43) 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, thumb drive, 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 a 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) (1) 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 that 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.

(2) A county probation or welfare department shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as the victim of commercial sexual exploitation, as defined in subdivision (d) of Section 11165.1.

(3) When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in Section 11165.1, is missing or has been abducted, the county probation or welfare department shall

immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

(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.

11166.01. (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.

11166.02. (a) A county welfare agency, as determined in Section 10612.5 of the Welfare and Institutions Code, may develop a pilot program for Internet-based reporting of child abuse and neglect. The pilot program may receive reports by mandated reporters, as specified in paragraph (5), of suspected child abuse or neglect and shall meet all of the following conditions:

(1) The suspected child abuse or neglect does not indicate that the child is subject to an immediate risk of abuse, neglect, or exploitation or that the child is in imminent danger of severe harm or death.

(2) The agency provides an Internet form that includes standardized safety assessment qualifying questions in order to obtain necessary information required to assess the need for child welfare services and a response. The State Department of Social Services shall provide guidance through written directives to counties participating in the pilot program to incorporate qualifying questions in the online report that would indicate the need to redirect the mandated reporter to perform a telephone report.

(3) The mandated reporter is required to complete all required fields, including identity and contact information of the mandated reporter, in order to submit the report.

(4) The agency provides an Internet-based reporting system that has appropriate security protocols to preserve the confidentiality of the reports and any documents or photographs submitted through the system.

(5) The system can only be used by mandated reporters who are any of the following:

(A) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(B) A probation officer or social worker, as defined in Section 215 of the Welfare and Institutions Code.

(C) A school teacher, counselor, or administrator.

(D) A physician and surgeon, psychologist, licensed nurse, or clinical social worker licensed

pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code.

(E) A coroner.

(6) Nothing in this section shall be construed as changing current statutory or regulatory requirements regarding timely review, assessment, and response to reports of possible abuse or neglect.

(b) (1) In a county where the pilot program is active, a mandated reporter listed in paragraph (5) of subdivision (a) may use the Internet-based reporting tool in lieu of the required initial telephone report required by subdivision (a) of Section 11166. A mandated reporter listed in paragraph (5) of subdivision (a) submitting an Internet-based report in accordance with this subdivision shall, as soon as practically possible, cooperate with the agency on any requests for additional information if needed to investigate the report, subject to applicable confidentiality requirements.

(2) In a county where the pilot program is active, a mandated reporter who submits the initial report through the Internet-based reporting tool in lieu of the required initial telephone report is not required to submit the written followup report required pursuant to subdivision (a) of Section 11166.

(c) This section shall remain in effect only until January 1, 2021, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2021, deletes or extends that date.

11166.05. Any mandated reporter who has knowledge of or who reasonably suspects that a child is suffering serious emotional damage or is at a substantial risk of suffering serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, may make a report to an agency specified in Section 11165.9.

11166.1. (a) When an agency receives a report pursuant to Section 11166 that contains either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:

(1) A report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services.

(2) A report of the death of a child who was, at the time of death, living at, enrolled in, or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility. The agency shall send the licensing agency a copy of its investigation and any other pertinent materials.

(b) Any employee of an agency specified in Section 11165.9 who has knowledge of, or observes in his or her professional capacity or within the scope of his or her employment, a child in protective custody whom he or she knows or reasonably suspects has been the victim of child abuse or neglect shall, within 36 hours, send or have sent to the attorney who represents the child in dependency court, a copy of the report prepared in accordance with Section 11166. The agency shall maintain a copy of the written report. All information requested by the attorney for the child or the child's guardian ad litem shall be provided by the agency within 30 days of the request.

11166.2. In addition to the reports required under Section 11166, any agency specified in Section 11165.9 shall immediately or as soon as practically possible report by telephone, fax, or electronic transmission to the appropriate licensing agency every known or suspected instance of child abuse or neglect when the instance of abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. The agency shall also 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. The agency shall send the licensing agency a copy of its investigation report and any other pertinent materials.

11166.3. (a) The Legislature intends that in each county the law enforcement agencies and the county welfare or probation department shall develop and implement cooperative arrangements in order to coordinate existing duties in connection with the investigation of suspected child abuse or neglect cases. The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the county welfare or probation department that it is investigating the case within 36 hours after starting its investigation. The county welfare department or probation department shall, in cases where a minor is a victim of actions specified in Section 288 of this code and a petition has been filed pursuant to Section 300 of the Welfare and Institutions Code with regard to the minor, evaluate what action or actions would be in the best interest of the child victim. Notwithstanding any other provision of law, the county welfare department or probation department shall submit in writing its findings and the reasons therefor to the district attorney on or before the completion of the investigation. The written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel in the manner specified in Section 859.

(b) The local law enforcement agency having jurisdiction over a case reported under Section 11166 shall report to the district office of the State Department of Social Services any case reported under this section if the case involves a facility specified in paragraph (5) or (6) of subdivision (a) of Section 1502, Section 1596.750 or 1596.76 of the Health and Safety Code, and the licensing of the facility has not been delegated to a county agency. The law enforcement agency shall send a copy of its investigation report and any other pertinent materials to the licensing agency upon the request of the licensing agency.

11166.5. (a) (1) On and after January 1, 1985, any mandated reporter as specified in Section 11165.7, with the exception of child visitation monitors, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided to him or her by his or her employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions. The statement shall inform the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Section 11166 and of his or her confidentiality rights under subdivision (d) of Section 11167. The employer shall provide a copy of Sections 11165.7, 11166, and 11167 to the employee. On and after January 1, 1993, any person who acts as a child visitation monitor, as defined in paragraph (31) of subdivision (a) of Section 11165.7, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with those provisions.

(2) The signed statements shall be retained by the employer or the court, as the case may be. The cost of printing, distribution, and filing of these statements shall be borne by the employer or the court.

(3) This subdivision is not applicable to persons employed by public or private youth centers, youth recreation programs, and youth organizations as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties.

(b) On and after January 1, 1986, when a person is issued a state license or certificate to engage in a profession or occupation, the members of which are required to make a report pursuant to Section 11166, the state agency issuing the license or certificate shall send a statement substantially similar to the one contained in subdivision (a) to the person at the same time as it transmits the document indicating licensure or certification to the person. In addition to the requirements contained in subdivision (a), the statement also shall indicate that failure to comply with the requirements of Section 11166 is a misdemeanor, punishable by up to six months in a county jail, by a fine of one thousand dollars (\$1,000), or by both that imprisonment and fine.

(c) As an alternative to the procedure required by subdivision

(b), a state agency may cause the required statement to be printed on all application forms for a license or certificate printed on or after January 1, 1986.

(d) On and after January 1, 1993, any child visitation monitor, as defined in paragraph (31) of subdivision (a) of Section 11165.7, who desires to act in that capacity shall have received training in the duties imposed by this article, including training in child abuse identification and child abuse reporting. The person, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court which ordered the presence of that third person during the visit, to the effect that he or she has received this training. This statement may be included in the statement required by subdivision (a) or it may be a separate statement. This statement shall be filed, along with the statement required by subdivision (a), in the court file of the case for which the visitation monitoring is being provided.

(e) Any person providing services to a minor child, as described in paragraph (38) of subdivision (a) of Section 11165.7, shall not be required to make a report pursuant to Section 11166 unless that person has received training, or instructional materials in the appropriate language, on the duties imposed by this article, including identifying and reporting child abuse and neglect.

11167. (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.

11167.5. (a) The reports required by Sections 11166 and 11166.2, or authorized by Section 11166.05, and child abuse or neglect investigative reports that result in a summary report being filed with the Department of Justice pursuant to subdivision (a) of Section 11169 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine. (b) Reports of suspected child abuse or neglect and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170 or subdivision (a) of Section 11170.5.

(3) Persons or agencies with whom investigations of child abuse or neglect are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(5) Persons or agencies responsible for the licensing of facilities which care for children, as specified in Section 11165.7.

(6) The State Department of Social Services or any county licensing agency which has contracted with the state, as specified in paragraph (4) of subdivision (b) of Section 11170, when an individual has applied for a community care license or child day care license, or for employment in an out-of-home care facility, or when a complaint alleges child abuse or neglect by an operator or employee of an out-of-home care facility.

(7) Hospital scan teams. As used in this paragraph, "hospital scan team" means a team of three or more persons established by a hospital, or two or more hospitals in the same county, consisting of health care professionals and representatives of law enforcement and child protective services, the members of which are engaged in the identification of child abuse or neglect. The disclosure authorized by this section includes disclosure among all hospital scan teams.

(8) Coroners and medical examiners when conducting a post mortem examination of a child.

(9) The Board of Parole Hearings, which may subpoena an employee of a county welfare department who can provide relevant evidence and reports that both (A) are not unfounded, pursuant to Section 11165.12, and (B) concern only the current incidents upon which parole revocation proceedings are pending against a parolee charged with child abuse or neglect. The reports and information shall be confidential pursuant to subdivision (d) of Section 11167.

(10) Personnel from an agency responsible for making a placement of a child pursuant to Section 361.3 of, and Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code.

(11) Persons who have been identified by the Department of Justice as listed in the Child Abuse Central Index pursuant to paragraph (7) of subdivision (b) of Section 11170 or subdivision (c) of Section 11170, or persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index as provided in subdivision (f) of Section 11170. Disclosure under this paragraph is required notwithstanding the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. Nothing in this paragraph shall preclude a submitting agency prior to disclosure from redacting any information necessary to maintain confidentiality as required by law.

(12) Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when an agency makes the request for reports of suspected child abuse or neglect in writing and on official letterhead, or as designated by the Department of Justice, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the

department supervisor of the requesting law enforcement agency. The written request shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports is to be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision.

(13) Out-of-state agencies responsible for approving prospective foster or adoptive parents for placement of a child only when the agency makes the request in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248). The request shall also cite the safeguards in place to prevent unlawful disclosure provided by the requesting state or the applicable interstate compact provision and indicate that the requesting state shall maintain continual compliance with the requirement in paragraph (20) of subdivision (a) of Section 671 of Title 42 of the United States Code that requires the state have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases.

(14) Each chairperson of a county child death review team, or his or her designee, to whom disclosure of information is permitted under this article, relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victim, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(c) Authorized persons within county health departments shall be permitted to receive copies of any reports made by health practitioners, as defined in paragraphs (21) to (28), inclusive, of subdivision (a) of Section 11165.7, and pursuant to Section 11165.13, and copies of assessments completed pursuant to Sections 123600 and 123605 of the Health and Safety Code, to the extent permitted by federal law. Any information received pursuant to this subdivision is protected by subdivision (e).

(d) Nothing in this section requires the Department of Justice to disclose information contained in records maintained under Section 11170 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(e) This section shall not be interpreted to allow disclosure of any reports or records relevant to the reports of child abuse or neglect if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse or neglect.

11168. The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Those forms shall be distributed by the agencies specified in Section 11165.9.

11169. (a) An agency specified in Section 11165.9 shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect that is determined to be substantiated, other than cases coming within subdivision (b) of Section 11165.2. An agency shall not forward a report to the Department of Justice unless it has conducted an active investigation and determined that the report is substantiated, as defined in Section 11165.12. If a report has previously been filed which subsequently proves to be not substantiated, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission. An agency specified in Section 11165.9 receiving a written report from another agency specified in Section 11165.9 shall not send that report to the Department of Justice.

(b) On and after January 1, 2012, a police department or sheriff's department specified in Section

11165.9 shall no longer forward to the Department of Justice a report in writing of any case it investigates of known or suspected child abuse or severe neglect.

(c) At the time an agency specified in Section 11165.9 forwards a report in writing to the Department of Justice pursuant to subdivision (a), the agency shall also notify in writing the known or suspected child abuser that he or she has been reported to the Child Abuse Central Index (CACI). The notice required by this section shall be in a form approved by the Department of Justice. The requirements of this subdivision shall apply with respect to reports forwarded to the department on or after the date on which this subdivision becomes operative.

(d) Subject to subdivision (e), any person who is listed on the CACI has the right to a hearing before the agency that requested his or her inclusion in the CACI to challenge his or her listing on the CACI. The hearing shall satisfy due process requirements. It is the intent of the Legislature that the hearing provided for by this subdivision shall not be construed to be inconsistent with hearing proceedings available to persons who have been listed on the CACI prior to the enactment of the act that added this subdivision.

(e) A hearing requested pursuant to subdivision (d) shall be denied when a court of competent jurisdiction has determined that suspected child abuse or neglect has occurred, or when the allegation of child abuse or neglect resulting in the referral to the CACI is pending before the court. A person who is listed on the CACI and has been denied a hearing pursuant to this subdivision has a right to a hearing pursuant to subdivision (d) only if the court's jurisdiction has terminated, the court has not made a finding concerning whether the suspected child abuse or neglect was substantiated, and a hearing has not previously been provided to the listed person pursuant to subdivision (d).

(f) Any person listed in the CACI who has reached 100 years of age shall have his or her listing removed from the CACI.

(g) Any person listed in the CACI as of January 1, 2013, who was listed prior to reaching 18 years of age, and who is listed once in CACI with no subsequent listings, shall be removed from the CACI 10 years from the date of the incident resulting in the CACI listing.

(h) If, after a hearing pursuant to subdivision (d) or a court proceeding described in subdivision (e), it is determined the person's CACI listing was based on a report that was not substantiated, the agency shall notify the Department of Justice of that result and the department shall remove that person's name from the CACI.

(i) Agencies, including police departments and sheriff's departments, shall retain child abuse or neglect investigative reports that result or resulted in a report filed with the Department of Justice pursuant to subdivision (a) for the same period of time that the information is required to be maintained on the CACI pursuant to this section and subdivision (a) of Section 11170. Nothing in this section precludes an agency from retaining the reports for a longer period of time if required by law.

(j) The immunity provisions of Section 11172 shall not apply to the submission of a report by an agency pursuant to this section. However, nothing in this section shall be construed to alter or diminish any other immunity provisions of state or federal law.

11170. (a) (1) The Department of Justice shall maintain an index of all reports of child abuse and severe neglect submitted pursuant to Section 11169. The index shall be continually updated by the department and shall not contain any reports that are determined to be not substantiated. The department may adopt rules governing recordkeeping and reporting pursuant to this article.

(2) The department shall act only as a repository of reports of suspected child abuse and severe neglect to be maintained in the Child Abuse Central Index (CACI) pursuant to paragraph (1). The submitting agencies are responsible for the accuracy, completeness, and retention of the reports described in this section. The department shall be responsible for ensuring that the CACI accurately reflects the report it receives from the submitting agency.

(3) Only information from reports that are reported as substantiated shall be filed pursuant to



paragraph (1), and all other determinations shall be removed from the central list. If a person listed in the CACI was under 18 years of age at the time of the report, the information shall be deleted from the CACI 10 years from the date of the incident resulting in the CACI listing, if no subsequent report concerning the same person is received during that time period.

(b) The provisions of subdivision (c) of Section 11169 apply to any information provided pursuant to this subdivision.

(1) The Department of Justice shall immediately notify an agency that submits a report pursuant to Section 11169, or a prosecutor who requests notification, of any information maintained pursuant to subdivision (a) that is relevant to the known or suspected instance of child abuse or severe neglect reported by the agency. The agency shall make that information available to the reporting health care practitioner who is treating a person reported as a possible victim of known or suspected child abuse. The agency shall make that information available to the reporting child custodian, Child Abuse Prevention and Treatment Act guardian ad litem appointed under Rule 5.662 of the California Rules of Court, or counsel appointed under Section 317 or 318 of the Welfare and Institutions Code, or the appropriate licensing agency, if he or she or the licensing agency is handling or investigating a case of known or suspected child abuse or severe neglect.

(2) When a report is made pursuant to subdivision (a) of Section 11166, or Section 11166.05, the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required or authorized to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

(3) The Department of Justice shall make relevant information from the CACI available to a law enforcement agency, county welfare department, tribal agency pursuant to Section 10553.12 of the Welfare and Institutions Code, or county probation department that is conducting a child abuse investigation.

(4) The department shall make available to the State Department of Social Services, or to any county licensing agency that has contracted with the state for the performance of licensing duties, or to a tribal court or tribal child welfare agency of a tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any person who is an applicant for licensure or approval, or any adult who resides or is employed in the home of an applicant for licensure or approval, or who is an applicant for employment in a position having supervisory or disciplinary power over a child or children, or who will provide 24-hour care for a child or children in a residential home or facility, pursuant to Section 1522.1 or 1596.877 of the Health and Safety Code, or Section 8714, 8802, 8912, or 9000 of the Family Code, or Section 11403.2 of the Welfare and Institutions Code.

(5) The Department of Justice shall make available to a Court Appointed Special Advocate program that is conducting a background investigation of an applicant seeking employment with the program or a volunteer position as a Court Appointed Special Advocate, as defined in Section 101 of the Welfare and Institutions Code, information contained in the index regarding known or suspected child abuse by the applicant.

(6) For purposes of child death review, the Department of Justice shall make available to the chairperson, or the chairperson's designee, for each county child death review team, or the State Child Death Review Council, information for investigative purposes only that is maintained in the CACI pursuant to subdivision (a) relating to the death of one or more children and any prior child abuse or neglect investigation reports maintained involving the same victims, siblings, or suspects. Local child death review teams may share any relevant information regarding case reviews involving child death with other child death review teams.

(7) The department shall make available to investigative agencies or probation officers, or court

investigators acting pursuant to Section 1513 of the Probate Code, responsible for placing children or assessing the possible placement of children pursuant to Article 6 (commencing with Section 300), Article 7 (commencing with Section 305), Article 10 (commencing with Section 360), or Article 14 (commencing with Section 601) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, or Article 2 (commencing with Section 1510) or Article 3 (commencing with Section 1540) of Chapter 1 of Part 2 of Division 4 of the Probate Code, information regarding a known or suspected child abuser contained in the index concerning any adult residing in the home where the child may be placed, when this information is requested for purposes of ensuring that the placement is in the best interest of the child. Upon receipt of relevant information concerning child abuse or neglect investigation reports contained in the CACI from the Department of Justice pursuant to this subdivision, the agency or court investigator shall notify, in writing, the person listed in the CACI that he or she is in the index. The notification shall include the name of the reporting agency and the date of the report.

(8) Pursuant to Section 10553.12 of the Welfare and Institutions Code, the department shall make available to a tribal agency information regarding a known or suspected child abuser maintained pursuant to this section or subdivision (a) of Section 11169 who is being considered as a prospective foster or adoptive parent, an adult who resides or is employed in the home of an applicant for approval, any person who has a familial or intimate relationship with any person living in the home of an applicant, or an employee of the tribal agency who may have contact with children.

(9) The Department of Justice shall make available to a government agency conducting a background investigation pursuant to Section 1031 of the Government Code of an applicant seeking employment as a peace officer, as defined in Section 830, information regarding a known or suspected child abuser maintained pursuant to this section concerning the applicant.

(10) The Department of Justice shall make available to a county child welfare agency or delegated county adoption agency, as defined in Section 8515 of the Family Code, conducting a background investigation, or a government agency conducting a background investigation on behalf of one of those agencies, information regarding a known or suspected child abuser maintained pursuant to this section and subdivision (a) of Section 11169 concerning any applicant seeking employment or volunteer status with the agency who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect.

(11) (A) Persons or agencies, as specified in subdivision (b), if investigating a case of known or suspected child abuse or neglect, or the State Department of Social Services or any county licensing agency pursuant to paragraph (4), or a Court Appointed Special Advocate (CASA) program conducting a background investigation for employment or volunteer candidates pursuant to paragraph (5), or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children pursuant to paragraph (7), or a government agency conducting a background investigation of an applicant seeking employment as a peace officer pursuant to paragraph (9), or a county child welfare agency or delegated county adoption agency conducting a background investigation of an applicant seeking employment or volunteer status who, in the course of his or her employment or volunteer work, will have direct contact with children who are alleged to have been, are at risk of, or have suffered, abuse or neglect, pursuant to paragraph (10), to whom disclosure of any information maintained pursuant to subdivision (a) is authorized, are responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed, and its sufficiency for making decisions regarding investigation, prosecution, licensing, placement of a child, employment or volunteer positions with a CASA program, or employment as a peace officer.

(B) If CACI information is requested by an agency for the temporary placement of a child in an

emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the agency's inquiry and if further delay in placement may be detrimental to the child.

(12) (A) Whenever information contained in the Department of Justice files is furnished as the result of an application for employment or licensing or volunteer status pursuant to paragraph (4), (5), (8), (9), or (10), the Department of Justice may charge the person or entity making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this section to process trustline applications for purposes of Chapter 3.35 (commencing with Section 1596.60) of Division 2 of the Health and Safety Code shall be deposited in a special account in the General Fund that is hereby established and named the Department of Justice Child Abuse Fund. Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process trustline automated child abuse or neglect system checks pursuant to this section.

(C) All moneys, other than those described in subparagraph (B), received by the department pursuant to this paragraph shall be deposited in a special account in the General Fund which is hereby created and named the Department of Justice Sexual Habitual Offender Fund. The funds shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred pursuant to Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4, and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1), and for maintenance and improvements to the statewide Sexual Habitual Offender Program and the California DNA offender identification file (CAL-DNA) authorized by Chapter 9.5 (commencing with Section 13885) of Title 6 of Part 4 and the DNA and Forensic Identification Data Base and Data Bank Act of 1998 (Chapter 6 (commencing with Section 295) of Title 9 of Part 1).

(c) (1) The Department of Justice shall make available to any agency responsible for placing children pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, upon request, relevant information concerning child abuse or neglect reports contained in the index, when making a placement with a responsible relative pursuant to Sections 281.5, 305, and 361.3 of the Welfare and Institutions Code. Upon receipt of relevant information concerning child abuse or neglect reports contained in the index from the Department of Justice pursuant to this subdivision, the agency shall also notify in writing the person listed in the CACI that he or she is in the index. The notification shall include the location of the original investigative report and the submitting agency. The notification shall be submitted to the person listed at the same time that all other parties are notified of the information, and no later than the actual judicial proceeding that determines placement.

(2) If information is requested by an agency for the placement of a child with a responsible relative in an emergency situation pursuant to Article 7 (commencing with Section 305) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, the department is exempt from the requirements of Section 1798.18 of the Civil Code if compliance would cause a delay in providing an expedited response to the child protective agency's inquiry and if further delay in placement may be detrimental to the child.

(d) The department shall make available any information maintained pursuant to subdivision (a) to out-of-state law enforcement agencies conducting investigations of known or suspected child abuse or neglect only when an agency makes the request for information in writing and on official letterhead, or as designated by the department, identifying the suspected abuser or victim by name and date of birth or approximate age. The request shall be signed by the department supervisor of

the requesting law enforcement agency. The written requests shall cite the out-of-state statute or interstate compact provision that requires that the information contained within these reports shall be disclosed only to law enforcement, prosecutorial entities, or multidisciplinary investigative teams, and shall cite the safeguards in place to prevent unlawful disclosure of any confidential information provided by the requesting state or the applicable interstate compact provision.

(e) (1) The department shall make available to an out-of-state agency, for purposes of approving a prospective foster or adoptive parent in compliance with the Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248), information regarding a known or suspected child abuser maintained pursuant to subdivision (a) concerning the prospective foster or adoptive parent, and any other adult living in the home of the prospective foster or adoptive parent. The department shall make that information available only when the out-of-state agency makes the request indicating that continual compliance will be maintained with the requirement in paragraph (20) of subsection (a) of Section 671 of Title 42 of the United States Code that requires the state to have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the state and prevent the information from being used for a purpose other than the conducting of background checks in foster or adoption placement cases.

(2) With respect to any information provided by the department in response to the out-of-state agency's request, the out-of-state agency is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and its sufficiency for making decisions regarding the approval of prospective foster or adoptive parents.

(3) (A) Whenever information contained in the index is furnished pursuant to this subdivision, the department shall charge the out-of-state agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15).

(B) All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Child Abuse Fund, established under subparagraph (B) of paragraph (12) of subdivision (b). Moneys in the fund shall be available, upon appropriation by the Legislature, for expenditure by the department to offset the costs incurred to process requests for information pursuant to this subdivision.

(f) (1) Any person may determine if he or she is listed in the CACI by making a request in writing to the Department of Justice. The request shall be notarized and include the person's name, address, date of birth, and either a social security number or a California identification number. Upon receipt of a notarized request, the Department of Justice shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to paragraph (11) of subdivision (b) of Section 11167.5.

(2) No person or agency shall require or request another person to furnish a copy of a record concerning himself or herself, or notification that a record concerning himself or herself exists or does not exist, pursuant to paragraph (1).

(g) If a person is listed in the CACI only as a victim of child abuse or neglect, and that person is 18 years of age or older, that person may have his or her name removed from the index by making a written request to the Department of Justice. The request shall be notarized and include the person's name, address, social security number, and date of birth.

11170.5. (a) Notwithstanding paragraph (4) of subdivision (b) of Section 11170, the Department of Justice shall make available to a licensed adoption agency, as defined in Section 8530 of the Family Code, information regarding a known or suspected child abuser maintained in the Child Abuse Central Index, pursuant to subdivision (a) of Section 11170, concerning any person who has

submitted to the agency an application for adoption.

(b) A licensed adoption agency, to which disclosure of any information pursuant to subdivision (a) is authorized, is responsible for obtaining the original investigative report from the reporting agency, and for drawing independent conclusions regarding the quality of the evidence disclosed and the sufficiency of the evidence for making decisions when evaluating an application for adoption.

(c) Whenever information contained in the Department of Justice files is furnished as the result of an application for adoption pursuant to subdivision (a), the Department of Justice may charge the agency making the request a fee. The fee shall not exceed the reasonable costs to the department of providing the information. The only increase shall be at a rate not to exceed the legislatively approved cost-of-living adjustment for the department. In no case shall the fee exceed fifteen dollars (\$15). All moneys received by the department pursuant to this subdivision shall be deposited in the Department of Justice Sexual Habitual Offender Fund pursuant to subparagraph (C) of paragraph (9) of subdivision (b) of Section 11170.

11171. (a) (1) The Legislature hereby finds and declares that adequate protection of victims of child physical abuse or neglect has been hampered by the lack of consistent and comprehensive medical examinations.

(2) Enhancing examination procedures, documentation, and evidence collection relating to child abuse or neglect will improve the investigation and prosecution of child abuse or neglect as well as other child protection efforts.

(b) The Office of Emergency Services shall, in cooperation with the State Department of Social Services, the Department of Justice, the California Association of Crime Lab Directors, the California District Attorneys Association, the California State Sheriffs' Association, the California Peace Officers Association, the California Medical Association, the California Police Chiefs' Association, child advocates, the California Medical Training Center, child protective services, and other appropriate experts, establish medical forensic forms, instructions, and examination protocols for victims of child physical abuse or neglect using as a model the form and guidelines developed pursuant to Section 13823.5.

(c) The forms shall include, but not be limited to, a place for notation concerning each of the following:

(1) Any notification of injuries or any report of suspected child physical abuse or neglect to law enforcement authorities or children's protective services, in accordance with existing reporting procedures.

(2) Addressing relevant consent issues, if indicated.

(3) The taking of a patient history of child physical abuse or neglect that includes other relevant medical history.

(4) The performance of a physical examination for evidence of child physical abuse or neglect.

(5) The collection or documentation of any physical evidence of child physical abuse or neglect, including any recommended photographic procedures.

(6) The collection of other medical or forensic specimens, including drug ingestion or toxication, as indicated.

(7) Procedures for the preservation and disposition of evidence.

(8) Complete documentation of medical forensic exam findings with recommendations for diagnostic studies, including blood tests and X-rays.

(9) An assessment as to whether there are findings that indicate physical abuse or neglect.

(d) The forms shall become part of the patient's medical record pursuant to guidelines established by the advisory committee of the Office of Emergency Services and subject to the confidentiality laws pertaining to the release of medical forensic examination records.

(e) The forms shall be made accessible for use on the Internet.

11171.2. (a) A physician and surgeon or dentist or their agents and by their direction may take

skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse or neglect and determining the extent of the child abuse or neglect.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing 11171.5. (a) If a peace officer, in the course of an investigation of child abuse or neglect, has reasonable cause to believe that the child has been the victim of physical abuse, the officer may apply to a magistrate for an order directing that the victim be X-rayed without parental consent. Any X-ray taken pursuant to this subdivision shall be administered by a physician and surgeon or dentist or their agents.

(b) With respect to the cost of an X-ray taken by the county coroner or at the request of the county coroner in suspected child abuse or neglect cases, the county may charge the parent or legal guardian of the child-victim the costs incurred by the county for the X-ray.

(c) No person who administers an X-ray pursuant to this section shall be entitled to reimbursement from the county for any administrative cost that exceeds 5 percent of the cost of the X-ray.

11172. (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.

11174. The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of abuse in out-of-home care, as defined in Section 11165.5, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

11174.1. (a) The Department of Justice, in cooperation with the State Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse or neglect, as defined in Section 11165.6, in facilities licensed to care for children, and shall ensure that the investigation is conducted in accordance with the regulations and guidelines.

(b) For community treatment facilities, day treatment facilities, group homes, and foster family agencies, the State Department of Social Services shall prescribe the following regulations:

(1) Regulations designed to assure that all licensees and employees of community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children have had appropriate training, as determined by the State Department of Social Services, in consultation with representatives of licensees, on the provisions of this article.

(2) Regulations designed to assure the community treatment facilities, day treatment facilities, group homes, and foster family agencies licensed to care for children maintain a written protocol for the investigation and reporting of child abuse or neglect, as defined in Section 11165.6, alleged to have occurred involving a child placed in the facility.

(c) The State Department of Social Services shall provide such orientation and training as it deems necessary to assure that its officers, employees, or agents who conduct inspections of facilities licensed to care for children are knowledgeable about the reporting requirements of this article and have adequate training to identify conditions leading to, and the signs of, child abuse or neglect, as defined in Section 11165.6.

11174.3. (a) Whenever a representative of a government agency investigating suspected child abuse or neglect or the State Department of Social Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the agency investigating suspected child abuse or neglect or the State Department of Social Services shall inform the child of that right prior to the interview. The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the

interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district and each agency specified in Section 11165.9 to receive mandated reports, and the State Department of Social Services shall notify each of its employees who participate in the investigation of reports of child abuse or neglect, of the requirements of this section.

**Citation:** Child Abuse and Neglect Reporting Act, Cal. Penal Code §11164-11174.3, Retrieved from <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pen&group=11001-12000&file=11164-11174.3>

## PENNSYLVANIA

### **The Child Protective Services Law 23 Pa.C.S. § 6301-6385.**

#### **Chapter 63. Child Protective Services**

#### **Subchapter B Provisions and Responsibilities for Reporting Suspected Child Abuse**

**Subchapter Heading.** The heading of Subchapter B was amended December 16, 1994, P.L.1292, No.151, effective July 1, 1995.

#### **§ 6311. Persons required to report 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.

**(d) Civil action for discrimination against person filing report.--**(Deleted by amendment).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014; May 14, 2014, P.L.645, No.44, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014; July 1, 2015, P.L.94, No.15, eff. imd.)

**2015 Amendment.** Act 15 amended subsec. (a)(7) and (12) and added subsec. (a)(16).

**2014 Amendments.** Act 32 amended subsec. (a) and deleted subsec. (b), Act 33 amended subsecs. (a) and (c) and added subsec. (b), Act 34 deleted subsec. (d), Act 44 amended subsec. (c) and Act 153 amended subsec. (b)(1) intro. par. and added subsec. (a)(15). Act 33 overlooked the amendment by Act 32, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsec. (b). Act 44 overlooked the amendment by Act 33, but the amendments do not conflict in substance (except for the deletion of "assume the responsibility and," as to which Act 44 has been given effect) and have both been given effect in setting forth the

text of subsec. (c).

**Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of subsecs. (a) and (b) shall take effect December 31, 2014.

**Cross References.** Section 6311 is referred to in sections 6313, 6318, 6320, 6340, 6340.1 of this title.

**§ 6311.1. Privileged communications.**

**(a) General rule.--**Subject to subsection (b), the privileged communications between a mandated reporter and a patient or client of the mandated reporter shall not:

- (1) Apply to a situation involving child abuse.
- (2) Relieve the mandated reporter of the duty to make a report of suspected child abuse.

**(b) Confidential communications.--**The following protections shall apply:

(1) Confidential communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).

(2) Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys.

(Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

**2014 Amendment.** Act 32 added section 6311.1.

**Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, section 6311.1 shall take effect December 31, 2014.

**§ 6312. Persons encouraged 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.

(Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

**Cross References.** Section 6312 is referred to in section 6320 of this title.

**§ 6313. 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) Written reports.**--(Deleted by amendment).

**(d) Failure to confirm oral report.**--(Deleted by amendment).

**(e) Applicability of Mental Health Procedures Act.**--Notwithstanding any other provision of law, a mandated reporter enumerated under section 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.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; Oct. 22, 2014, P.L.2529, No.153, eff. Dec. 31, 2014)

**2014 Amendment.** Act 153 added subsec. (e).

**Cross References.** Section 6313 is referred to in sections 6305, 6311, 6334, 6336, 6339, 6340, 6349, 6367, 6368 of this title.

**§ 6314. 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) (relating to release of information in confidential reports).

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014)

**Cross References.** Section 6314 is referred to in sections 6313, 6318 of this title.

**§ 6315. Taking child into protective custody.**

**(a) General rule.**--A child may be taken into protective custody:

(1) As provided by 42 Pa.C.S. § 6324 (relating to taking into custody).

(2) By a physician examining or treating the child or by the director, or a person specifically designated in writing by the director, of any hospital or other medical institution where the child is being treated if protective custody is immediately necessary to protect the child under this chapter.

(3) By a physician or the director, or a person specifically designated by the director, of a hospital pursuant to Chapter 65 (relating to newborn protection) if the child is a newborn.

(4) Subject to this section and after receipt of a court order, the county agency shall take a child into protective custody for protection from abuse. No county agency worker may take custody of the child without judicial authorization based on the merits of the situation.

(5) By a police officer at a police station under Chapter 65.

**(b) Duration of custody.**--No child may be held in protective custody for more than 24 hours unless the appropriate county agency is immediately notified that the child has been taken into custody and the county agency obtains an order from a court of competent jurisdiction permitting the child to be held in custody for a longer period. Each court shall insure that a judge is available 24 hours a day, 365 days a year to accept and decide the actions brought by a county agency under this subsection within the 24-hour period.

**(c) Notice of custody.**--

(1) Except as provided in paragraph (2), an individual taking a child into protective custody under this chapter shall immediately, and within 24 hours in writing, notify the parent, guardian or other custodian of the child of the whereabouts of the child, unless prohibited by court order, and the reasons for the need to take the child into protective custody and shall immediately notify the appropriate county agency in order that proceedings under 42 Pa.C.S. Ch. 63 (relating to juvenile matters) may be initiated, if appropriate.

(2) In the case of a newborn taken into protective custody pursuant to subsection (a)(3), the county agency shall within 24 hours make diligent efforts to notify a parent, guardian, custodian or other family member of the whereabouts of the newborn, unless prohibited by court order, and the reasons for the need to take the newborn into protective custody.

**(d) Informal hearing.**--In no case shall protective custody under this chapter be maintained longer than 72 hours without an informal hearing under 42 Pa.C.S. § 6332 (relating to informal hearing). If, at the hearing, it is determined that protective custody shall be continued and the child is alleged to be without proper parental care or control or is alleged to be a dependent child under 42 Pa.C.S. § 6302 (relating to definitions), the county agency shall within 48 hours file a petition with the court under 42 Pa.C.S. Ch. 63 alleging that the child is a dependent child.

**(e) Place of detention.**--No child taken into protective custody under this chapter may be detained during the protective custody except in an appropriate medical facility, foster home or other appropriate facility approved by the department for this purpose.

**(f) Conference with parent or other custodian.**--A conference between the parent, guardian or other custodian of the child taken into temporary protective custody pursuant to this section and the employee designated by the county agency to be responsible for the child shall be held within 48 hours of the time that the child is taken into custody for the purpose of:

(1) Explaining to the parent, guardian or other custodian the reasons for the temporary detention of the child and the whereabouts of the child, unless prohibited by court order.

(2) Expediting, wherever possible, the return of the child to the custody of the parent, guardian or other custodian where custody is no longer necessary.

(3) Explaining to the parent, guardian or other custodian the rights provided for under 42 Pa.C.S. §§ 6337 (relating to right to counsel) and 6338 (relating to other basic rights). (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; Apr. 15, 2014, P.L.417, No.33, eff. Dec. 31, 2014; July 2, 2014, P.L.843, No.91, eff. 60 days)

**2014 Amendments.** Act 33 added subsec. (a)(4) and Act 91 added subsec. (a)(5).

**2002 Amendment.** Act 201 amended subsecs. (a) and (c).

**Cross References.** Section 6315 is referred to in sections 6313, 6316, 6318, 6375, 6504, 6504.1, 6508, 6509 of this title.

**§ 6316. Admission to private and public hospitals.**

**(a) General rule.**--Children appearing to suffer any physical or mental condition which may constitute child abuse shall be admitted to, treated and maintained in facilities of private and public hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care.

**(a.1) Newborns.**--A newborn taken into protective custody pursuant to section 6315(a)(3) or (5) (relating to taking child into protective custody) shall be admitted to, treated and maintained in facilities of public and private hospitals on the basis of medical need and shall not be refused or deprived in any way of proper medical treatment and care. Once a newborn is taken into protective custody pursuant to section 6315(a)(3) or (5), the newborn shall be considered immediately eligible for Medicaid for payment of medical services provided. Until otherwise provided by court order, the county agency shall assume the responsibility for making decisions regarding the newborn's medical care.

**(b) Failure of hospital to admit child or newborn.**--The failure of a hospital to admit and properly treat and care for a child pursuant to subsection (a) or (a.1) shall be cause for the department to order immediate admittance, treatment and care by the hospital which shall be enforceable, if necessary, by the prompt institution of a civil action by the department. The child, through an attorney, shall also have the additional and independent right to seek immediate injunctive relief and institute an appropriate civil action for damages against the hospital. (Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Dec. 9, 2002, P.L.1549, No.201, eff. 60 days; July 2, 2014, P.L.843, No.91, eff. 60 days)

**2014 Amendment.** Act 91 amended subsec. (a.1).

**2002 Amendment.** Act 201 amended subsec. (b) and added subsec. (a.1).

**Cross References.** Section 6316 is referred to in sections 6313, 6318 of this title.

**§ 6317. 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 or medical examiner. The coroner or medical examiner 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.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Apr. 7, 2014, P.L.388, No.29, eff. Dec. 31, 2014)

**Cross References.** Section 6317 is referred to in sections 6313, 6318, 6367 of this title.

**§ 6318. Immunity from liability.**

**(a) General rule.**--A person, hospital, institution, school, facility, agency or agency employee acting in good faith shall have immunity from civil and criminal liability that might otherwise result from any of the following:

(1) Making a report of suspected child abuse or making a referral for general protective services, regardless of whether the report is required to be made under this chapter.

(2) Cooperating or consulting with an investigation under this chapter, including providing information to a child fatality or near-fatality review team.

(3) Testifying in a proceeding arising out of an instance of suspected child abuse or general protective services.

(4) Engaging in any action authorized 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).

**(b) Departmental and county agency immunity.**--An official or employee of the department or county agency who refers a report of suspected child abuse for general protective services to law enforcement authorities or provides services as authorized by this chapter shall have immunity from civil and criminal liability that might otherwise result from the action.

**(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.

(Dec. 16, 1994, P.L.1292, No.151, eff. July 1, 1995; Nov. 29, 2006, P.L.1581, No.179, eff. 60 days; July 3, 2008, P.L.276, No.33, eff. 180 days; Dec. 18, 2013, P.L.1201, No.119, eff. July 1, 2014)

**§ 6319. Penalties.**

**(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.

(Nov. 29, 2006, P.L.1581, No.179, eff. 180 days; Apr. 15, 2014, P.L.414, No.32, eff. 60 days)

**Effective Date.** Section 17 of Act 45 of 2014 provided that, notwithstanding section 4 of Act 32 of 2014, the amendment of section 6319 shall take effect December 31, 2014.

**Cross References.** Section 6319 is referred to in sections 6320, 6335 of this title.

**§ 6320. Protection from employment discrimination.**

**(a) Basis for relief.--**A person may commence an action for appropriate relief if all of the following apply:

(1) The person is required to report under section 6311

(relating to persons required to report suspected child abuse) or encouraged to report under section 6312 (relating to persons encouraged to report suspected child abuse).

(2) The person acted in good faith in making or causing the report of suspected child abuse to be made.

(3) As a result of making the report of suspected child abuse, the person is discharged from employment or is discriminated against with respect to compensation, hire, tenure, terms, conditions or privileges of employment.

**(b) Applicability.--**This section does not apply to an individual making a report of suspected child abuse who is found to be a perpetrator because of the report or to any individual who fails to make a report of suspected child abuse as required under section 6311 and is subject to conviction under section 6319 (relating to penalties) for failure to report or to refer.

**(c) Location.--**An action under this section must be filed in the court of common pleas of the county in which the alleged unlawful discharge or discrimination occurred.

**(d) Relief.**--Upon a finding in favor of the plaintiff, the court may grant appropriate relief, which may include reinstatement of the plaintiff with back pay.

**(e) Departmental intervention.**--The department may intervene in an action commenced under this section.

(Apr. 15, 2014, P.L.425, No.34, eff. Dec. 31, 2014)

**2014 Amendment.** Act 34 added section 6320.

**Citation:** The Child Protective Services Law, 23 Pa.C.S. § 6301-6385 Retrieved from <http://www.legis.state.pa.us/cfdocs/legis/LI/Public/MergeSections.cfm>

## **APPENDIX C**

### **TABLE DISPLAYING CHILD ABUSE AND NEGLECT REPORTED IN GEORGIA 2014**

## REPORTERS

Suspected maltreatment is reported to county DFCS offices. While the agency encourages anyone who suspects maltreatment to report, the law requires workers in certain occupations to report. These “mandated reporters” include teachers, school counselors, physicians, nurses, dentists, law enforcement personnel and Georgia Department of Human Resources staff members.

| Disposition by Report Source          |               |                 |               |
|---------------------------------------|---------------|-----------------|---------------|
| Report Source                         | Disposition   |                 | Total         |
|                                       | Substantiated | Unsubstantiated |               |
| <b>Mandated Reporters</b>             |               |                 |               |
| School Personnel                      | 1,360         | 3,283           | 4,446         |
| Law Enforcement/Court                 | 2,562         | 1,903           | 4,284         |
| Hospital/Clinic staff                 | 1,043         | 1,234           | 2,166         |
| Professional Counselor, Social Worker | 1,545         | 2,804           | 4,149         |
| DHR Staff                             | 739           | 881             | 1,529         |
| Day care                              | 54            | 119             | 168           |
| Residential Facility Staff            | 0             | 7               | 7             |
| <b>Total Mandated Reporters</b>       | <b>7,303</b>  | <b>10,231</b>   | <b>16,749</b> |
|                                       |               |                 |               |
| <b>Non-Mandated Reporters</b>         |               |                 |               |
| Custodial Parent/Guardian             | 246           | 535             | 729           |
| Relative                              | 743           | 1,367           | 1,946         |
| Neighbor/Friend                       | 354           | 880             | 1,168         |
| Non-Custodial Parent                  | 24            | 77              | 96            |
| Religious leader/Staff                | 14            | 37              | 48            |
| Lawyer                                | 18            | 27              | 42            |
| Other Non Mandated                    | 22            | 69              | 87            |
| Other Institution/Agency/Shelter      | 239           | 389             | 592           |
| Un related home member                | 52            | 80              | 120           |
| Other                                 | 532           | 1,121           | 1,555         |
| <b>Total Non-mandated Reporters</b>   | <b>2,244</b>  | <b>4,582</b>    | <b>6,383</b>  |
|                                       |               |                 |               |
| <b>Unknown</b>                        | <b>314</b>    | <b>932</b>      | <b>1189</b>   |
|                                       |               |                 |               |
| <b>Total Reporters</b>                | <b>9,861</b>  | <b>15,745</b>   | <b>24,321</b> |

**Citation:** Fost, M. (2015). Child abuse and neglect reported in Georgia 2014, Georgia Division of Families and Children Services, Requested Data (March 2016).

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